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Item No. 6.4	Classification: Open	Date: 13 June 2023	Meeting Name: Planning Committee (Smaller Applications)
Report title:	Development Management planning application: Application for: Full Planning Application 21/AP/3417 Address: HERNE HILL STADIUM, 104 BURBAGE ROAD, LONDON SOUTHWARK SE24 9HE Proposal: Retrospective planning application for the use of land as a class E(f) outdoor nursery (and temporary use as a holiday club) and the stationing of associated temporary free standing structures. This application is a DEPARTURE APPLICATION: The proposed development is a departure from Policy P57 (Open Space) of the Southwark Plan (2022).		
Ward(s) or groups affected:	Dulwich Village		
From:	Director of Planning and Growth		
Application Start Date: 25/11/21		PPA Expiry Date: 19/01/22	
Earliest Decision Date : 08/05/23			

RECOMMENDATION

1. That planning permission be granted subject to conditions.

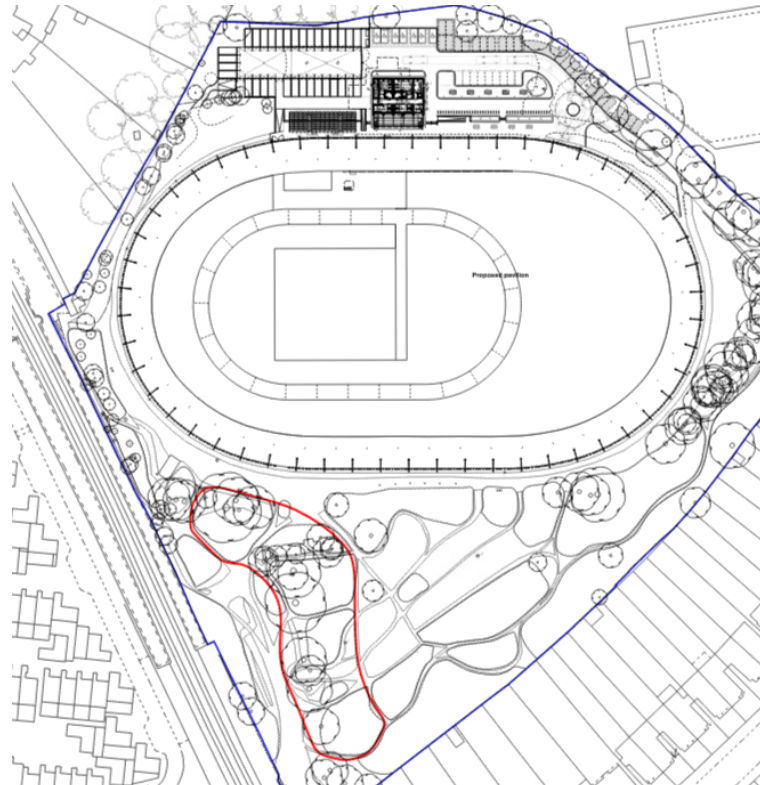
BACKGROUND INFORMATION

Site location and description

2. The application site is a portion of the lands contained within Herne Hill Velodrome, a cycle and athletics track located off Burbage Road in Dulwich. The site also contains facilities ancillary to the operation of the velodrome, such as a viewing pavilion, club house, WC, changing facilities with associated car and cycle parking. It is noted that the velodrome operates a variety of cycling based activities on the track and in the wider grounds, the earliest starting at 08:30 and the latest commencing at 19:30 in the summer months. It is noted the use of the wider velodrome site such as the cyclo-cross do not ordinarily overlap, save for the provision of youth holiday clubs, to be discussed in greater depth below.
3. The application site is situated in the south west corner of the velodrome grounds, near the southern boundary that abuts properties on Burbage Road

and is flanked to the west by the railway line. The site covers approximately 2365 sqm or 0.23 Hectares. The site where the change of use is proposed is made up of woodland and clearings. It is noted that the land to which the application relates was used in association with the cyclo-cross, for outdoor recreation under use class F2(c), before the forest school was established.

4.



5.



6. The site is subject to the following planning policy designations:

- Dulwich Village Archaeological Priority Zone (APZ)
- Herne Hill Critical Drainage Area (CDA)

- Dulwich Village Conservation Area
- Herne Hill Stadium Metropolitan Open Land (MOL)
- Herne Hill Stadium Site of Importance for Nature Conservation (SINC)

Details of proposal

7. The application has been submitted in response to an active enforcement complaint registered under 20/EN/0297, and follows the issuing of pre-application advice issued under 21/EQ/0126. It is noted that the use of the land for a forest school has been in operation since August 2020 prior to the submission of the enforcement complaint. The proposal seeks retrospective consent for the retention of part of the site, for the use as a forest school. This would function predominantly as a nursery for the majority of the year, catering for young children between the ages of 2 and 4 with a holiday club for older children between the ages of 11 and 16 for 10 weeks of the year, during the school holidays. Generally, student numbers of the nursery have been up to 16, whilst a total of 27 students have been present when the holiday club was in operation, were present at the site.
8. For context, it is noted that Schools Outdoor Dulwich, associated with the Montessori nursery, Under the Willow, lease the land from the Herne Hill Velodrome Trust to undertake the land use in the wider velodrome grounds. The current use, functions as a forest school where the children engage in a mixture of guided and independent learning. This is also facilitated by the provision of temporary free-standing structures that are required for the running of the forest school such as a tent and shed for the storage of equipment and toilets for the users of the site. The proposed use would be undertaken in the south western portion of the site, enclosed in the plan below. The area of operations for the retained use would located closest to No.52 Burbage Road, where there would be approximately 53m of clearance distance between the forest school and the rear façade of this property.
9. The dimensions of the free-standing structures are as follows:

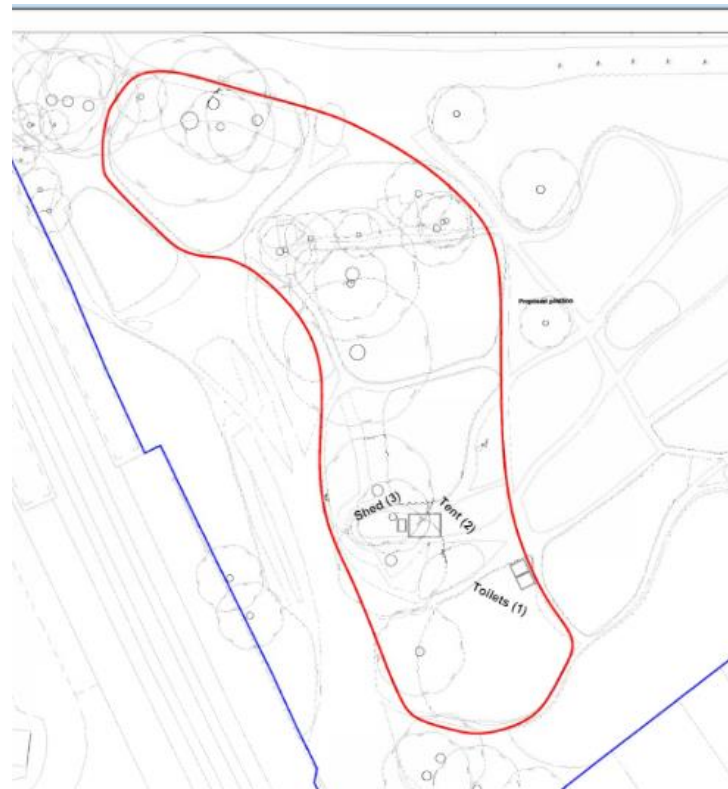
Shed and toilets

- Width: 1.16m
- Depth: 1.77m
- Area: 2.05 sqm
- Maximum height: 2.1m

Tent

- Width: 5m
- Depth: 5m
- Area: 25 sqm
- Maximum height: 3m

10.



11.



