

# Deptford Green School (upper & lower), Deptford

in the London Borough of Lewisham

planning applications no. DC/10/73436/X & DC/10/73438/X

## Strategic planning application combined stage I & II referral (new powers)

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008

### The proposal

Demolition of the existing Deptford Green Upper and Lower Schools and the construction of a two to five-storey school building on the Lower School site (Edward Street) with associated facilities, multi-use games area, landscaping, playspace and 150 cycle parking spaces. Creation of a new public open space on a proportion of the Upper School site (Amersham Vale).

### The applicant

The applicant is **Lewisham Schools for the future education partnership Ltd.**, and the architect is **WGI architects** and **BDP**.

### Strategic issues

Lewisham Council has resolved to approve permission for both applications. Having regard to the details of the applications, the matters set out in the committee report and the Council's draft decision notices, the proposals are **broadly consistent with the London Plan** and there are **no sound planning reasons for the Mayor to intervene** in this particular case and no basis to direct the Council to refuse the applications.

### Recommendation

That Lewisham Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal.

## Context

1 On 8 March the Mayor of London received documents from Lewisham Council notifying him of a planning applications of potential strategic importance to develop the above site for the above uses. The Deptford Green Lower School application is referable under Categories 3C and 3E of the Schedule to the Order 2008:

- *“Development which is likely to prejudice the use as a playing field of more than 2 hectares of land which (a) is used as a playing field at the time the relevant application for the planning*

*permission is made: or (b) has at any time in the five years before the making of the application been used as a playing field”,*

- *“Development (a) which does not accord with one or more provisions of the development plan in force in the area which the application site is situated; and (b) comprises or includes the provision of more than 2,500 sq.m. of floorspace for a class D1 use.”*

2 The Deptford Green Upper School application is referable under paragraph 2 of the Schedule to the Order 2008:

- *“If the local planning authority receive an application for planning permission for development, which they consider forms part of more substantial proposed development, on the same land or adjoining land, they must for the purposes of this Schedule treat that application as an application for planning permission for the more substantial development. ”*

3 Under the provisions of The Town & Country Planning (Mayor of London) Order 2008 the Mayor had until 16 April 2010 to provide the Council with a statement setting out whether he considered that the application complies with the London Plan, and his reasons for taking that view. However, on 8 April 2010 Lewisham Council resolved to approve planning permission for the applications and on 8 April 2010, advised the Mayor of this decision.

4 Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged or direct Lewisham Council under Article 6 to refuse the application. The Mayor has until 26 April to notify the Council of his decision and to issue any direction. This report sets out information for the Mayor’s use in deciding what decision to make.

5 As the Council did not provide sufficient time for the Mayor to give his initial comments, this report provides a full assessment of the application.

6 The Mayor of London’s statement on this case will be made available on the GLA website [www.london.gov.uk](http://www.london.gov.uk).

## **Site description**

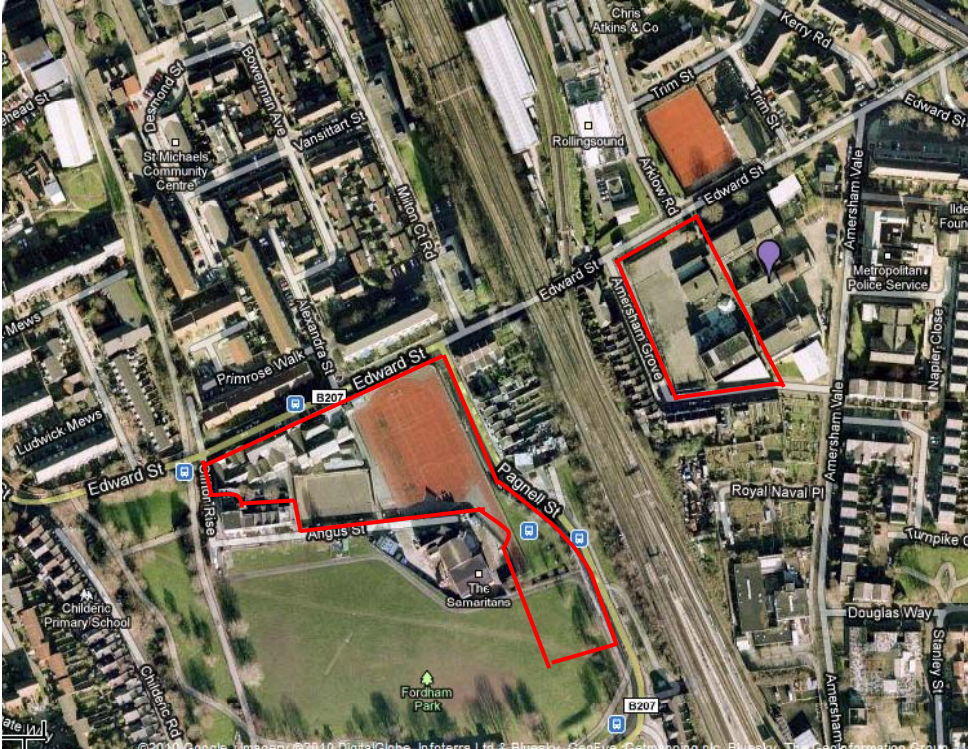
7 The two application sites are located less than 200 metres apart on Edward Street, Deptford and separated by residential development and a railway line. The surrounding area is predominantly residential. Deptford Green School (Lower and Upper) currently has 1,079 pupils aged between 11 and 16.

