



THE LONDON BOROUGH
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DATE: 18 October 2023

To: Members of the
PLANS SUB-COMMITTEE NO. 3

Councillor Jonathan Andrews (Chairman)

Councillor Tony Owen (Vice-Chairman)

Councillors Dr Sunil Gupta FRCP FRCPath, Christine Harris, Alisa Igoe, Julie Ireland,
Alexa Michael, Shaun Slator and Mark Smith

A meeting of the Plans Sub-Committee No. 3 will be held at Bromley Civic Centre on
THURSDAY 26 OCTOBER 2023 AT 7.00 PM

TASNIM SHAWKAT

Director of Corporate Services & Governance

Members of the public can speak at Plans Sub-Committee meetings on planning reports, contravention reports or tree preservation orders. To do so, you must have

- already written to the Council expressing your view on the particular matter, and
- indicated your wish to speak by contacting the Democratic Services team by no later than 10.00am on the working day before the date of the meeting.

These public contributions will be at the discretion of the Chairman. They will normally be limited to two speakers per proposal (one for and one against), each with three minutes to put their view across.

To register to speak please telephone Democratic Services on 020 8461 7840

If you have further enquiries or need further information on the content of any of the applications being considered at this meeting, please contact our Planning Division on 020 8313 4956 or e-mail planning@bromley.gov.uk

Information on the outline decisions taken will usually be available on our website (see below) within a day of the meeting.

Copies of the documents referred to below can be obtained from

<http://cds.bromley.gov.uk/>

A G E N D A

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 DECLARATIONS OF INTEREST

3 CONFIRMATION OF MINUTES OF MEETING HELD ON 31 AUGUST 2023 (Pages 1 - 6)

4 PLANNING APPLICATIONS

Report No.	Ward	Page No.	Application Number and Address
4.1	Bickley & Sundridge	7 - 42	(17/02468/CONDT8) - St Hugh's Playing Fields Bickley Road, Bickley, Bromley
4.2	Orpington	43 - 52	(22/04947/ELUD) - 243 Court Road, Orpington, BR6 9BY
4.3	Crystal Palace & Anerley Conservation Area	53 - 66	(23/03026/FULL1) - Crystal Palace Park, Thicket Road, Penge, London, SE20 8DT
4.4	Crystal Palace & Anerley	67 - 74	(23/03116/PLUD) - Pedestrian Subway Under Crystal Palace Parade, Crystal Palace Parade, Anerley, London

5 CONTRAVENTIONS AND OTHER ISSUES

Report No.	Ward	Page No.	Application Number and Address
	NO REPORTS		

6 TREE PRESERVATION ORDERS

Report No.	Ward	Page No.	Application Number and Address
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The Council's [Local Planning Protocol and Code of Conduct](#) sets out how planning applications are dealt with in Bromley.

PLANS SUB-COMMITTEE NO. 3

Minutes of the meeting held at 7.00 pm on 31 August 2023

Present:

Councillor Jonathan Andrews (Chairman)
Councillor Tony Owen (Vice-Chairman)
Councillors Dr Sunil Gupta FRCP FRCPATH, Christine Harris,
Alisa Igoe, Julie Ireland, Mike Jack and Alexa Michael

Also Present:

Councillors Alison Stammers

7 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Mark Smith and Councillor Mike Jack attended as substitute. Apologies were also received from Councillor Shaun Slator.

8 DECLARATIONS OF INTEREST

Regarding Agenda Item 4.1, Cllr Igoe declared that she is a resident of the Chislehurst Conservation Area and a member of The Chislehurst Society.

9 CONFIRMATION OF MINUTES OF MEETING HELD ON 6 JULY 2023

The Minutes of the meeting held on 6 July 2023 were confirmed and signed as a correct record.

10 PLANNING APPLICATIONS

10.1 CHISLEHURST

**(22/03243/FULL1) - Home Farm, Kemnal Road,
Chislehurst, BR7 6LY**

Demolition of part of Greenacres, demolition of Polo Mews North, demolition of Polo Mews South and demolition of part of The Bothy. Erection of linking extension between Polo Mews North and Polo Mews South. Erection of a two-storey extension to The Bothy. Establishment of new vineyard. Provision of new solar panel array. Erection of hydrogen energy plant and equipment. Erection of new single storey dwelling. Rearrangement of the internal access roads.