Consultation responses from members of the public and local groups

12. During the course of the application's assessment, below a list is provided detailing the consultations that have been undertaken with the dates of their duration:

- Initial neighbour notification (letters): 09/12/21 to 06/01/22
- Site notice: 10/12/21 to 09/01/22

- Press notice: 02/12/21 to 23/12/22
13. The following re-consultations have been undertaken to advertise the application as a departure from the development plan and to publicise amended and additional details;
- Notifications (letters) to neighbours and contributors via email where appropriate: 07/12/22 to 04/01/23
 - Site notice: 08/12/22 to 08/01/23
 - Press notice: 08/12/22 to 31/12/22
14. The following re-consultations have been undertaken to advertise an amended noise impact assessment and additional details; fire risk assessment and protocol, risk assessment and responses to officer comments.
- Notifications to contributors via email and letter (where no email address has been provided): 17/04/22 to 08/05/23
15. Summarised below are the material planning consideration raised by members of the public, categorised by comments made in support and objection.
16. 43 comments have been received in support of the proposal;
- The premises is a good community and sporting resource.
 - The continued operation of the nursery helps the viability of the velodrome.
 - The proposal offers a good childcare option for local families.
 - The proposed use is good for the well-being of local children.
 - The proposal represents constructive use of the MOL and does not prejudice its function or interrupt the other uses of the site.
 - The proposal does not impact local services.
 - The proposal supports employment.
17. 45 comments have been received in objection to the proposal;
- The proposal is incompatible with policy for MOL
 - The proposal could prejudice the maintenance of the cycle trails and their use by users of the velodrome.
 - The proposed use could harm the prospects and long term viability and effectiveness of the community sports use.
 - The structures present detract from the character of the MOL and conservation area.
 - Insufficient and inaccurate information given on the application form referring to the presence of singular mountain biking trails.
 - The applicant has not engaged sufficiently with the local community.
 - The proposal may lead to additional parking congestion.
 - The proposal is in breach of condition 10 of permission 15/AP/0790.
 - The proposal will harm the amenity of nearby neighbours and should be moved further into the site with further mitigations.
 - The noise impact assessment has not considered the siting of habitable rooms near the boundary.

- The noise report is flawed and has not considered the impact of noise peaks from children.
- The proposal leads to smoke pollution from regular fires.
- The proposal will harm the natural environment due to its activities.
- The proposed operators has not had an OFSTED inspection and may require further safeguarding measures that require planning permission.
- Use of raised paths can lead to invasion of privacy due to loss of trees onsite.
- Fire risks and limitations should be managed to protect children.
- The numbers of children proposed must be closely limited, with the number of holiday camp children reduced.
- A noise management plan should be implemented to control the noise at source.
- The proposed use does not outweigh ecological harm, lights harm bat foraging and disruption to dead wood.
- The site has been harmed by works under investigation under 23/EN/0047 and the proposal does not offer biodiversity net gains,
- The proposal contravenes hours operation of 15/AP/0790, failing to model the impact of the 24 or 44 children in total.
- The proposal will increase fire risk.
- The use of fires will degrade air quality contrary to policy.
- The applicant continues to undertake activities without permission.
- The proposal continues to present harmful noise impacts; the noise impact assessment does not account for assessment uncertainty, a noise mitigation plan is required.

Planning history of the site, and adjoining or nearby sites

18. Any decisions which are significant to the consideration of the current application are referred to within the relevant sections of the report. A fuller history of decisions relating to this site, and other nearby sites, is provided in Appendix 4.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

19. The main issues to be considered in respect of this application are:
- Principle of the proposed development in terms of land use;
 - Design, layout, heritage assets and impact on Borough and London views;
 - Fire safety;
 - Landscaping and trees;
 - Impact of proposed development on amenity of adjoining occupiers and surrounding area;
 - Transport and highways;
 - Energy and sustainability;
 - Ecology and biodiversity;
 - Consultation responses, and how the application addresses the concerns raised;

- Community impact and equalities assessment;
- Human rights;

20. These matters are discussed in detail in the ‘Assessment’ section of this report.

Legal context

21. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the London Plan 2021 and the Southwark Plan 2022. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers determining planning applications for development within Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the Act also requires the Authority to pay special regard to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess.
22. There are also specific statutory duties in respect of the Public Sector Equalities Duty which are highlighted in the relevant sections below and in the overall assessment at the end of the report.

Planning policy

23. The statutory development plans for the Borough comprise the London Plan 2021 and the Southwark Plan 2022. The National Planning Policy Framework (2021) and emerging policies constitute material considerations but are not part of the statutory development plan. A list of policies which are relevant to this application is provided at Appendix 3. Any policies which are particularly relevant to the consideration of this application are highlighted in the report.

ASSESSMENT

Principle of the proposed development in terms of land use

24. The acceptability of the principle of the land use comprises three factors; whether the proposal will prejudice the continued operation of the Velodrome as a leisure and community use, whether the proposed use is acceptable with regard to impact upon the MOL and whether the provision of an educational use is acceptable in this location.
25. *Impact to community use*

Herne Hill Velodrome is a locally celebrated community and leisure facility, as such its retention is a key material consideration in accordance with policy when assessing the retrospective change of use. Policies P46 ‘Leisure, arts and culture’ and P47 ‘Community uses’. With respect to this policy it is considered that the continued use of part of the site for the forest school will not curtail the continued operation of the velodrome, as this would be in operation during the weekdays and is limited to the south western portion of

the site. Whilst concern has been raised from those who use the dirt tracks for mountain biking on the weekend, the use of the forest school will be limited to the week days, to be secured by condition.

26. Furthermore, the forest school would not be in use on evenings and weekends when the velodrome is likely to be busiest. Following the submission of additional details, the agents have confirmed that the both uses would occur in different parts of the sites and there are sufficient staff members to ensure children from the forest school do not walk onto the tracks in use. Moreover, it is considered that as both operations are considered to be policy compliant, it is for the landowner to determine how the land is used and managed. For the reasons outlined above, the proposal would not curtail the continued operation of the wider velodrome site.

27. *Impact to the character of the MOL*

As the site forms part of MOL, it should be protected from inappropriate development in accordance with national planning policy tests that are applied to Green Belt, as required by Chapter 13 'Protecting the green belt' of the National Planning Policy Framework (NPPF) (2021) and Policy G3 'Metropolitan Open Land' of the London Plan (2021). These policies outline that development in MOL should only be approved in very special circumstances. Paragraphs 149 and 150 of the NPPF outline that such exceptional circumstances can include the provision of appropriate facilities in connection with existing use of land or a change of use for outdoor sport, recreation, cemeteries, burial grounds or allotments, as long as these facilities preserve the openness of the green belt.

28. P57 'Open space' of the Southwark Plan (2022), outlines that development will not be permitted on Metropolitan Open Land (MOL), however in exceptional circumstances, development may be permitted when it consists;

It consists of ancillary facilities that positively contribute to the setting, accessibility and quality of the open space and if it does not affect its openness or detract from its character. Ancillary facilities on MOL must be essential for outdoor sport or recreation, cemeteries or for other uses of land which preserve the openness of MOL and do not conflict with its MOL function; or

29. The proposal is listed as a departure application, as the use for the class E(f) use is not cited as related to outdoor sport, recreation, cemetery and cannot be considered ancillary, as the use would be a material change of use. However, it is considered that the retained use would preserve the wider functions of the Velodrome, helping to enhance the viability of the Velodrome Trust and maintains the openness of the MOL. As will be discussed later in the report, the proposed use will use minimal temporary and free standing structures which do not enclose the openness of the MOL and also are supportive of its function in utilising the open space that the MOL presents to the local community.

30. *Provision of an educational facility*

The provision of additional educational infrastructure is considered to be acceptable in this location, where the site would benefit from close access to its users. P27 'Education places' of the Southwark Plan (2022) requires educational infrastructure provides facilities that are shared with the local community. However, this is applicable to where educational infrastructure is contained with major redevelopment schemes and provides sporting, arts and leisure facilities. Due to the scale of this use, this is not applicable in this case. The proposal accords with criteria 2 and 3 as the use would not lead to a loss of existing educational facilities and is not required to accompany a wider need for education places. Criteria 4 refers to the standards that educational facilities are required to meet with regard to space, facilities and internal quality to support a healthy learning environment. Due to the scale and nature of the forest school, and its operations which are predicated on outdoor learning, it is considered that the proposed use is adequately supported by facilities proportionate to its use. It is noted that some comments refer to the requirement for OFSTED safeguarding mitigations that may require planning permission, however it is considered that compliance with educational standards would not form part of the planning assessment. For the reasons outlined above, the proposal is considered to accord with P27 'Education places' of the Southwark Plan (2022).

Design, layout and heritage assets

31. The application seeks consent for the placement of freestanding and temporary structures in connection with the forest school. These include the provision of one equipment tent, two toilet stalls and one shed, which are illustrated on the 'PROPOSED SITE PLAN', dated 25 November 2021 on the council's online planning register. As such, it is considered that these would have an acceptable impact upon the openness of the surrounding MOL and would preserve the character of the conservation area. Furthermore, a condition will be attached to require the removal of these structures if the use were to cease in the future, thereby returning the MOL to its pre-existing condition. For the reasons outlined above, the proposal is considered to accord with P13 'Design of places', P20 'Conservation areas' and P57 'Open spaces' of the Southwark Plan (2022).

