

Ref: 17/501471/FULL

Current urgent update incorporating the urgent update from the deferred committee meeting on the 28.08.2017

Since the previous meeting the applicant has confirmed that they have submitted an appeal against non-determination on the 4 October 2017.

The council Arboricultural Officer has been asked to provide an assessment of the Holly (T38 in the tree survey) and whether it would qualify as a 'veteran tree' and responds as follows.

'The Holly tree in question is clearly in the fully mature/late mature stage of its lifecycle. It has some decay holes in the main stem, some which are reportedly holding water and some of which are quite large and may be progressing to parts of the stem hollowing through decay cavities linking up. However, the crown is not currently showing any signs of retrenchment or loss of apical dominance that would give the tree the classic appearance of a true veteran. It does not have significant amounts of deadwood present and no fungal fruiting bodies have been noted.

I am of the opinion that the tree is not a true veteran, and whilst it might have good potential to be recruited into the true veteran population in time, it does not display sufficient characteristics to be considered a veteran at this time'.

The Arboricultural Officer has classified the Holly as an aged tree.

Additional comments received prior to 28.08.2017 committee meeting:

Cllr Harwood has raised a number of points (summarised below) regarding the planning committee report and omission of conditions.

No standard renewable energy condition.

No impartial evidence on highways or highway safety.

No standard integral wildlife features condition (bat and swift bricks etc).

No standard buffer for woodland condition (lit track hard on biodiverse woodland edge).

No standard cordwood condition despite national and even international significance of deadwood fauna at Vinters Park and importance of big old trees for wildlife.

No attempt to address fragmentation of boundary woodland (at pre-meeting a "C" shaped link was proposed to link the severed section).

No woodland replacement proposed (landscaping around a massive lit car park does not count).

No attempt to mend serious damage to Area of Local Landscape Importance – there is no wider landscape strategy rather a meagre minimalist planting scheme within the site

Landscaping scheme comprises non-native trees and shrubs (including locally invasive *Quercus ilex*).

No mention of significance of the woodland belt to be destroyed forming a part of the original Medieval park boundary and these largest trees in the park as focal points within Humphrey Repton's late Eighteenth Century vision when they were already old).

Major road scheme piggy-backing on school application is clearly not CIL compliant.

Danger from roundabout arms for pedestrians not addressed.
Enclosure of popular local greenspace with palisade fencing ahead of application being received not addressed.
No bird survey, no mammal survey, no invertebrate survey.
Dismissive of significance of huge oak trees within designated area of Local Landscape Importance.
Does not address NPPF implications of deliberate and avoidable destruction of 'irreplaceable' veteran holly.
Fixation with protecting sterile close mown green desert playing fields.
Materials palette and surface treatments are either unacceptable in terms of quality or there is no detail.
Means to address inevitable bird-strike when woodland is reflected in the extensive fenestration are omitted despite the well catalogued significance of Vinters Park for rare birds.
The lack of attention to unsustainable trip generation is indefensible.

Response:

The application site is located within the Vinters Park Area of Local Landscape Importance which is described as a broad swathe of historic parkland that stretches from Mote Park in the south to the built-up edge of the town in the north where it separates the housing areas of Grove Green and Vinters Park. The application site, wider school playing field and tree lined boundary would have formed part of the original historic parkland setting incorporating Vinters nature reserve to the north of the site. The change of use to a school playing field has significantly eroded the original historic parkland features within the application site, however, the tree belt around the site largely remains and is considered an important landscape feature. The Vinters Park Landscape Character Assessment objectives are to 'conserve and reinforce' areas of mature vegetation and the open parkland character and the loss of trees from the boundary of the site would be contrary to this guidance.

The application is accompanied by a comprehensive LVIA which defines the landscape features of the site and wider area and assesses the impact of the proposed development. The LVIA states that the sensitivity of tree belts found on the school playing fields and application site with potential to be affected by the development is judged to be high. The tree belt around the school playing field and along New Cut Road has historic landscape importance and is considered to make a positive contribution to the landscape character of the immediate and wider area extending north of the application site towards Vinters nature reserve.