8 The 0.963 hectare Lower School application site is bounded by Edward Street to the north, Pagnell Street to the east, Fordham park and the Moonshot community centre to the south and terrace housing to the south-west. Part of the site is occupied by the Victorian school building, which varies between 1 and 3-storeys in height. A hard surfaced playground and the refuse area are located to the south of the school building. A multi-use games area, including an athletics track occupies most of the eastern section of the application site. The application site also includes a grassed area to the south of the multi-use games area, which currently forms part of Fordham Park. The multi-use games area/athletics track and the grassed area to the south of it are both designated public open space in Lewisham’s UDP.

9 The 0.57 hectare Upper School application site is bounded by Edward Street to the north, Amersham Grove to the west and south and the remainder of the Upper School site to the East. The proposed site represents less than a half of the existing Upper school site. The site is occupied by a large hard surface playground and 1 to 2-storey school buildings dating from the 1970s.

10 The nearest Transport for London road network is the A2 located less than 100m to the south of the Lower School site. The site is also well connected to the London cycle network which runs north-south from the northwest to the southeast point, by the Park. New Cross station, 600m south-east of the Lower School site, benefits from national rail services and soon from the East London Line Extension. Furthermore, several bus routes serve the site. Deptford Bridge DLR station is located more than a kilometre away and is therefore not considered to be within walking distance of the site. The site has a very good public transport accessibility level of 6a (on a scale of 1-6, where 6 is classed as excellent).

Figure 1: Aerial view of the two application sites



(Google maps)

**Details of the proposal**

11 On the Lower School site the applicant is seeking full planning permission for the demolition of the existing school buildings and the erection of a new 2 to 5- storey building to accommodate both the pupils from the lower and upper school on the single site (11-16). The secondary school would have the capacity for 1300 pupils. The proposed secondary school would be located on the site of the former school and the former multi-use games area/ running track. The proposal also includes a multi-use games area which would be located on Fordham Park, a sports hall, debate chamber, 150 cycle-parking spaces, informal playspace and landscaping.

12 On the Upper School site the applicant is seeking full planning permission for the demolition of the existing school buildings and landscape improvement works to create a 5000 sq.m. new public open space that includes new footpaths, hard and soft landscaping, tree planting, street furniture and street lighting throughout. The proposal also includes a play area for young children and an informal games area/event space. Whilst not included in this application, the applicant has advised that they intend to develop the rest of the Upper School Site for residential uses.

Figure 2: The proposed development on the Lower School site



*(WGI Architects: Design and access statement)*

Figure 3: The proposed new public open space on the Upper School Site



*(BDP: Landscape Report)*

## Case history

13 There is no significant case history.

## **Strategic planning issues and relevant policies and guidance**

14 The relevant issues and corresponding policies are as follows:

- Education *London Plan; PPG17*
- Playing fields/Open space *London Plan; PPG17, draft PPS Planning for a Natural and Healthy Environment*
- Urban design *London Plan; PPS1*
- Access *London Plan; PPS1; Accessible London: achieving an inclusive environment SPG; Planning and Access for Disabled People: a good practice guide (ODPM)*
- Sustainable development *London Plan; PPS1, PPS1 supplement; PPS3; PPG13; PPS22; draft PPS Planning for a Low Carbon Future in a Changing Climate; the Mayor's Energy Strategy; Mayor's draft Climate Change Mitigation and Adaptation Strategies; Mayor's draft Water Strategy; Sustainable Design and Construction SPG*
- Transport *London Plan; the Mayor's Transport Strategy; draft replacement Transport Strategy; PPG13;*

15 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area is the 2004 Lewisham Unitary Development Plan and the London Plan (Consolidated with Alterations since 2004).