Fire safety

32. The fire safety requirements for minor development such as this are set out in Policy D12(a) of the London Plan (2021). A planning fire strategy statement has been submitted to address each of the criterion which will be discussed below according to their theme.
33. *1) identify suitably positioned unobstructed outside space:*
a) for fire appliances to be positioned on
b) appropriate for use as an evacuation assembly point

It is noted that the activities of the proposed use are carried out beyond the more accessible portions of the site adjacent to the pavilion, and are sited

within the wider MOL. The site can be accessed by a fire appliance to serve firefighting personnel if required. Due to the distance from the access lane to the site, it is considered that a fire safety section will be required of a wider operational management plan. It is noted that as an open air site there is plentiful space for the users to occupy as an assembly point, however this would likely to be located near the pavilion of the main velodrome.

34. Criteria 2 and 3 relate to the measures taken to reduce the risk of fire and any potential spread.

2) are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures

3) are constructed in an appropriate way to minimise the risk of fire spread

The fire statement outlines that no substantial buildings are proposed as the tent and sheds are free-standing, as such this criteria is not applicable which is considered reasonable. The statement outlines that an appropriate fire extinguisher will be sited in a designated location onsite, additional details of the location of this equipment can be secured by condition as part of the operational management plan. Moreover, the fire safety protocol outlines that the forest school will not permit smoking or the use of e-cigarettes onsite to reduce the risk of stray sparks causing a fire. In addition, the fire risk assessment outlines that it will be the role of the manager to ensure that a bucket of water is placed next to any open fire and that these are extinguished at the end of the day's activities.

35. *4) provide suitable and convenient means of escape, and associated evacuation strategy for all building users*

5) develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in

The fire statement outlines that an evacuation strategy mirrors the response to criterion one in that the forest school will use the surrounding space as an evacuation and assembly point and follow an agreed strategy amongst forest school forest school staff. This is considered to be acceptable given the open nature of the site and the relatively low number of pupils that would be present for the majority of the year. The users of the site will have sufficient opportunity to identify a fire hazard, evacuate the children from any hazard to a safe location closer to the pavilion. The fire safety protocol outlines the fire drill procedure, detailing the process by which the alarm is raised, children and staff are moved to a safe location and the emergency services are contacted.

36. *6) provide suitable access and equipment for firefighting which is appropriate for the size and use of the development.*

The fire statement, fire safety protocol and fire risk assessment outlines that the staff monitoring the forest school will have access to a fire extinguisher, fire blanket and bucket of water near any open flames, which would be considered to be proportionate to the scale of the risk posed.

37. With regard to the above, it is considered that the planning fire safety strategy is sufficient to demonstrate the ability of the operation to be carried out safely, in accordance with Policy D12(a) of the London Plan (2021).

Landscaping and trees

38. The application has been assessed in consultation with the council's Urban Forester. Initially questions were raised in relation to the placement of structures beneath canopies of the trees, management of toilet and general waste as well as the proximity of near trees.

39. In response to the comments received above, the agent has issued a response to the comments listed above. These outline that the applicants have commissioned a tree survey three years ago and the proposal would utilise safety inspections of the nearby trees in the vicinity of the forest school. With regard to the management of waste, it is noted that the proposal would utilise compost toilets with waste collected by a waste disposal company, therefore would not harm nearby trees. In regard to the use of controlled fires, this has been discussed in the fire safety section of the report and will be subject to further agreement of the management plan.

40. Following further internal discussion with the Urban Forester, it is considered that the application can be supported with the attachment of conditions for ecological enhancement and the planting of 7 trees with a girth of 84cm.

41. For the reasons outlined above, with the attachment of the requested conditions, the proposal is considered to accord with P61 'Trees' of the Southwark Plan (2022).

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

42. The proposal includes the provision of some free-standing structures to facilitate the site's use. Due to the nature and scale of these, these would not be considered to harm the amenity of adjoining occupiers in regard to daylight, sunlight, and outlook or by overlooking. It is noted that some neighbour comments refer to the increase in height of cycle trails and the loss of trees which would overlook neighbours, however no level changes are proposed in this application. Therefore, any works to the existing cycle pathways that form an engineering operation may require permission in their own right and would

be subject to another application process. In addition, it is noted that the depth of gardens to properties on Burbage Road would avert a harmful overlooking impact to principal amenity spaces or properties due to garden lengths exceeding 21m. As such the proposal would accord with P56 'Protection of amenity' of the Southwark Plan (2022).

Transport and highways

43. In its current form, the site is accessed via a variety of means with most users of the site arriving on foot and by bike from the local area. It is acknowledged that some users access by car, however this is considered to be the minority of the share of trip generation. It is considered that the site has sufficient capacity to accommodate additional trips from the users of the nursery.
44. The application has been supported with a transport statement which has been assessed in consultation with the council's transport and highways teams. The transport team raised a number of queries, which have been put to the applicant and have been responded to with a transport addendum. The comments raised by the transport team and their respective responses are discussed below.
45. The first point of the transport comments outlines that the transport statement surveyed journeys to the velodrome in a typical week including the wider uses from the cycling club, it was requested that the journeys from the forest school were presented in isolation. The previously identified percentages for the mode of travel have been applied to the maximum number of pupils that can attend the school, which demonstrates a reduction in the numbers of journeys being made. This would be considered acceptable as the overall number of pupils allowed to access the site is low and can be accommodated by the current access arrangements, particularly when considering that a majority of the site's users are visiting the site by walking or cycling from the local area.
46. Points two and five of the transport team's comments refer to the safety of the shared access land and has requested information on how the shared access lane is managed to safeguard young children and vulnerable pedestrians. The response in the addendum outlines that the shared access lane is operating at present without issue and that young children and vulnerable road users will be accompanied by a parent. Furthermore, the access lane maintains a low speed limit of 5 mph to be responsive to the safety of pedestrians accessing the site. Furthermore, the frequency at which the site is accessed via car for the site's users or for deliveries is not to an extent that would warrant further intervention.
47. The third point of the transport team's comments requested whether any cycle parking has been specifically dedicated to the forest school's users. The addendum outlines that the wider velodrome site has sufficient car and cycle parking facilities which the parents accessing the site may use. Furthermore, these are often not required as very few users are accessing the site by car and those cycling will make onward journeys to work. As such, the existing facilities are more than capable of accommodating the users of the forest school.

48. Point four A request for details of the arrangements for disabled users of the site has been made. The addendum outlines that the wider velodrome site benefits from a disabled parking space and toilet as part of the Pavilion, where the forest school can then be accessed using a level route.
49. The sixth point of the transport comments requests details of the storage facilities for pupil's buggies, bikes and scooters, which should be commensurate with the long stay nature of the site. In response, the addendum has advised that there is a dry storage area for any buggies and that in the experience of the operator's parents often take such items with them. Furthermore, with regard to the cycling facilities at the site, it is considered that whilst the Sheffield stands are open, these are secure and convenient, as is proportionate to the nature and duration of their use.
50. Points seven and eight of the transport comments seek clarification in regard to the servicing and delivery of the use's operation as well as the location and capacity of waste storage facilities. The addendum response outlines that any servicing for the daily needs of the forest school for the provision of food is undertaken twice a day and is delivered on foot via a trolley from the sister forest school, Under the Willow on Croxted Road. A weekly delivery of fresh fruit and vegetables is delivered to the main tent and is therefore low in frequency and impact. Any further ad-hoc deliveries to the main velodrome can be accommodated by the wider servicing arrangements of the velodrome site.
51. For the reasons outlined above the proposal is considered to accord with P50 'Highway impacts', P51 'Walking', P53 'Cycling' and P54 'Car Parking' of the Southwark Plan (2022).

Noise and vibration

52. *Details submitted*

The application has been supported with the submission of an acoustic impact assessment (AIA), in its fourth iteration, to take account of the methodological concerns raised by both the council's Environmental Protection Team (EPT). The revisions and amendments made are listed below;

- Version 1 – Original issue prior to the application's submission, 15th September 2021.
- Version 2 - Minor amendments made, submitted with the application, 17th September 2021.
- Version 3 – Substantial changes made, correction of the number of children present when noise measurements were taken, from 24 to 16.
- Version 4 – Substantial changes made, number of children assessed increased, assessment of the type and nature of the noise undertaken and confirmation of whether the activities undertaken were a typical day provided.

53. The NIAs submitted have also been scrutinised by a letters from Kane Acoustics, commissioned by the residents of Burbage Road, discussion of the most recent of which is provided below.

54. *Site context*

The area surrounding the application site is primarily residential with dwellings abutting the site boundary on the south west and north flanks. The site is also bordered by the railway line running north east to south west along the boundary. As such, the sub-urban location provides a low level of background noise, which is intermittently interrupted by the passing of train and vehicular traffic. It is noted that the operations of the velodrome would also contribute to low level background noise, with most activity occurring on the evenings and weekends in line with the velodrome's activities.