As set out in the committee report the proposal would result in a significant loss of trees in order to accommodate the proposed access into the site and the council tree officer recognises this and does not support the loss of trees along the boundary. This is acknowledged as clearly weighing against the proposed development and has been considered in the access options assessment and in the balancing exercise at the end of the committee report.

Woodland fragmentation / loss of trees along New Cut Road is a negative factor of the proposed development and would be a consequence of any proposed new access along New Cut Road, as set out in the committee report. The loss of trees along the New Cut Road cannot be avoided with a new access route along New Cut Road. The Access Options Assessment and committee report go into further detail regarding the proposed roundabout access and location.

As indicated in the committee report significant trees would need to be removed to accommodate the site access including TPO trees and one aged tree identified by the tree officer. The loss of a significant number of trees, including the aged Holly and mature oak trees weighs against the proposal as set out in the report. The NPPF advises that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss. As the Holly tree has been classified as an aged tree by the tree officer Natural England Standing Advice on ancient woodland and veteran trees is not applicable.

The Access Options Assessment sets out the evidence base for the proposed access and location and, on balance, this is considered to be the most appropriate location for the new access into the site. Regrettably the proposed access would result in the loss of one aged tree, however, in accordance with the NPPF, on balance, the significant benefits of the new school, which is required to meet current and future demand in the borough is considered to outweigh the loss of a single veteran tree. Compensation for the loss of the aged tree could include planting young trees of a similar species near to the trees they are replacing which in this instance could be secured through the landscape condition. The hulk of the aged tree would also be retained on the site. Further tree planting, including new oak species within the school site would help to mitigate the loss of the trees from the site boundary. More than 90 new trees would be planted within the site to help mitigate the loss of some 32 trees from the boundary.

There is a landscaping / planting plan condition and a 10 year landscape management plan condition to cover landscaping and this could include additional features if required, and ensure the proposed planting comprises native species. Other than the tree line boundaries a majority of the application site and wider school playing fields comprise managed / mowed grass playing pitches, hard surface tennis courts and a MUGA, and a future sports hall in the southeast corner of the playing field. The existing sports pitches and playing fields need to be maintained as mowed grass to ensure use of the grass pitches. Three existing grass pitches would be lost as a result of the school proposal and three schools would be sharing the playing fields (and other sport facilities) within the wider site. Further loss of pitches would not be supported by Sport England, however, the ecology and landscape management and planting plan conditions could review whether there is sufficient space within the site for additional woodland buffers and enhanced ecology buffers on the edge of the playing field without encroaching onto the retained grass playing pitches.

Condition 17 requires on-site ecology enhancements for breeding birds, bats and reptiles which would cover the integrated bird / bat boxes and cordwood. An informative could be added advising the applicant about the need to provide cordwood on the site and integral swift bricks in the building to make this point clear. KCC Ecology has been consulted and has reviewed the ecology reports and surveys submitted in support of the application. KCC Ecology has advised that sufficient ecology surveys have been carried out to determine the application. KCC have recommended ecology enhancement and a bat scoping survey, which they are satisfied can be addressed by condition. No further reptile surveys were requested by KCC.

Materials predominately include grey coloured facing brick, darker grey render and recessed grey aluminium windows with coloured insert panels to frame the windows. Council Officers raised some concerns about the use of white render at pre-app stage and sought a higher quality material / cladding. The school advised that the budget could not accommodate an alternative to the rendered upper floor sections and proposed a coloured render scheme rather than stark white which would have been subject to weathering and staining. Overall, the design and appearance of the school is considered to be acceptable and the proposed palette and colour of materials would offer a muted appearance and would be resilient to

weathering. The proposed materials and various colours palettes were reviewed by Members at pre-app stage and the current proposed design was the preferred approach.