An oral presentation in support of the application was given by visiting Ward Member, Councillor Alison Stammers. It was highlighted to Members that this current application constitutes less overall development than an application for which permission was previously granted. Councillor Stammers stated that in her view the proposal is sympathetic to its surroundings, previous design impacts have been addressed and it would cause minimum harm to the openness of the Green Belt or the character and appearance of the Chislehurst Conservation Area.

In addition Councillor Stammers informed the Committee that there is a significant reduction in tarmac areas, coupled with increased planting. As mentioned in the Report, the bio-diversity net gain was also brought to the Committee's attention.

An oral presentation in support of the application was then given by the Agent. The points raised by Councillor Stammers were reinforced, together with the innovative design of the application. Special reference was made to the planned hydrogen-powered system for the new house, as it would be the first house in London to use the technology for such a system from this renewable source.

The Committee then discussed the application further, including the need to make a decision based on planning grounds.

A motion to approve the application (against Officers' recommendations) was then put to the vote but not carried. A motion to refuse was then voted on and carried.

Members, having considered the report, objections and representations, **RESOLVED** that the **APPLICATION BE REFUSED** as recommended for the reasons set out in the report.

10.2 DARWIN

(22/03417/FULL1) - Downe Livery Stables, High Elms Road, Downe, Orpington, BR6 7JL

Demolition of existing stables, barns and buildings. Change of Use/regularisation of land as equestrian use, erection of stables and ancillary equestrian facilities including; site office and WCs/showers, riding

arena, horse walker, amended parking, drainage, surface water attenuation and holding pond, formation of highway access. (Amended drawing).

An oral representation in support of the application was received from the Co-Owner and Proprietor of Downe Livery Stables. The Committee were informed that the plan is to upgrade the existing stables with no adverse impact on openness, the character and appearance of the site/area or on neighbouring amenities and they do not consider it to be inappropriate development. The Speaker also highlighted the amount of support received for the proposals.

In response to a question from a Committee Member regarding traffic impacts, it was stated that traffic would be considerably less than at present as the number of stables would be reduced from 39 to 26. Traffic would be coming and going at different time periods but would still decrease from current traffic volumes.

An oral representation in objection to the application was then received from a Committee Member of the Downe Residents' Association. It was confirmed that the Residents' Association support local business in principle and the stables would provide a good amenity for the village. However, it was felt that this particular proposal constitutes inappropriate development, would be detrimental to the character of the area and negatively impact village members. Further concerns from the Residents' Association are contained in the Report.

Members discussed the application with views raised regarding traffic concerns. It was agreed that if approved, a condition be included to address road safety/traffic issues. In addition it was felt that a condition regarding lighting of the site and hours of operation also be included.

Members having considered the report, objections and representations **RESOLVED that PERMISSION BE GRANTED** as recommended, subject to the conditions set out in the report.

Additional conditions as follows:

Delivery and servicing plan

Prior to the commencement of the development hereby granted planning permission, a delivery and servicing plan shall be submitted to and approved in writing by the Local Planning Authority. The approved delivery and servicing plan shall be adhered to thereafter. The delivery and servicing plan shall provide for:

- (i) The location and time for parking of vehicles for deliveries and servicing of the equestrian facility.
- (ii) The size and type of vehicles to be used.

Reason: In the interest of the residential amenities of the area and the freeflow of traffic and conditions of safety within the adjacent highway, to comply with Policies 37 and 32 of the Bromley Local Plan.

Floodlighting – design and hours of operation

Prior to the commencement of above ground works, details of the re-located floodlighting (associated with the new single riding area) including the hours of illumination and the height, type and siting of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed lighting shall be installed in accordance with the agreed details and maintained as such thereafter.

Reason: In the interest of the visual amenities of the area and to accord with Policies 37, 49, 61 and 122 of the Bromley Local Plan.

Hours of operation

The equestrian services facility shall not be open for visiting clients before 07.30 nor after 19.30 on any day of the week.

Reason: In the interest of the residential amenities of the area and to accord with the terms of the application, to comply with Policies 37 and 61 of the Bromley Local Plan.