55. *Policy and guidance on noise*

P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022) outlines that development must;

1. *Avoid significant adverse impacts on health and quality of life; and*
2. *Mitigate any adverse impacts caused by noise on health and quality of life; and*
3. *Mitigate and manage noise by separating noise sensitive developments from major noise sources by distance, screening or internal layout, in preference to sound insulation.*

56. The above listed policy is also supported by the council's technical guidance note for noise (as amended) (2019), which makes recommendations on the assessment of noise sources which are not regular such as children's playgrounds, nurseries, sports areas and beer gardens. Section 5.9 of this document recommends the following should be included where no relevant standards exist to guide an acoustic assessment;

- *Comprehensive measurement of examples of the noise source from existing sites operating elsewhere*
- *Comparison and verification of measured data against existing data sources where possible (e.g. from scientific literature or international standards)*
- *Assessment of the existing background level at the receptor location*
- *Calculation of the predicted specific noise level at the façade, gardens and amenity areas of sensitive receptors, based on relevant obtained data*
- *Comparison of noise levels to relevant general standards such as WHO standards and BS8233:2014*
- *Full consideration of the impact of LAFmax noise (for example from door slams, ball strikes, shouts or whistles)*
- *Consideration of the character of the noise and whether this may exacerbate the impact on amenity*
- *Full consideration and reporting of assessment uncertainty**

57. *Findings of the acoustic impact assessment submitted by applicants*

The application has been supported by an updated acoustic impact assessment (AIA), as outlined above. The most recent iteration of the AIA makes an assessment of the operation of the forest school, along with the impact of the 20 additional children in place when the holiday club is in operation as well as the character of the noise and confirms that this is a typical day of activities onsite. Figure 4.3 shows the assessment of background noise levels to be between 39 and 41 dB across the day.

58. Section 4.3.1 of the AIA outlines that an assessment of the forest school's noise activities in situ have been undertaken. The assessment of the noise produced includes $L_{Aeq,T}$ (an average of a fluctuating noise level over a sample period) and L_{Amax} (the maximum time weighted sound level measured during a given period). Table 4.3 outlines that the highest average sound level of 58.3 dB is recorded between the 08:00 and 08:30 occurs during the drop off children near the entrance of the site. Activities during the rest of the morning were generally quieter, ranging between 45.2 and 50.6 dB average sound levels, where this produced generally higher noise levels, however the spread of children through the area does help to offset these higher noise levels. Therefore the overall noise level from children playing would produce an average noise level 50.6 dB and maximum noise level of 72.9 dB.
59. Whilst this initially produced a maximum noise level from playing in zones a to c, it is noted in section 5.2 of the AIA that this was undertaken when 16 children were present at the forest school. To account for the possibility of the forest school being at capacity of 24 children, it is estimated that the forest school at full capacity would generate 50% more noise. Therefore, it is estimated that noise from zones a to c would produce an average noise level of 52.4 dB and a maximum noise level of 72.9 dB.
60. To provide a more comprehensive assessment of the impacts of the proposal, the AIA has been updated to take account of the presence of an additional 20 students during school holidays, who utilise Zone D of the application site. Table 4.4 of the AIA outlines that the maximum noise level of 54.9 dB was produced from 10:25 to 10:25 when 27 students were present. Beyond this, average noise levels ranged from 50.3 to 52.4 dB, which again was offset by the spread of children through the application site. This is considered to produce an overall average noise level of 53.5 dB and maximum noise level of 79.3 dB.
61. Section 5.3 outlines that impact of these noise levels at the nearest sensitive receptors at properties 52 to 60 Burbage Road has been predicted using a noise model, as outlined in figure and table 5.1, citing the receipt of 46.3 dB at an outbuilding located in the rear garden of 54 Burbage Road. The existing ambient noise level in this area is 51.6 dB, if the contribution of the Forest School is added to this, this would increase ambient noise levels by 1.1 dB, considered to be negligible according to IEMA Guidelines.

62. Section 5.3.2 refers to BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' and WHO guidelines, internal noise levels can be calculated and compared to acceptability criteria. These recommend that internal noise levels within dwellings do not exceed 35 dB during the daytime or 55 dB in gardens or amenity spaces. It is noted that this criteria is generally used to assess steady noise sources, which when compared to the tonal characteristics of noise created from a forest school, as such it is considered necessary to reduce the adopted criteria by 5 dB below those in BS 8233. With consideration of this, it is noted that the maximum noise level recorded at Burbage Road properties is 36 dB, which when accounting for a 15 dB attenuation for an open window provides a result of 21 dB, below 30 dB adjusted internal noise level criteria during the daytime. Moreover, predicted noise levels at the nearest outbuilding, which is noted as being in use as a home office at 54 Burbage Road would measure 46.3 dB. Assuming 15 dB attenuation, this would generate a figure of 31.3 dB, below the adjusted minimum noise level of 35 dB for offices. The AIA makes clear that these assumptions are based on the prediction of full occupancy of the forest school with 44 students, as such the noise levels will likely be lower when less children are in attendance.
63. Section 5.3.3 of the AIA includes consideration of the L_{Amax} , the maximum sound level received by nearby properties. Figure 5.3 outlines sound levels of 66 dB and 56 dB at the closest outbuildings and rear façade of properties on Burbage Road were recorded, respectively. However, figure 4.2 outlines that L_{Amax} noise levels regularly exceed 60 dB in any 5 minute period, reaching between 65 and 70 dB. Therefore, whilst these noise levels are audible, they are considered to be in line with noise conditions in the area and the proposed use is unlikely to increase the amplitude of L_{Amax} events to an unacceptable degree.
64. Section 5.3.4 of the AIA makes an assessment of the character of the noise produced by the forest school, which can include laughter and shouting, singing, clapping and crying or distress. Such noises are characterised by their tonal and intermittent nature which are unpredictable. The report recognises that noise sensitive receptors are situated near the boundary such as outbuildings in use as home offices may experience audible noise inside and outside due to the nature of the building fabric. Due to the nature of the proposed use it is acknowledged that there is no specific methodology to forecast the impact of noise from children, however a noise management plan is recommended which can detail a precise and enforceable actions to manage excessive noise at the source.
65. *Findings of acoustician's letter submitted by neighbours*

In response to the AIA, a letter from a KP Acoustics was commissioned by neighbours on Burbage Road. The letter scrutinises the report on its omission of assessment uncertainty, which is relevant to the proposal due to the impulsive noise from young children. The letter also outlines that where

enforceable conditions cannot be applied mitigation or refusal should be considered. The letter also welcomes the consideration of the character of the noise produced but asserts that this could be more comprehensive to include, screaming, shouting and laughter which is not necessarily limited to periods of distress.

66. The letter goes on to outline that maximum noise events of 55db would exceed the average ambient noise level by approximately 4db would exceed background noise levels by 16db, disagree with conclusion that this would be inaudible. Furthermore, the recordings of neighbours are considered to show the noise levels being clearly audible, anecdotally contesting the assertions of the AIA, indicating the requirement for an uncertainty assessment to be undertaken. The letter asserts that the noise is noticeable and disruptive constituting that which is Significant Adverse Observed Equivalent Level (SOAEL) and therefore should be avoided or mitigated against. Other comments question whether the assessment takes into account the surrounding topography and that the presence of the outbuildings and their ability dissipate noise is overstated. The letter cites pre-application advice issued by the council in which the applicant is advised to relocate the proposed use and consider mitigation measures to alleviate noise concerns.

67. *Discussion of comments from EPT*

The application and the amended acoustic impact assessment has been assessed in consultation with the council's EPT, who have raised the following comments. A comment has been raised whether following the application of a correction factor to the 16 children surveyed, this was typical of the forest school's activities. In addition, it is cited that whilst the noise levels may meet appropriate guidelines, the nature of human noise and that of children in distress is more disruptive to those who hear it and may adversely affect well-being. It is noted that the report does not make assessment of the noise produced when the summer school is in operation, and that the AIA be amended to account for the subjective reception of children in distress and the greater number of children present through the holiday club. Further aspects of consideration include the use of mitigation measures such as moving the activities further into the site or the construction of a natural bund. In addition, due to the difference between the existing areas of operation and the proposed site plan, this should be accounted for in the noise calculations. Consideration should also be given to whether the outbuildings near the boundary are classed as habitable rooms.

68. It is noted that both the comments from EPT and the objector's acoustician letter has raised the issue of the distance of the school to the outbuildings in the neighbouring properties gardens, and the provision of amended figures to account for the impact upon outbuildings at the rear of gardens on Burbage Road. Figures to account for the impact upon these receptors have been provided as outlined above, when taking an on-balance approach, whilst these may be have been converted into habitable rooms in some cases, it is considered that the impact upon these neighbouring rooms is considered to be acceptable on balance.