16 The draft replacement London Plan, published in October 2009 for consultation, the Lewisham Core Strategy (Preferred Options) and the Lewisham Development Control Policies Development Plan Document (Preferred Options) are also material considerations.

## **Education and community facilities**

17 The London Plan seeks to support and maintain high quality educational opportunities and life choices for London's children. Draft Replacement London Plan Policy 3.19 also supports development proposals which enhance education and skills provision. This proposal is rooted in the Government-led Building Schools for the Future programme, providing funding to rebuild or refurbish all secondary schools in England over the next 10-15 years to ensure that all children are educated in modern and efficient facilities.

18 The construction of new modern facilities for Deptford Green School would, in principle, enhance education facilities. The applicant has stated that running the school from two different sites presents considerable operational challenges. It is inefficient and requires the duplication of facilities and administration. Furthermore, the buildings on the Upper School site have a number of structural problems and the buildings on both sites are generally unsuitable for modern teaching practices.

19 Paragraph 3.113 of the London Plan states that London's school age population is projected to increase by eight percent by 2016 and that Boroughs should ensure adequate school provision to cope with this increase. The proposed development would increase the overall capacity of the school by around 100 pupils, to 1300 pupils.

20 London Plan policy 3A.24 'Education facilities' sets out that the use of the educational facilities should be maximised out of school hours. This use of the school facilities by the local

community is also encouraged by London Plan Policy 3A.18 *'Protection and enhancement of social infrastructure and community facilities'* and the London Plan Policy 3D.6 *'The Olympic and Paralympic Games and sports facilities'*.

21 Whilst the applicant has not provided detailed information on how it intends to make the site and its facilities accessible for wider community use, it has stated that it envisages out-of-hours community use of the shared and sporting facilities and that the proposal has been designed with community use in mind. An out-of-hours community entrance to the sporting facilities from Pagnell Street has been included in the design and other facilities will be accessible to the community from the main entrance. Sport England has been consulted on the re-provision of sports facilities on the site and has stated that the accommodation of community access and use of the sports facilities is essential and a community use agreement should be required by a condition attached to the planning permission.

22 Further information regarding the level of access the community would have to the proposed facilities and the details of the legal agreement to secure this access was requested. The applicant has confirmed that a community facilities management plan will be secured through the S106 agreement and the Council will not permit occupation until such a plan is submitted and approved.

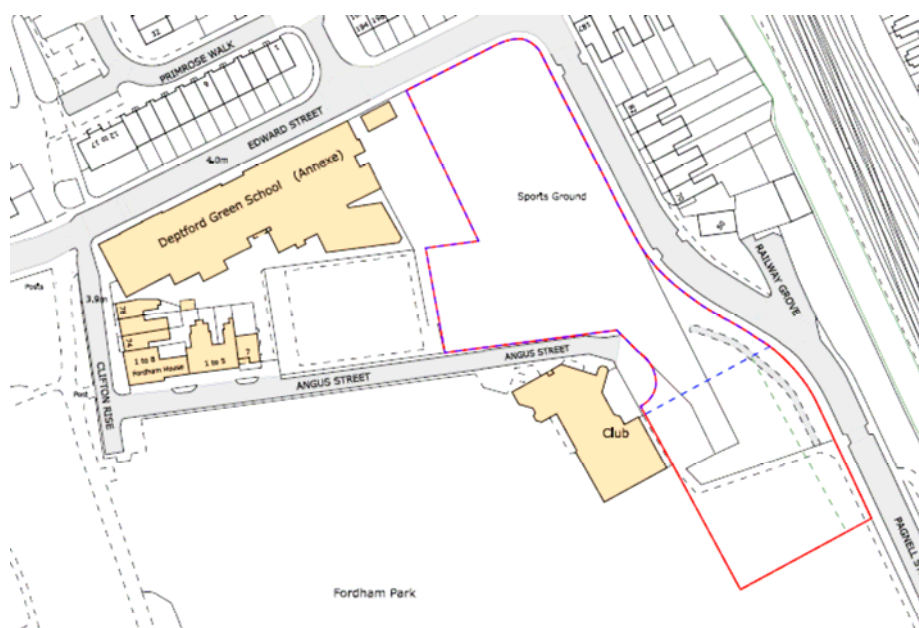
23 The proposed scheme will enhance the education provision offered by Deptford Green School. The consolidation of the Upper and Lower school onto a single site will allow for more efficient and intensive use of the schools resource and the uplift in pupil places is welcomed. The out-of-hours access to the proposed facilities will be beneficial to the wider community.