11 CONTRAVENTIONS AND OTHER ISSUES

NO REPORTS

12 TREE PRESERVATION ORDERS

NO REPORTS

The Meeting ended at 9.20 pm

Chairman

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Committee Date	26.10.2023		
Address	St Hugh's Playing Fields Bickley Road Bickley Bromley		
Application Number	17/02468/CONDT8	Officer: Claire Brew	
Ward	Bickley and Sundridge		
Proposal	Details submitted to comply with the requirements of the following condition in relation to planning permission ref: 17/02468/FULL1: Condition 24 - Community Use Agreement		
Applicant		Agent	
The Bullers Wood Multi Academy Trust		Matthew Blythin Eclipse House Eclipse Park Sittingbourne Road Maidstone ME14 3EN England	
Reason for referral to committee	Called-In and subsequently deferred from PSC 1 on 31.03.2022		Councillor call in Cllr Smith: Call-in rescinded 27/07/23 subject to: <ul style="list-style-type: none"> • <i>Remove "Sunday" from the proposed letting days both in term time and out of term time</i> • <i>Reduce our School Holiday weekday hours to 6pm with the exception of the west playground area which will be permitted for use until 9:30pm (this is to accommodate ATC if they need it)</i>

RECOMMENDATION	APPROVAL OF DETAILS
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KEY DESIGNATIONS

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control
Urban Open Space
Adjacent to Conservation Area

Representation summary	NO CONSULTATION OR PUBLICITY REQUIRED	
Total number of responses	175	
Number in support	46	
Number of objections	129	

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The community use of this educational facility was established under the original planning permission for the school and is acceptable in principle
- The use of the facilities in the manner proposed would not result in significant harm to the amenity of occupiers of neighbouring buildings and those of future occupants, by reason of noise or disturbance
- No unacceptable impact on highway safety or severe residual cumulative impacts on the road network would occur

2. LOCATION

- 2.1 The site consists of Bullers Wood Boys School which has been operating from this site since September 2019. The site also forms the playing fields and partial sports provision for Bullers Wood Girls School to the north-east of the site.
- 2.2 The site is designated as Urban Open Space in the Bromley Local Plan.
- 2.3 All the trees on the site are covered by a Tree Preservation Order. The boundaries to the site are largely comprised of trees and hedgerow.
- 2.4 The site forms a triangular parcel of land with Bickley Road, Chislehurst Road and Pines Road bordering the site and there are residential dwellings the site on three of its sides. To the south eastern corner are a number of large detached dwellings and their respective garden areas which back onto the site.
- 2.5 Directly adjoining the western site boundary is the Stephen James BMW car dealership.

- 2.6 The site is not in a conservation area. Bickley Conservation area extends along Pines Road adjacent to the east of the site.
- 2.7 Bickley Road is an A road (A222) and Pines Road is a one-way road access from the signalised junction on Bickley Road. The site is situated within PTAL Zone 2-3.



Fig. 1: Existing Site layout for Bullers Wood Boys school (as approved under application 17/04478/FULL1) (Source: Lloyd Bore):

3. PROPOSAL

- 3.1 This is an application for the approval of details pursuant to Condition 24 of permission ref.17/02468/FULL1 which states:

“The use hereby permitted shall not be commenced until a Community Use Agreement has been submitted to and approved in writing by the local planning authority. The Community Use Agreement shall apply to the outdoor sports pitches, MUGA and sports hall and shall include details of pricing policy, hours of use, access by non - educational establishment users, management responsibilities and a mechanism for review. The development shall be used in compliance with the approved Community Use Agreement.”

- 3.2 The following details have been submitted for approval:

- o Application form
- o Covering letter dated 16.12.2020

- o Letter from the School dated 25.05.2021
 - o Email dated 15.10.21
 - o Supplemental material for Bullers Wood School for Boys Community Use Agreement
 - o Community Use Agreement March 2023 V7 (attached at Appendix 1)
- 3.3 Since the initial submission, the applicant has submitted several versions of the Community Use Agreement (CUA) which have included various amendments made in order to try and address concerns raised by neighbouring residents and consultees during the course of the application.
- 3.4 The application went to Plans-Sub Committee on the 31st March 2022 and was deferred to seek further consideration of/reduction in the hours of community use within the Community Use Agreement. Subsequently, the applicant has submitted an updated version of the Community Use Agreement: March 2023 V7 incorporating the following changes:
- i) Remove "Sunday" from the proposed letting days both in term time and out of term time
 - ii) Reduce School Holiday weekday hours to 6pm with the exception of the west playground area which will be permitted for use until 9:30pm (this is to accommodate ATC if they need it)
- 3.5 The indoor and outdoor sports areas and facilities to be made available for Community Use shall comprise the approved Multi Use Games Area (MUGA), the playing fields and the Sports Hall, as shown in the plan below, together with any ancillary facilities such as changing rooms.
- 3.6 It is relevant to highlight that the proposed MUGA in the south of the site adjacent to Bickley Road (permitted under application ref 20/03904/FULL1) does not form part of the Community Use Agreement (CUA).