69. Following assessment of the most recent AIA from the applicants and scrutiny of the KP Acoustics letter, EPT have the following comments to make. EPT notes that the AIA has not made provided full consideration of assessment uncertainty in accordance with noise technical guidance, the exploration of increasing the distance between the forest school or the inclusion of fencing to alleviate impact to residents is explored, visits to the site have shown that the activities can be undertaken without disruption however this must be balanced against an Observed Adverse Noise Effect Level to be mitigated or reduced to a minimum. It is recommended that a noise management plan is drawn up in conjunction with residents and utilised by planning enforcement to monitor the activities of the Velodrome.

70. It is noted that in the comments from EPT, that exploration of mitigation measures such as a natural bund or acoustic fencing is recommended to be explored. However, for the reasons set out below, it is considered that the impact overall is considered to be acceptable, therefore such mitigations are not required and would need to be considered against their impact upon the open character of the MOL.

71. *Discussion and conclusion on matters of noise*

It is noted that the noise impacts associated with the proposed use has been prevalent amongst the reasons for objections to the proposal. However, due to the intermittent nature of this noise and how it is perceived by the human ear, this cannot be predicted for. Notwithstanding the impact of the noises produced by SOD and the impact of this exceeding background noise levels, it is important to note that interpretation of this noise type is subjective to the individual that hears this. This may have an impact upon the well-being of the neighbouring residents if they cannot assist a child in distress, however it is considered that due to the overall number of children attending the forest school, that this would be likely to be an infrequent event, one which is also not atypical of a forest school.

72. For this reason, officers have resolved to undertake a balanced assessment of the use in situ, with multiple site visits to review the carrying out of SOD's operations. When undertaking such visits in the morning and afternoon, the number of children varied between 7 and 21 with those present engaging in a mixture of guided and self-led learning with noise kept to a low level. Whilst it is acknowledged that the operations of SOD will lead to occasional increases in sudden noises from the children present, it is considered that this would not be frequent enough to present a detrimental harm to amenity that would warrant refusal. Furthermore, it is noted that the presence of such forest school uses are not uncommon in residential areas where pre-school facilities are located in close proximity to their client base. To allow for continual accountability, a condition has been added to secure the provision of an operational management plan with a dedicated noise section, requiring the applicant to detail how the forest school will manage the location and duration of activities in the site as well as disruptive noise sources at the source, which

can ensure ongoing compliance.

73. For the reasons outlined above, notwithstanding the assessments raised in both the AIA, acoustician's letter and assessment by EPT, it is considered that both require an on balance assessment of the site's operation due to the nature of the noise produced. As such, it is considered that the impact of the school's operation is considered to be acceptable in amenity terms, in accordance with P56 'Protection of amenity' of the Southwark Plan (2022).

Energy and sustainability

74. Due to the scale and nature of the use, it is considered that the operations of the SOD would demand a very low level of energy. In addition, the free-standing structures would not be considered permanent and therefore would not be expected to meet the requirements of P70 'Energy' of the Southwark Plan (2022).

Ecology and biodiversity

75. *Ecology impact*

As the application site falls within Herne Hill SINC, the council's ecology officer has been consulted. Concern has been raised that works undertaken in the enforcement case 23/EN/0047 have degraded the ecological value of the site which cannot be restored and will not deliver biodiversity net gain. The primary ecological assessment (PEA) has been assessed and is considered to be satisfactory, with no requirement for further studies. In order to secure ecological enhancement, a condition has been attached to oblige the applicant to submit details of ecological enhancement to be carried out in accordance with the recommendations outlined in the PEA, in accordance with P60 'Biodiversity' of the Southwark Plan (2022).

Air quality

76. Consultation responses have cited concern with regard to smoke pollution from open fires produced by the forest school. It is noted that all of Southwark is a smoke control zone and it is only permitted to burn an approved smokeless fuel. To ensure that the operation of the forest school is not contributing to smoke pollution, it is considered necessary to include the agreement of smokeless fuels, cited on the council website¹, within a wider management plan for the site, secured by planning condition. With the appropriate mitigations in place, it is considered that the proposal accords with P65 'Improving air quality' of the Southwark Plan (2022).

Ground conditions and contamination

¹ Southwark Council. 2022. Main causes of air pollution. <https://www.southwark.gov.uk/environment/air-quality/about-air-quality/main-causes-of-air-pollution>

77. During the consultation, no concern has been raised with regard to ground contamination, given the nature of the site as MOL and having had no previous industrial use, in accordance with P64 'Contaminated land and hazardous substances' of the Southwark Plan (2022).

78. **Archaeology**

79. The application site is located in the Dulwich Village APZ, however due to the scale and nature of the proposals, there is no concern regarding the impact of the works upon archaeological heritage assets, in accordance with P23 'Archaeology' of the Southwark Plan (2022).

Water resources and flood risk

80. The application site is located in the Herne Hill Critical Drainage Area, however due to the scale and temporary nature of the structures associated with the site's use, which does not include hardstanding, the proposals are not considered to increase surface water flooding. As such the proposal would accord with P68 'Reducing flood risk' of the Southwark Plan (2022).

81. **Other matters**

82. *Alleged breach of condition*

It is noted that in addition to the existing planning enforcement case (20/EN/0297) at the land, a further alleged breach of condition has occurred in respect of planning permission 15/AP/0790, approved 10/06/2015 for the Demolition of existing pavilion building and spectator seating areas, and erection of proposed two-storey pavilion building with spectator seating, erection of new gazebo -pavilion tent to provide external cover, rationalisation of existing shipping containers and provision of new cycle and car parking spaces.

83. As part of this permission, Condition 10 included reference to an approved code of conduct document. In summary, this document sets out how the uses at the land (cycling and related activities) were to be operated on a daily basis. It is alleged that the current forest school in use is in breach of this document. However, the site plan for 15/AP/0790 relates solely to the area surrounding the new pavilion and access from the Burbage Road entrance at the northern end of the larger site. The forest school use is located at the southern end and its daily operation does not occur within the application 'red line' boundary. Therefore, this condition would not apply to any use outside of the red line application boundary. Notwithstanding, enforcement investigation 20/EN/0297 remains an open investigation in regards to the forest school use at the land and will be reviewed pending the outcome of this planning application.

Consultation responses from internal and divisional consultees

84. Summarised below are the material planning considerations raised by internal and divisional consultees, along with the officer's response.

85. Ecologist:

- The ecology survey is acceptable, no further surveys are required.
- The report makes recommendations for ecological enhancement.
- It would be good to provide a statement and plan of habitat enhancements as part of this application to facilitated learning and focal interest and enhance biodiversity.

Officer comment:

- In light the comments received, a condition has been attached to secure the submission of details for ecological enhancement.

86. Environmental Protection Team (EPT):

At the moment, I am unable to give you a recommendation whether planning permission should be granted, as the acoustic report does not cover all the relevant points to give an officer recommendation.

The report highlights that this type of application does not fall under any formal standard to assess the impact of the development.

However the report makes a correction for only 16 children being on site at the time of the measurement to the normal attendance of 24 children, it is difficult to state that correction factor used is the correct value. If we accept that correction factor, the report does not state whether the activities on the survey day, was a typical day, or were quite activity being undertaken on the survey day.

It appears that the quoted values in the report, meet the various criteria used in the report, but that is based on the quoted figures, but humans react different to human voice. If there appears to be children in distress, the human reaction to that sound, is to seek help for that child, but if they are a neighbour, they cannot adequate respond to the sound, which will affect the residents well – being.

In the application it states that the nursery capacity is 24, however when the outdoor school is in operation, the total number of children on the site could be 44. The acoustic report does not cover the activities or the number of children of the outdoor school, which run for 10 weeks of the year, but a large portion of this time is the summer holidays, when the neighbours will have their windows open and / or in the rear gardens.

Therefore a further revision of the acoustic report is required to take into account the subjective response of children in distress and the change in activities within the summer school and the increase of the number of children

on the site.

Also the applicant could move the main activity further away from the residential neighbours boundaries, they could explore whether the main activity area could be shielded by a natural bund.

Within the documentation the current area being used is different to the proposed area in the application, which adds another factor to take into account when the noise calculations being made, but at present is not clear whether this has been taken into account in the report.

There is also the question whether the out buildings on the boundaries of the residential properties can be taken as habitable rooms. This has recently changed due to the Covid outbreak, where many people have converted their out - buildings into a home office, but the construction of these out – buildings may be not as robust as a normal residential building, so the impact will be greater, due to the lack of adequate sound insulation.

In respect of the bonfires on the site, this should be stopped by a suitable condition.

Following the submission of the above, the below comments have been received in response to the most up to date AIA and letter from KP Acoustics;

I have read all the new information in connection with the Forest School Nursery Application.