## **Public open space/ Playing fields**

24 London Plan policies 3D.8, 3D.11 and 3D.12 collectively recognise the value of, and seek to protect, promote and improve access to London's network of open spaces. Paragraph 3.307 of the London Plan explains that development on local open spaces will not be acceptable where they have been designated for protection in a DPD or where there is a demonstrable need for that open space.

25 7,462 sq.m. out of the 9,630 sq.m. Lower School application site is designated public open space in Lewisham's UDP (indicated by the red line in figure 4 overleaf). Much of this designated public open space is currently fenced off and occupied by the school's sporting facilities (the athletics track/multi-use games area) and is therefore not accessible to the public. However, 2,529 sq.m. of the application site is outside of the school grounds and forms part of Fordham Park. The proposed school building would be built upon 4,900 sq.m of the designated open space (indicated in by the blue dotted line in figure 4) whilst the replacement multi-use games area would be located on the 2529 sq.m. which currently forms part of Fordham Park. To compensate for the loss of public open space on the Lower School site, the applicant is seeking planning permission to provide a 5,000 sq.m public open space on the Upper School site. The applicant has stated that the remaining 2529 sq.m. on which the replacement multi-use games area is proposed will continued to be designated public open space therefore there would be total net increase in public open space of 100 sq.m.

Figure 4: Diagram of public open space



(Source: Savills)

26 However, the new public open space differs dramatically in functionality and quality to the existing public open space and these issues therefore must be considered. The applicant has argued that the new public open space will be of a much higher quality than the existing sports facilities and, unlike the existing sports facilities, it will be truly accessible to the community. Whilst it is accepted that the proposed public open space on the Upper School site will be of a higher quality and more accessible, the proposed space will only provide an informal games area and therefore the use of the space cannot be considered as a simple re-provision of the lost open space.

27 Whilst there is no specific policy on the loss or prejudice of playing fields within the existing London Plan, the Draft Replacement London Plan Policy 3.20 states, “proposals that result in a net loss of sports and recreational facilities, including playing fields should be resisted.” The policy also notes multi-use public facilities for sport and recreational activity should be encouraged. As part of the application site the site is a playing field ‘Planning Policy Guidance 17: planning for open space, sports and recreation’ and draft ‘Planning Policy Statement: planning for a natural and healthy environment’ are also relevant.

28 Sport England was consulted regarding the loss of the multi-use games area and athletics track. It noted that whilst the new multi-use games area proposed on Fordham Park would compensate for the loss of the existing multi-use games area, it viewed the loss of the 200 metres synthetic running track without re-provision as regrettable. The applicant has stated that the athletics track is used very little by the school and even less so by the community. The school does not regard it as a valued facility and therefore did not see any benefit in re-providing it as part of the new development. The applicant has stated that the new sporting facilities are of a much higher specification/quality than the existing facilities and the wider community will be actively encouraged to use them. The applicant argues therefore that the benefit of the new facilities will far outweigh the loss of the existing running track. GLA officers have also expressed their concern regarding the loss of the track, which is an uncommon facility for an urban school to have access to. The applicant has stated it will consider marking out a grass track on Fordham Park.

29 As discussed above, the proposed replacement multi-use games area will be built upon 2529 sq.m. grassed area which currently forms part of Fordham Park. The applicant has stated that the designation of public open space for this area will be retained. However, the multi-use games

are will be fenced and access to the facility will be via the school grounds and, therefore, it cannot be regarded as an accessible public open space. The applicant has sought to justify this by stating that due to the significant community access to the multi-use games area, which will be secure in the S106 agreement, the multi-use games area should not be considered 'lost' public open space. It is also necessary to consider whether the replacement multi-use games area will impact on the character, use and quality of Fordham Park. The applicant has stated that the grassed area of Fordham Park on which the replacement multi-use games area is proposed, is of poor quality and currently underused.