Approximately half the roof area of the proposed school building will incorporate PV panels as shown on the roof plan drawing 16777-KSS-00-03-DR-A-01001 P3. The details / design of the PV panels would be secured via the materials condition and secured via the plans list condition.

A Stage 1 Highways Safety Audit has been completed for the proposed roundabout / access and pedestrian crossing design. No objections have been raised from KCC highways in terms of highways safety. There is one additional point to address that came out of the safety audit which relates to the possible inclusion of a shared pedestrian / cycle path on the east side of New Cut Road to the north. This will be reviewed under the S278 agreement with KCC Highways. Two access designs were reviewed by the school, the proposed roundabout and an alternative signalised T-junction. Both options cost approximately the same to deliver as confirmed by the applicants transport consultant and the proposed roundabout is therefore considered to be CIL compliant. KCC highways confirmed that the proposed roundabout performs better in highways capacity and safety terms.

The Transport Assessment indicates that the proposed school would result in additional vehicle trips to the area, although it does allow some double counting as parents drop of their children and continue onto work etc. The school is located in a sustainable location within walking distance of the town centre. The aims and objectives of the school Travel Plan are to reduce vehicle trips and increase cycling, pedestrian and bus use. Highways England has advised that if implemented and monitored appropriately the Travel Plan should be capable of achieving the desired outcomes. Motts have reviewed the Travel Plan on behalf of the council and have advised that the sustainable transport would be further promoted if additional cycling parking is provided on the site from the start of the school year. The number of children expected to cycle to school as set out in the TP reflects the current number of pupils that cycle to the adjacent Valley Park School and is disappointingly low. The applicant has agreed to increase the number of cycle storage spaces from the start of the first school year and there is sufficient space on-site to accommodate a total of 172 cycle spaces which would help promote staff and pupil cycling. Motts have also advised that the proposed parking provision would not encourage sustainable travel by staff such as car sharing, walking, buses and cycling and therefore suggested the amount of on-site car parking could be reduced to deter and reduce staff car trips. Should Members agree to a reduced number of on-site parking spaces this could be secured by condition and has been agreed by the applicant.

The existing palisade fence around the entire school site does not form part of the current application. The palisade fence is unsightly, and prevents the school playing fields from being accessed by the public. However, the fence was erected by the school several years ago under permitted development, presumably for safety reasons and this type of development has been a common occurrence at other schools in the borough. Whilst the secure fencing does prevent public access to the school playfields the use of the school sports facilities and playfields will be promoted, managed and secured through a community use agreement as recommend by Sport England and secured by condition in accordance with policy DM23.

Additional points

Requests have been put to Highways England to confirm their consultation stance which states they raise no objection subject to securing the Travel Plan through a S106 agreement which should include penalties should the school fail to meet the aims and objective of the

Travel Plan. The council has asked HE to provide a figure and possible mitigation schemes HE would accept within the S106. No further information has been provided to date. The committee report seeks delegated powers to agree the exact details but understandably the school are unwilling to agree this at this stage as a figure has not yet been provided.

As an alternative to the mitigation penalties in the S106 the applicant has suggested that the Travel Plan could be secured via a condition although the TP monitoring fee would need to be secured via a S106. Should the school fail to meet the aims and objectives of the TP, which HE have advised are all achievable providing the TP is properly implemented and monitored, the council would be able to take enforcement to ensure the TP is adhered to by the school, although the condition route would not secure the mitigation penalties as requested by HE.

Further policy assessment

Adding to the policies set out in the committee report, saved policy ENV22 (Urban Open Space) states the public and private areas of open space in the borough, including school playing fields, make a significant contribution to the overall quality of the environment. The protection of open areas for visual and townscape reasons is secured by Policy ENV22.

Policy ENV22 states *'In dealing with applications to develop existing open areas within the urban areas and village settlements, the borough council will have regard to:*

(1) the visual contribution which the existing site and the proposed development will make to the urban or village landscape; and

(2) the need to uphold and improve the appearance of the locality, with particular emphasis in more densely developed areas; and

(3) the need to conserve wildlife habitats.