1. I agree that the Hawkins environmental has not provided a full consideration and reporting paragraph in the report of uncertainty of the measurements and modelling results in accordance with our Noise Technical Guidance.
2. I agree that a noise management plan should be provided, with a strong consideration that the majority of time the nursery uses the area the furthest distant from the residential properties.
3. As the proposed development is an open – aired nursery, there will be an element of noise all day from the children and staff. Increasing the distance between the area used by the nursery or an insertion of fencing between the nursery area would reduce the noise exposure to the residents of the adjacent properties.
4. I have been on site once, at the time of the visit, there was no noise emanating from the site. However with the evidence from the reports, there is a disruptive noise occurring on the site. I believe that a there is an Observed Adverse Noise Effect Level is occurring in the area and it should be mitigated and reduced to a minimum. Therefore before planning permission is granted, I suggest that a noise management plan is drawn up by the operator in conjunction with the residents. The noise management plan will have to be enforceable by planning to be acceptable for it to be a condition on any future planning decision.

I would encourage the nursery, not to include campfires on the site, as the campfires produces a large concentrations of PM_{2.5} which can affect the development of the children's lungs and can cause respiratory diseases in the future. At present the Borough the exceeds the interim WHO guidelines for PM_{2.5} and the whole Borough has now been declared an Air Quality Management Area, so eliminating this source would help to improve the air quality in the Borough.

Officer comment:

- See further discussion in sections on air quality and noise above.

87. Highway Development Management:

- Following the submission of the transport statement addendum in November 2022, safeguarding concerns have been addressed and there are no further comments.

Officer comment:

- No further comment.

88. Transport Planning Policy:

The application will only be acceptable from a transport perspective once the applicant has addressed the following points:

1. The applicant has provided a survey of activity at the site from September 2021 when operating as a nursery and summer club contained within Table 1.3 of the Transport Statement. This represents the highest demand associated with the site which is acceptable. It would be useful to see comparable figures for when operating solely as a nursery.
2. The applicant states that access to the nursery/holiday club is via shared access for vehicles, cycles and pedestrians. The applicant should outline how pedestrians, particularly vulnerable young children are safeguarded when accessing the site, where vehicles and delivery vans, cycles etc could be accessing the site at the same time. The applicant should provide details of the safe area within the wider velodrome site that pupils are dropped-off/picked-up from and how it is managed to ensure that it is not overwhelmed. It is unclear if it is the same location as where any servicing and delivery activity may occur for the wider velodrome site.
3. The applicant states that there is a 16 space car park for the velodrome and ample cycle parking. Details should be given as to if any of the car parking and cycle parking has been specifically dedicated to the

nursery/holiday club.

4. The applicant should outline arrangements for accommodating disabled pupils/visitors to the site arriving by car.
5. Of particular concern is the shared access route and car park at nursery/holiday club start/pick-up times with motorists dropping off/picking-up children (it is acknowledged from the trip survey undertaken in September 2021 that car usage is relatively low). The applicant needs to outline how this will be managed to safe guard pedestrian and cyclist safety and ensure no adverse impact on the local highway network since movements will likely to be concentrated.
6. The applicant states that pupils' buggies, bikes and scooters are stored in an appropriate location within the wider velodrome site and staff member's cycles. Details of the location of such facility and the quantum and specification should be provided. This should be commensurate with the long-stay nature of the use at the site, i.e. cycle parking should be secure, weatherproof, and easily accessible and to Sheffield stand design specification.
7. The applicant should outline servicing and delivery arrangements for the site and the frequency of such activity. It is unclear if it will be accommodated within any pre-existing arrangements for the wider velodrome site.
8. The applicant should clearly mark up on plans the waste storage location and capacity. It is unclear as to the arrangements for this.

- Transport Recommendations

The application will only be acceptable from a transport perspective, once the above mentioned issues are addressed

Officer comment:

- Following the submission of a transport statement addendum in response to the above listed comments, the proposal is considered have addressed these concerns.

89. Urban Foresters:

- The application is for a retrospective planning permission in respect of the use of an area of the cyclo-cross track for an outdoor nursery in the Scandinavian model for Forest schools.
- The site is operated by School Outdoors Dulwich, a part of Under the Willow Ltd, a Montessori Nursery School located on Croxted Road.
- The site is dominated by scrub and secondary woodland with areas cleared to facilitate the school's toilet facilities and tent.
- The structures appear to be temporary in nature and it is unclear as to whether there are any onsite wash, cooking, or cold storage facilities.
- I am concerned that without a tree risk assessment, the placement of the tent beneath the canopy of the trees would be unwise. This would

- be best placed at least 1.5m (x height) away from any mature tree.
- The toilets, comprising 2 wooden sheds appear to be situated outside of the root protection areas of trees. I am assuming that these are composting toilets but I have not seen any details on this and how the waste is managed.
 - Further detail should be provided as to the activities on site, including the lighting of fires, alluded to in their website; and also identify how waste is managed, including the use of onsite wood arisings. Indeed the applicant should show that any fires are lit well away from the stems and canopies of trees, built structures and at least 5m away from any boundary with neighbours. A suitable fire safety strategy also to be included in an overall management plan.
 - A woodland management plan should be conditioned for the site, this could include all of the outstanding information mentioned above.
 - I would also consider conditioning remediation for the cleared areas in line with the findings of the Preliminary ecological report and to include native tree planting along with ground and shrub layer planting (to be advised by the Borough Ecologist)

Suggested Condition Wording:

WOODLAND MANAGEMENT PLAN

Prior to first occupation of the development hereby approved, a Woodland Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The management plan should be prepared by a qualified and experienced arboricultural consultant and should include the following elements:

- A statement of the overall design vision for the woodland and for individual trees retained as part of the development - including amenity classification, nature conservation value and accessibility;
- Type and frequency of management operations to achieve and sustain canopy, understorey and ground cover, and to provide reinstatement where tree loss or vandalism occurs;
- Frequency of safety inspections, which should be regular in areas of high risk, OR following storms, less often in lower risk areas;
- Confirmation that the tree pruning work is carried out by suitably qualified and insured tree contractors to British Standard 3998 (2010);
- Special measures relating to Protected Species or habitats (e.g. intensive operations to avoid March - June nesting season or flowering period);
- Inspection for pests, vermin and diseases and proposed remedial

- measures; and;
- Confirmation of cyclical management plan assessments and revisions to evaluate the plan's success and identification of any proposed actions.

Reason:

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: Parts 8,11,12,13,14,15,16 of the National Planning Policy Framework 2021; Policies G1 (Green Infrastructure, G5 (Urban Greening) and G7 (Trees and Woodlands) of the London Plan 2021; Strategic Policies 11 (Open Spaces and Wildlife), 12 (Design and Conservation) and 13 (High Environmental Standards) of the Core Strategy 2011, and the following policies of The Southwark Plan (2022): P56 Protection of Amenity, P21 Conservation of the Historic Environment and Natural Heritage, P60 Biodiversity, and P61, Trees.

Officer comment:

- Following the receipt of additional details from the agent, the Urban Forester is satisfied to recommend the attachment of ecological and tree planting conditions.

Consultation responses from external consultees

90. Due to the scale and nature of the proposals, no external consultations have been undertaken.

Community impact and equalities assessment

91. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights.
92. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application.
93. 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:
1. The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 2. 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

3. 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.

94. In accordance with the above, the provision of the forest school is considered support young people as a protected characteristic through age, with access to an outdoor source of education develops valuable life skills for the future.

95. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.

Human rights implications

96. 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.

97. This application has the legitimate aim of providing social rented housing. 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.

Positive and proactive statement

98. 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.

99. The council provides a pre-application advice service that is available to all applicants in order to assist applicants in formulating proposals that are in accordance with the development plan and core strategy and submissions that are in accordance with the application requirements.

Positive and proactive engagement: summary table

Was the pre-application service used for this application?	YES
If the pre-application service was used for this application, was the advice given followed?	YES
Was the application validated promptly?	YES
If necessary/appropriate, did the case officer seek amendments to the scheme to improve its prospects of achieving approval?	YES
To help secure a timely decision, did the case officer submit their recommendation in advance of the statutory determination date?	NO

Conclusion

100. Overall, it is considered the provision of a forest school within the grounds of the Velodrome site is considered to be acceptable on planning policy grounds and will not prejudice the character of the MOL. It is considered that notwithstanding the arguments both in favour and against the noise impacts of the proposal, on balance the proposal is considered to be acceptable in amenity terms and is not atypical of similar uses in residential areas. The proposal is considered to be acceptable in all other regards in accordance with adopted local policy. Furthermore, the proposal is considered to be in accordance with the council's public sector equalities duty, as the retention of the use would directly benefit young people as a protected characteristic group. For these reasons, it is recommended that planning permission be granted subject to conditions.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: 2074-C Application file: 21/AP/3417 Southwark Local Development Framework and Development Plan Documents	Environment, Neighbourhoods & Growth 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	Recommendation
Appendix 2	Planning Policies
Appendix 3	Planning History
Appendix 4	Consultation undertaken
Appendix 5	Consultation responses received

AUDIT TRAIL

Lead Officer	Steve Platts, Director of Planning and Growth	
Report Author	Ewan Lawless, Planner	
Version	Final	
Dated	30 May 2023	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance	No	No
Strategic Director of Environment, Neighbourhoods and Growth	No	No
Strategic Director of Housing	No	No
Date final report sent to Constitutional Team		1 June 2023

APPENDIX 1

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.