30 Furthermore, it is accepted that the issue is not just simple about re-provision of the existing open space since the quality and accessibility of the space is much higher. In addition, it is accepted that the replacement multi-use games area and proposed sports hall will adequately compensate for the existing multi-use games area. The loss of the athletics track is highly regrettable and the applicant is urged to consider re-providing it. It is accepted that whilst the area of Fordham Park on which the proposed replacement multi-use games area will result in a loss of accessible open space, the secured community access to the facility and the significant educational benefits of the proposed development outweigh the loss in this instance.

## **Design**

31 Good design is central to all objectives of the London Plan and is specifically promoted by the policies contained in Chapter 4B. London Plan Policy 4B.1 sets out a series of overarching design principles for development in London. Other policies in Chapter 4B and elsewhere in the London Plan set out design requirements relating to specific issues. Chapter 7 of the draft replacement London Plan sets out design related policies.

32 The proposed site layout and distribution of built scale and massing, ranging between two and five storeys, would respond to the site context. To the west, north and east the context comprises houses and flats of assorted age and type ranging between two and four storeys and to the south Fordham Park. The proposal would have a positive effect on the local townscape providing a clear and active built frontage to Clifton Rise, Edward Street and Pagnell Street and introducing street trees along these routes within a managed landscaped strip. The main entrance and community entrance for the school would be suitably positioned on the latter two of these routes. The main entrance would have a small concourse parallel to Edward Street which is welcomed as a means of managing the coming and going of the large numbers of pupils. The playground would be logically positioned to the south adjacent to the park and would also have a further entrance, increasing the activity on this edge of the park.

33 Internally the configuration of the building would maximise natural light and passive ventilation, which is positive. The simple modernist architecture proposed would be contextualised though the use of yellow stock brickwork similar to that found in the existing school building on the site and in the surrounding streets. The proposal landscaping would enhance both the streetscape and the boundary with the park. The proposed use of the roof space for a mix of external teaching space and brown roofs is welcomed.

34 In summary the proposed design would be consistent with the relevant policies of the London Plan, notably Policy 4B.1.

## **Access**

35 London Plan Policy 4B.5 'creating an inclusive environment' expects all future development to meet the highest standard of accessibility and inclusion. This, together with the Supplementary Planning Guidance 'Accessible London: achieving an inclusive environment' underpins the principles of inclusive design and the aim to achieve an accessible and inclusive environment consistently across London. Inclusive design principles, if embedded into the development and design process from the outset, help to ensure that all of us, including older people, disabled and deaf people, children and young people, can use the places and spaces proposed comfortably, safely and with dignity. The aim of Policy 4B.5 is to ensure that proposals achieve the highest standards of accessibility and inclusion not just the minimum. Furthermore, educational establishments have a duty under the Disabilities Discrimination Act 2005 to ensure that their facilities and services are accessible for disabled students.

36 A full design and access statement has been submitted by the applicant. The proposed development has been designed to allow step-free access to all areas and the environment has been designed to be fully accessible and inclusive in line with London Plan Policy 4B.5.

## **Climate Change**

### **Climate change mitigation**

#### Baseline carbon dioxide emissions (policy 4A.4 of London Plan)

37 The carbon dioxide emissions of the proposed development have been estimated using building regulations compliance modelling software, in this case IES. The total baseline emissions equate to 435 Tonnes CO<sub>2</sub> per annum based on a 2006 Part L compliant building. Both regulated and unregulated emissions have been accounted for, in line with London Plan requirements.

#### Energy efficiency standards (Policy 4A.3 of the London Plan).

38 A wide range of passive design features and demand reduction measures are proposed to reduce the carbon emissions of the proposed development by 27% below the baseline emissions. The orientation of the building has been optimised and maximum use of daylight will be made. Both air permeability and heat loss parameters will be improved well beyond the minimum requirements set by building regulations. Other features include use of low velocity mechanical ventilation systems to minimise fan power (the building will be largely mechanically ventilated due to the close proximity of local roads), high efficiency fluorescent lighting systems and inverter drives.

#### District heating (policies 4A.5 and 4A.6 of the London Plan)

39 No district heating schemes are currently available within the immediate area of the Deptford Green School site. However, the applicant understands that Lewisham may be considering the creation of a borough network in the future and connections will be made available within the school plant room to facilitate possible future connection.