Saved policy ENV23 relates to the loss of open space and recreation facilities. The pre text to the policy advises within the urban area and villages, land becomes available from time to time for redevelopment, in particular the release of surplus educational land which has provided valuable open space. Policy ENV23 states:

'Proposals for new development which would result in the net loss of open space or sport and recreation facilities, will not be permitted unless there is a proven overriding need for the development and there is no deficiency of open space or recreation facilities in the locality and alternative provision of an equivalent community benefit can be provided to replace the loss'.

Policy DM19 of the new modified local plan relates to open space and recreation. Criterion 7 and 8 of policy DM19 refer to the loss of open space and state:

'Proposals for new development which would result in the net loss of existing open space or sport and recreation facilities will not be permitted unless there is a proven overriding need for the development. In addition, the development will only be permitted if:

i. There is no resulting deficiency in open space or recreation facilities in the locality when assessed against the quality standards of this policy; or

ii. An alternative provision, determined to be of an equivalent community benefit by the Borough Council and community representatives can be provided to replace the loss.

8. In dealing with applications to develop existing open areas within the urban area, rural service centres, larger villages and other locations, the Borough Council will have regard to the impact of the loss of the contribution that the existing site makes to the character, amenity and biodiversity of the area'.

Saved policy ENV35 relates to Areas of Local Landscape Importance and the site falls within Vinters Park ALLI. ENV35 states that in ALLI particular attention will be given to the maintenance of open space and the character of the landscape and encouragement will be given to improvements in public access. Policy ENV35 is not being carried forward in the new local plan as the new Landscape of Local Value designation stops short of the playing fields.

The Green and Blue Infrastructure Strategy June 2016 indicates that there is currently no deficiency of accessible sports open space within Boxley Ward.

CONCLUSION – PLANNING BALANCE

The relevant planning and government guidance sets out strong support for new school facilities and there is an identified current and future need in the area for a new secondary school and the school itself is identified within the KCC Commissioning Plan at this location. In light of NPPF guidance and significant government support, such considerations must be given significant weight in any decision.

The application site is a sustainable location with good access to transport hubs in the town centre, bus routes and pedestrian and cycle routes. The emerging local plan does not allocate any sites for Secondary school provision therefore the proposed site is considered to be the best location and no other alternative sites have been identified.

The Communities and Local Government Policy Statement on Planning for Schools Development provides strong support for new schools and states there should be a presumption in favour of the development of state funded schools. This Government Policy advises that the refusal of any application for a state-funded school will have to be clearly justified and the Secretary of State will be minded to consider such a refusal to be unreasonable conduct, unless it is supported by clear and cogent evidence.

The proposal would constitute a good standard of design and would not appear significantly prominent within the site due to the boundary screening and set back from the road. The proposal would meet the relevant government standards for a new school and will ensure sufficient sports provision on the site for the three schools as confirmed by Sport England and, a Community Use Agreement would ensure the sports pitches are available to the local community.

Against the proposal is the loss of a significant number of TPO trees along the New Cut Road frontage. However, as outlined in the committee report the proposed location of the school building and the roundabout has been determined by a number of factors, including highways capacity and safety, retention of the best sports pitches on the site and ground levels and, it is noted that any new access point along New Cut Road would result in the loss of a significant number of trees. Other access locations / designs would result in the loss of less mature / significant trees than the proposed access, however, the roundabout access and location has been led by a number of factors including Sport England's requirement to retain the best grass playing pitches within the site, the ground level changes and the fact that the roundabout would result in a betterment in terms of traffic flows and reduced congestion times along New Cut Road compared to the existing situation. In addition, the scheme proposes a comprehensive landscaping and tree planting plan which proposes to replant some 90 new trees on the site which is more trees than would need to be removed to

facilitate the site access, which would in part mitigate the impacts of the roundabout and tree loss in accordance with saved policy ENV6.