Applicant	Mr Tim McInnes Herne Hill Velodrome Trust	Reg. Number	21/AP/3417
Application Type	Minor application		
Recommendation	GRANT permission	Case Number	2074-C

Draft of Decision Notice

Planning permission is GRANTED for the following development:

Retrospective planning application for the use of land as a class E(f) outdoor nursery (and temporary use as a holiday club) and the stationing of associated temporary free standing structures. This application is a DEPARTURE APPLICATION: The proposed development is a departure from Policy P57 (Open Space) of the Southwark Plan (2022).

Herne Hill Stadium 104 Burbage Road London Southwark

In accordance with application received on 28 September 2021 and Applicant's Drawing Nos.:

SITE LOCATION PLAN SK0105 - REV D received 25/11/2021

Existing Plans

Proposed Plans

EXISTING AND PROPOSED PLANS AND ELEVATIONS SK0107 - REV B received

25/11/2021

Other Documents

PLAN SHOWING THE FOREST SCHOOL SK0106 - REV B received 28/09/2021

PROPOSED SITE PLAN SK0106 - REV D received 25/11/2021

Permission is subject to the following Pre-Occupation Condition(s)

2. The following measures for the mitigation of impact and enhancement of biodiversity, as set out in the preliminary ecological appraisal recommendations on the Local Planning Authority's planning register, titled 'Preliminary Ecological Assessment', dated 28/09/21, will be submitted to and approved in writing by the Local Planning Authority within three months and implemented in full within nine months, from the date of this consent.

Options to Include: meadow creation and grassland enhancement. New tree and native shrub planting, Bulb planting, pond creation and installation of bird and bat boxes.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity and to contribute to the Urban Greening Factor requirements of the London Plan 2021 and help attain a minimum score of 0.4 for residential developments and 0.3 for commercial developments. In accordance with policies: G1, G5, G6, and SI 13 of the London Plan 2021, Policy P59 and P60 of the Southwark Plan 2022.

3. Within three months of the date of this consent, full details of all proposed planting of 7 Elm 'New Horizon' trees with a minimum total girth of 112cm girth to screen the proposed development at the southwestern boundary 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.

Reason:

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 accordance with the statutory duty (s.197a TCPA 1990)of the council to ensure that in granting permission, provision is made for the planting of trees, where appropriate, the National Planning Policy Framework 2021, Policies SI 4 (Managing heat risk), SI 13 (Sustainable drainage), G1 (Green Infrastructure, G5 (Urban Greening) and G7 (Trees and Woodlands) of the London Plan 2021 and Policies P60 (Biodiversity), P13 (Design of places), P14 (Design quality) and P56 (Protection of amenity) of the Southwark Plan 2022.

4. Within 8 weeks of the date of this consent, a management plan shall be submitted to the Local Planning Authority for approval, to detail how the use operates within the site with regard to the wider operations of the velodrome.

This shall include but is not limited to the following sections and criteria;

- o Arrival and departure times and management procedures
- o Land use
- o Detail of procedure to manage safety of children when mountain biking holiday club is in progress
- o Noise
- o Locations of activities within the site
- o Times and durations of activities within each area
- o Process for managing disruptive noise at source
- o Fire safety
- o Access procedure for fire appliances
- o Identification of evacuation assembly point near the pavilion
- o Detailed location of firefighting equipment used

- o Detail on provision of safe fire pits to reduce risk of fire spread
- o Procedure for avoiding air pollution and compliance with smokeless fuel

- o Servicing and delivery processes of the forest school
- o Waste management procedures

Reason:

To ensure that the local planning authority has an accurate account of the management of the proposed use, which can be monitored and enforced if necessary, in accordance with P50 'Highway impacts', P56 'Protection of amenity' and P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).

Permission is subject to the following Compliance Condition(s)

5. The use hereby granted permission, shall be carried out between the hours of 08:00 and 18:00 Monday to Friday, excluding weekends and bank holidays and shall not be carried out outside of these hours without the prior consent of the local planning authority.

Reason:

To ensure that the neighbouring residents do not experience noise nuisance associated with the carrying out of the use, in accordance with Policy D14 'Noise' of the London Plan (2021), P56 'Protection of amenity' and P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).

6. The use hereby granted consent, permits a maximum of 44 children to be present on site at any one time in association with the nursery or holiday club, this comprises 24 children as part of the nursery use and 20 children during the 10 weeks of the year when the holiday club is in operation, this includes any site visits from the sister nursery Under the Willow.

Reason:

To ensure that the neighbouring residents do not experience noise nuisance associated with the carrying out of the use, in accordance with Policy D14 'Noise' of the London Plan (2021), P56 'Protection of amenity' and P66

'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).

7. The use hereby granted permission includes only sub-class E(d) 'Creche, day nursery or day centre (not including a residential use)', and does not confer permission to sub-classes; E(a), E(b), E(c), E(d) E(e) and E(g) of the Town and Country Planning (Use Classes) (Amendment) (England) (Regulations) (2020), the use carried out shall not be altered without the prior consent of the local planning authority.

Reason:

To ensure that the neighbouring residents do not experience noise nuisance associated with the carrying out of the use, in accordance with Policy D14 'Noise' of the London Plan (2021), P56 'Protection of amenity' and P66 'Reducing noise pollution and enhancing soundscapes' of the Southwark Plan (2022).

8. The use hereby granted permission shall not benefit from permitted development rights under Schedule 2, Part 7 'Non-domestic extensions, alterations etc' Class M 'Extensions etc for schools, colleges, universities, prisons and hospitals' of the Town and Country Planning (General Permitted Development) (England) Order (2015).

Reason:

To ensure that the use does not lead to incremental extensions which would harm the openness of the surrounding MOL and intensify the use in a manner that is detrimental to the amenity of neighbouring residents, in accordance with P20 'Conservation areas' and P57 'Open space' of the Southwark Plan (2022).

9. Following the cessation of the use hereby granted permission, all free-standing structures associated with the nursery's operations, shall be removed to returning the land to its original condition preceding the establishment of the forest school and shall not be altered without the prior consent of the Local Planning Authority in writing.

Reason:

In the interests of the ecological preservation and openness of Metropolitan Open Land, in accordance with Chapter 13 'Protecting Green Belt Land' and 15 'Conserving and enhancing the natural environment' of the National

Planning Policy Framework (NPPF) (2021), Policy G4 'Open space' and G6 'Biodiversity and access to nature' of the London Plan (2021), P57 'Open space' and P60 an 'Biodiversity' of the Southwark Plan (2022).

Informatives

Planning Policies

National Planning Policy Framework (the Framework)

The revised National Planning Policy Framework ('NPPF') was published in July 2021 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.

Paragraph 218 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.

The relevant chapters from the Framework are:

- Chapter 2 Achieving sustainable development
- Chapter 8 Promoting healthy and safe communities
- Chapter 9 Promoting sustainable transport
- Chapter 11 Making effective use of land
- Chapter 12 Achieving well-designed places
- Chapter 14 Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 Conserving and enhancing the natural environment
- Chapter 16 Conserving and enhancing the historic environment

The London Plan 2021

On 2 March 2021, the Mayor of London published the London Plan 2021. The spatial development strategy sets a strategic framework for planning in Greater London and forms part of the statutory Development Plan for Greater London. The relevant policies are:

- Policy D4 Delivering good design
- Policy D12 Fire safety
- Policy D14 Noise
- Policy HC1 Heritage conservation and growth
- Policy G1 Green infrastructure
- Policy G2 London's Green Belt
- Policy G3 Metropolitan Open Land
- Policy G4 Open space
- Policy G5 Urban greening
- Policy G6 Biodiversity and access to nature
- Policy G7 Trees and woodlands
- Policy SI 1 Improving air quality
- Policy SI 7 Reducing waste and supporting the circular economy
- Policy SI 12 Flood risk management
- Policy SI 13 Sustainable drainage