40 Central heat generating plant will be located in the main first floor plant room and will provide heating for the ventilation air supplied from the air handling units and for domestic hot water generation.

#### Combined Heat and Power (Policy 4A.6)

41 The applicant suggested CHP as an option for an additional low carbon energy source (meeting 20% of the heating demand) supplementing a biomass boiler which would be the lead heat source. When CHP is proposed, it is a technology that, to be effective, needs to be used as the lead heat source for a development. The possible use of CHP as a supplementary technology to the biomass boiler is not a robust approach. Due to the limited duration and magnitude of the heating loads found in schools, CHP is not normally proposed in this type of building.

42 The applicant has provided further information defending its use of CHP with a biomass boiler for the school. While the applicant acknowledges the generally non-complementary nature of the two technologies for developments of this scale, the applicant maintains that in order to achieve a 60% target reduction (required for funding purposes) in operational carbon emissions, they have to employ both technologies. It is more likely that the small CHP will be used as the lead heat source, with the biomass boiler meeting supplementary requirements. Although doubts remain about the extent to which they will be operated successfully together in this development, the planned use of thermal storage may help to mitigate this potential problem and no further information is requested in this regard.

#### Cooling (Policies 4A.6 of the London Plan)

43 In order to minimise solar gain in summer, shading devices will be fitted to the south facing aspect of the building. As the building will be largely mechanically ventilated maximum use will be made of cooling using outside air. The air handling units will also be fitted with evaporative coolers to bring down the temperature at which air is supplied as and when required.

#### Renewable energy technologies (policy 4A.7)

44 The applicant is proposing to install a biomass boiler within the energy centre as the lead heat source for the communal heating network. This will supply 75% of the heat and reduce carbon emissions by around 18% compared to a 2006 Building Regulations compliant building. The biomass boiler will be supplemented by top-up/back-up centralised gas boilers. It is proposed that the biomass boiler will burn wood pellets. Information has been supplied in relation to the supply, delivery and storage of the biomass.

45 Where the use of biomass is proposed, the biomass boiler must be certified as an exempt appliance in accordance with the Clear Act 1993. A list of exempt appliances can be found at: <http://www.uksmokecontrolareas.co.uk/appliances.php>

46 The applicant was asked to provide additional information regarding the biomass boiler to ensure that it is one of the lowest emitting models available on the Government's Exempt Appliance list at the time of installation. This information has now been provided and is satisfactory.

47 The applicant suggested the possible option of air source heat pumps to supplement heat provided by the biomass boiler. Further detailed information regarding how these could be successfully integrated into the planned communal heat network was requested. In particular, details of the planned operating temperatures. The applicant has provided the additional information explaining how the air source heat pumps would be incorporated into the development. These will supply heat directly to air handling units, rather than into the communal heat network. However, this would reduce the heat supplied by the communal heat network and is therefore not in line with the London Plan energy policies, although the amount of heat likely to be supplied in this way may be small.

#### **Climate change adaptation**

48 The London Plan promotes five principles in policy 4A.9 to promote and support the most effective adaptation to climate change. These are to minimise overheating and contribute to heat island effects; minimise solar gain in summer; contribute to flood risk reduction, including applying sustainable drainage; minimising water use; and protect and enhance green infrastructure. Specific policies cover overheating, living roofs and walls and water. The consultation draft replacement London Plan also includes policies to ensure the development makes the fullest contribution to London's adaptation to climate change.

49 The applicant has satisfactorily addressed the full range of sustainability principles. Specific measures include brown roofs and sustainable urban drainage systems. This is acceptable in line with London Plan policy 4A.3 and 4A.9.

## **Transport**

50 In recognition of the site's excellent accessibility, the removal of existing parking provision and the car free nature of the proposal is welcomed, save the five disabled on-street parking spaces secured through the legal agreement.

51 Due to the nature, the location and the scale of the proposals, it is accepted that the scheme is unlikely to have any significant impact on the highway network. In light of the additional information provided, TfL can also confirm that the school is unlikely to be reliant on the 225 bus services despite the reasonable walking distance from New Cross, which is welcomed.