The proposal would also result in the loss of one aged tree, as confirmed by the council tree officer. Paragraph 118 of the NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats including aged trees, unless the need for, and benefits of, the development in that location clearly outweigh the loss. On balance, it is considered that the significant benefits of the new school, which is required to meet current and future demand in the borough is considered to outweigh the loss of the TPO trees including the single aged tree.

The loss of open space and recreation facilities runs against the general thrust of saved policies ENV22 and ENV23 and modified policy DM19 which advise that the loss of open space and recreation facilities should not be permitted. However, ENV23 and DM19 allow the loss of open space where there is a proven overriding need for the development. In this instance there clearly is an overriding need for a new Secondary School in this location as identified in the KCC Commissioning Plan. Where there is a loss of open space due to an overriding need, policy ENV23 requires that there is no deficiency of open space or recreation facilities in the locality and alternative provision of an equivalent community benefit can be provided to replace the loss. In this regard Sport England have confirmed that the provision of the new sports hall would off-set the loss of the grass pitches and ensure that there would be no deficiency in usable recreation space or sports pitches at the school. Given that Sport England are the statutory consultee, there can be little weight, if any, attached to the loss of those existing pitches. The school has agreed to a community use agreement to ensure the new sports hall is open to the wider community out of school hours which would benefit the wider community as required by policy ENV23. The existing grass pitches and MUGA at the school are already open to the wider community and will continue to be made available. It is also noted that the proposed location of the new school has been selected to ensure the best quality playing pitches are retained. In addition, The Green and Blue Infrastructure Strategy June 2016 indicates that there is currently no deficiency of accessible sports open space within Boxley Ward.

It is significant to note that policy DM19 of the emerging plan allows there to be a net loss of open space or sports facilities where alternative provision of equivalent community benefit will replace the loss. As there would be alternative provision policy ENV23 is not a policy on which reliance can be placed for refusing planning permission.

The new school would also result in the loss / redevelopment of an area of open space within Vinters Park Area of Local Landscape Importance. In addition, ENV22 seeks to retain visually important areas of open space. However, the school playing field is largely screened from public vantage points by mature boundary screening such that the site and in particular the open aspect of the site is not considered to make a significant contribution to the surrounding area. The new school building and parking area would not appear significantly prominent in the wider area and would be largely screened by boundary trees, other than at the proposed new access point. In these circumstances, policy ENV22 is not a significant policy and can only be given limited weight. It is therefore considered that the visual harm resulting from the development would be more significant in terms of the loss of the tree lined boundary along New Cut Road rather than the loss of the open space in the ALLI. However, the weight that can be attached to ENV35 is extremely limited because the landscape in which the appeal site sits will not attain any special protection under the emerging local plan.

The new school would result in additional traffic flows and congestion at nearby junctions, a point which does weigh against the proposed development. However, the impacts of the scheme on the wider Highway network including the M20 Junction 7 are not considered to

cause a severe impact subject to a robust Travel Plan being secured by a S106 which would include contingency funding and appropriate mitigation measures to be used on sustainable transport scheme(s) benefitting the local area and relevant to the proposed development. Although Highways England do note that if the TP is implemented and monitored appropriately, the mitigation would not be required.

The scheme is acceptable in all other regards including that relating to neighbour amenity, drainage, air quality and heritage.

In conclusion, significant weight needs to be given to the fact that the proposal relates to a new school in a location where there is a clear identified need in this sustainable location. The main weighty material considerations strongly indicate that development should be allowed. Therefore, on balance, it is considered that the strong policy support for new schools, the identified need in the KCC Commissioning Plan and the lack of alternative sites, represent material considerations and together with the, traffic flow and reduction in congestion and other factors, would outweigh the harm caused from the loss open space / playing fields and the loss of the trees, including a veteran tree, along New Cut Road.

RECOMMENDATION

THAT THE COUNCIL ADVISES THE PLANNING INSPECTORATE THAT IT WOULD HAVE GRANTED PLANNING PERMISSION SUBJECT TO A LEGAL AGREEMENT AND CONDITIONS