- Policy T3 Transport capacity, connectivity and safeguarding
- Policy T4 Assessing and mitigating transport impacts
- Policy T5 Cycling
- Policy T6 Car parking
- Policy T6.5 Non-residential disabled persons parking
- Policy T7 Deliveries, servicing and construction

Southwark Plan 2022

The Southwark Plan 2022 was adopted on 23 February 2022. The plan provides strategic policies, development management policies, area visions and site allocations which set out the strategy for managing growth and development across the borough from 2019 to 2036. The relevant policies are:

- P13 Design of places
- P14 Design quality
- P18 Efficient use of land
- P20 Conservation areas
- P21 Conservation of the historic environment and natural heritage
- P23 Archaeology
- P27 Education places
- P45 Healthy developments
- P47 Community uses
- P50 Highways impacts
- P51 Walking
- P53 Cycling
- P54 Car Parking
- P55 Parking standards for disabled people and the physically impaired
- P56 Protection of amenity
- P57 Open space
- P58 Open water space
- P59 Green infrastructure
- P60 Biodiversity
- P61 Trees
- P62 Reducing waste
- P65 Improving air quality
- P66 Reducing noise pollution and enhancing soundscapes
- P68 Reducing flood risk
- P70 Energy

Supplementary planning documents

- Dulwich SPD (2013)

APPENDIX 3

Relevant planning history

Reference and Proposal	Status
12/AP/3195 Installation of track lighting along the perimeter of the main velodrome track.	GRANTED- Minor Application 31/01/2013
12/AP/3196 Construction of a 250m flat junior track in the centre of the main velodrome track and an associated multi-use games area with fencing.	GRANTED- Minor Application 31/01/2013
15/AP/0790 Demolition of existing pavilion building and spectator seating areas, and erection of proposed two-storey pavilion building with spectator seating, erection of new gazebo -pavilion tent to provide external cover, rationalisation of existing shipping containers and provision of new cycle and car parking spaces.	Granted 10/06/2015
22/AP/2788 Construction of a single storey building to provide an accessible toilet	GRANTED- Minor Application 04/04/2023

23/AP/0824

Works to trees in a conservation area:

Species and Location of Tree(s)

G1. A Sycamore (*Acer pseudoplatanus*) and dead Poplar (*Populus alba*) up to 17m height located on the boundary with the railway viaduct.

G2. A group of three Sycamore (*Acer pseudoplatanus*) and a Robinia (*Robinia pseudoacacia*) located either side of a cycle trail slope adjacent to the railway viaduct.

G3. A pair of Sycamore (*Acer pseudoplatanus*) located either side of a cycle trail slope between G2 and G4.

G4. A forest school area consisting of multiple dead Elm suckers (*Ulmus procera*) and Ash saplings (*Fraxinus excelsior*) together with Hawthorn (*Crateagus monogyna*), Elder (*Sambucus nigra*) and Buddleia. A multistem and a similar sized mature Sycamore are located nearer the embankment to the east and west of the group, with a large mature Ash (*Fraxinus excelsior*) in between. The canopy of the Ash supresses one large and a smaller stem diameter Sycamore (*Acer pseudoplatanus*) located directly either side of its stem.

Description of Approved Works

G1. Sycamore - Deadwood.

Dead Poplar- Monolith to branch unions as shown in attached photo.

G2. 2 x Sycamore - deadwood.

1 x Robinia & 1 x Sycamore - fell to ground.

G3. 2 x Sycamore - deadwood.

G4. Up to 26 dead Elm suckers - fell to ground.

1 x Large Ash, 1 x Sycamore and 1 x multistem Sycamore - deadwood.

Su pressed Sycamore adjacent to swing rope - fell.

Buddleia bush - fell to ground.

Granted TCA

02/05/2023

Consultation undertaken

Site notice date: 08/12/2022

Press notice date: 08/12/2022

Case officer site visit date: 08.12.2022

Neighbour consultation letters sent: 17/04/2023

Internal services consulted

Planning Enforcement

Transport Policy

Highways Development and Management

Environmental Protection

Ecology

Statutory and non-statutory organisations

Neighbour and local groups consulted:

60 Burbage Road London Southwark
First Floor And Second Floor Flat 64
Burbage Road London

72 Burbage Road London Southwark
56 Burbage Road London Southwark
74 Burbage Road London Southwark
66 Burbage Road London Southwark
50 Burbage Road London Southwark
48 Burbage Road London Southwark

76 Burbage Road London Southwark
70 Burbage Road London Southwark
68 Burbage Road London Southwark
62 Burbage Road London Southwark
58 Burbage Road London Southwark
54 Burbage Road London Southwark
52 Burbage Road London Southwark

Re-consultation:

APPENDIX 5

Consultation responses received

Internal services

Transport Policy
Highways Development and Management
Ecology

Statutory and non-statutory organisations

Neighbour and local groups consulted:

86 Burbage Road Dulwich London
52 Burbage Road London SE24 9HE
37, Chatsworth Way, Chatsworth Way
Chatsworth Way London
52 Burbage Road London SE24 9HE
16 Cameron Road Bromley BR2 9AR
129 Burbage Road Dulwich SE21 7AF
8 Greenhurst Rd London SE27 0LH
56 Burbage Road Herne Hill London
46 Brantwood Road London SE24 0DJ
22 Danby Street London SE15 4BU
63 henslowe rd London Se220ar
54 Burbage Road London London
54 Burbage Road London
70 Burbage Road London SE24 9HE
61a Burns House Doddington Grove
London
11 FERRINGS LONDON SE21 7LU
103 Burbage Road London
37 Chatsworth Way London SE27 9HN
12 Kingston Square London SE19 1JE
34 Pellatt Road London SE22 9JB
29 Hollingbourne Road London SE24
9NB
94 Elms Road London SW4 9EW
131 Burbage Road London SE21 7AF
52 Landells Road London SE22 9PQ
27 Bicknell Road London SE5 9AU
55 Felhampton Road London London
1a Hexham Rd London SE27 9EF
6 St Mary's Grove London SW13 0JA

6 Walkerscroft Mead London SE21 8LJ
8 Greenhurst Road LONDON
149 Fawnbrake Avenue London SE24
0BG
25 Court Lane, Court Lane, Court Lane
Court Lane LONDON
30 Tylney Avenue London SE19 1LN
5 Frank Dixon Way London SE21 7BB
25 Ellesmere Road Twickenham TW1
2DJ
22 Rosemary Avenue London N3 2QN
95 Stradella Road Herne Hill London
17 Worlingham Road London SE22 9HD
5a Limesford Road London
5a Limesford Road London
3 Hillworth Road London
Flat 20 Strickland Court, Fenwick Road
London SE15 4HP
98 Hindmans Road East Dulwich
LONDON
55 Felhampton Road London London
Flat 2 20 Turney Road London
24 Poplar Walk London SE24 0BU
52 Burbage Road London SE24 9HE
10 Oakenbrow Sway Lymington
29 Voltaire Sceaux Gardens Estate
London
3 Hillworth Road London SW2 2DZ
24 Christchurch Way London SE10 9AL
16 Hadrian Estate, Hackney Road
London E2 7AS

12 Octavia Street London SW113DN
50 Hollingbourne Road London SE24
9ND
20 Eastbourne Road Tooting London
28 Burgoyne Rd London SE25 6JT
62 Casino Avenue London SE24 9PH
192 Leahurst Road London SE13 5nl
27 Tylney Avenue Crystal Palace
LONDON
29 Leigham vale London sw162jh
54 Burbage Road London Southwark
86, Burbage Road London SE24 9HE
52 Burbage Road London SE24 9HE
54 Burbage Road London SE24 9HE
Flat 2, 20 Turney Road London SE21
8LU
46 Brantwood Road London SE24 0DJ
Flat 1 westerham Lodge 22 Park Road
London
30 Tylney Avenue London SE19 1LN
22 Danby Street Peckham London
63 Henslowe rd east dulwich London
174 Forest Hill Road London SE233QR
180 Lowden Road, Herne Hill London

SE24 0BT
66 Ruskin Walk London SE24 9LZ
244 Sylvan Road London SE192SB
54 Burbage Road London Southwark
76 Burbage Road London SE24 9HE
104 Burbage Road, LONDON SE24 9HE
63 Henslowe rd London SE220AR
6 Sherwood Avenue Streatham London
6 PELHAM CLOSE GROVE PARK
LONDON
12 Kingston Square London SE19 1JE
54 Burbage Road London Southwark
43 Barry Rd London SE22 0HR
5 Frank Dixon Way London SE21 7BB
36 Cliveden Road London SW193RB
42 Spenser Road London SE24 0NR
11 Briar Lane Carshalton SM5 4PX
50 Hollingbourne Road London SE24
9ND
22 Hendham Rd London SW17 7DQ
29 Hollingbourne Road Herne Hill SE24
9NB