52 TfL welcomes the mitigation measures suggested as part of the application, particularly the improvements to pedestrian and crossing facilities. Whilst the widening of the Edward Street pavement to 3.5m width is supported it, however, is disappointing that facilities under the railway bridge and in the vicinity of the shop, as currently identified to be in need of upgrade in the transport statement report, have not been further enhanced as part of the proposals. In light of the accident analysis results, it is accepted that TfL's initial request for footway widening around Amersham Vale, pedestrian refuge upgrading between the railway line and Milton Court Road and guardrail assessment do not necessitate any further work.

53 130 cycle parking spaces and 20 visitor facilities are proposed on site. Although it is accepted that the proposed development is increasing cycle facilities significantly, common practice is that visitor spaces should be provided in addition to staff and student facilities to comply with TfL's cycle parking standards. However, the applicant's commitment, to be secured by condition, to phase the provision with increase from 130 to 154 spaces when the uptake and demand justify it, is welcomed. TfL would expect this to be included within the unilateral undertaking and be monitored by the travel plan. TfL welcomes the provision of CCTV along the school frontage, the overlooked visitor cycle parking and the availability of shower and changing facilities at the Lower School site.

54 TfL welcomes the travel plan for the two applications, covered within the Transport Assessment and the School Travel Plan for the existing sites, which are to be secured, managed, monitored and enforced through the unilateral undertaking. Whilst the existing travel plan and the proposed measures presented show the school's commitment to travel planning and awareness of school-specific issues and measures, they do not currently adhere to TfL's guidance for development-related travel plans. The applicant is therefore strongly encouraged to consult TfL during the travel plan preparation. TfL welcomes the production of a Construction Management Plan and Delivery and Servicing Plan, both are secured by condition in Lewisham planning committee report.

55 Subject to the satisfactorily unilateral undertaking, TfL now considers this application to accord with the transport policies of the London Plan, as detailed above.

## **Response to consultation**

56 Lewisham Council advertised this application by means of a site notice and a press notice, together with 900 individual letters to neighbouring residential occupiers and letters to statutory consultees. One letter of objection was received, signed by two local residents in Edward Street.

57 The main objections raised in the letter were: that the design, materials, scale are not in keeping with the surrounding area and the proposal constitutes overdevelopment of the site; there would be a loss of privacy for the houses on Edward Street which would be overlooked by the development; there would be an increase in noise due to the relocation of the upper school students on the lower school site; road safety would be compromised due to the increased number of cars and insufficient consideration has been given to traffic calming and safe crossing areas; there is no provision for new cycle lanes; a loss of sunlight to Edward Street; a loss of views from Pagnell Street; the loss of the historic Victorian school building; and the loss of the public park space to accommodate the new multi-use games area is unacceptable and sets a dangerous precedent that public space can be built upon if it is reallocated elsewhere resulting in valuable park land being redistributed as smaller pieces of land elsewhere.

58 Comments of statutory consultees were as follows:

- The Environmental Agency supported the scheme subject to the inclusion of a planning condition requiring measures set out in the submitted flood risk assessment to be implemented.
- English Heritage supported the scheme subject to the inclusion of a planning condition requiring the implementation of a programme of archaeological work which was submitted by the applicant.
- Thames Water raised no objection to the proposed scheme.
- Whilst Sport England regards the loss of the running track as regrettable it does not object to the proposed development subject to the inclusion a number of planning conditions.

## **Legal considerations**

59 Under the arrangements set out in Article 4 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor is required to provide the local planning authority with a statement setting out whether he considers that the application complies with the London Plan, and his reasons for taking that view. Unless notified otherwise by the Mayor, the Council must consult the Mayor again under Article 5 of the Order if it subsequently resolves to make a draft decision on the application, in order that the Mayor may decide whether to allow the draft decision to proceed unchanged or direct the Council under Article 6 of the Order to refuse the application. There is no obligation at this present stage for the Mayor to indicate his intentions regarding a possible direction, and no such decision should be inferred from the Mayor's statement and comments.

## **Financial considerations**

60 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government guidance in Circular 03/2009 ('Costs Awards in Appeals and Other Planning Proceedings') emphasises that parties usually pay their own expenses arising from an appeal.

61 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

## **Conclusion**

62 Having regard to the details of the applications, the matters set out in the committee report and the Council's draft decision notices, the proposals are broadly consistent with the London Plan and there are no sound planning reasons for the Mayor to intervene in this particular case and therefore no basis to direct the Council to refuse the applications.

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for further information, contact Planning Decisions Unit:

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