Fig 2: Facilities to be made available for Community Use (Community Use Agreement, Version 5, November 2021)

3.7 Proposed Hours of Access/Use

TERM TIME:

Mon - Fri: 6.00pm - 9.00pm (MUGA and Playing field)*

6.00pm - 9.30pm (indoor areas)

Sat: 9.00am - 4.30pm

* use of the MUGAs and playing fields will be seasonally constrained by the available daylight hours as there is no external floodlighting for these areas

SCHOOL HOLIDAYS:

Mon - Fri: 8.00am - 6.00pm (all areas), 9.30pm West Playground

Sat: 9.00am - 4:30pm

Sunday: Closed

Bank Holidays: Closed

Christmas Day to New Years Day (inclusive): Closed

- 3.8 Lettings will be managed so as to avoid Community Use lettings taking place concurrently with any whole-school events, including Open Days, Parents' Evenings and Sports Day

- 3.9 The CUA is based on the standard Sport England template. It is a legal document and the definitions therein were developed by Sport England in association with a professional law firm. Schedule 2 of the CUA sets out the 'Arrangements for Community Use'.

4. RELEVANT PLANNING HISTORY

- 4.1 16/03315/FULL1: Proposed erection of a 6FE Secondary Boys School comprising a part 2 storey, part 3 storey school building of 8,443m² including a sports hall (also for wider community use) together with hard and soft landscaping, creation of a new vehicular access on Chislehurst Road, 68 parking spaces, drop off/pick up area and associated works. Erection of a temporary 2 storey classroom block on site for 12 months to accommodate 5 classrooms, a laboratory, offices and toilets –

Refused and dismissed at appeal on 11th December 2017, the main issue being the effect of the proposal on highway safety in the surrounding area.

- 4.2 17/02468/FULL1: Proposed erection of a 6FE Secondary Boys School comprising a part 2 storey, part 3 storey school building of 8,443m² including a sports hall (also for wider community use) together with hard and soft landscaping, creation of a

new vehicular access on Chislehurst Road, 69 parking spaces, drop off/pick up area and associated works. Erection of a temporary 2 storey classroom block on site for 12 months to accommodate 5 classrooms, a laboratory, offices and toilets (amended submission of application DC/16/03315/FULL1)

Allowed at Appeal on 19th December 2018.

- 4.3 20/01665/FULL1: Erection of substation (retrospective) - Permitted on 30.06.2021
- 4.4 20/03904/FULL1: Provision of Multi Use Games Area (MUGA), internal pathway, fencing and secondary pedestrian access onto Bickley Road - Permitted on 26.05.23
- 4.5 21/00442/ADV: 7 x non-illuminated free standing post mounted signs, 1 x gate mounted non-illuminated sign and 3 x wall mounted non-illuminated signs - Advertisement Consent granted on 25.11.2021

5. CONSULTATION SUMMARY

A) Statutory

Sport England - No Objection

- Once you have seen a document signed by both parties I am content for this condition to be discharged
- Regarding the letter from the school, I have no issues with their partnering with certain local community groups; certainly there is no obligation for schools to allow casual users as part of a CUA and having arrangements with local groups can often work better

B) Adjoining Occupiers

Use in Principle (addressed in paragraphs 7.1 – 7.20)

- Would appear the school is trying to operate as a private sports and social business, the proposed Community Use Agreement must therefore be amended to prevent the use of the School's facilities for social events, such as weddings and parties, as well as music concerts
- Not in accordance with the assurances given by the Applicant to secure approval in the first place
- Do not consider it appropriate for an educational establishment to use its facilities (other than sports-related ones) for commercial gain
- Not needed
- Definitions do not limit the use of the premises for sport
- Unreasonable in a residential area

Hours and Amount of use (addressed throughout report)

- Will leave little time or space for the pupils to play sports

- Allows much more use of the School's facilities by the Community - particularly the external spaces and at weekends - than the Applicant said would be the case during the planning process
- The original hours as proposed at application stage should be maintained
- Playing fields have not been historically used in the evenings
- The MUGA should only be available during daylight hours as they will not be lit
- At the very least, the latest version of the CUA must be amended so as to prohibit community use during Public Holidays and at weekends, except Saturdays from 9am to 12.30pm, and any community use in the week during School Holidays must finish at 5.30pm, rather than 9pm
- Not reasonable for MUGA to be used outside school hours as it is close to Chislehurst road

Impact on Amenities (addressed in paragraphs 7.21 – 7.27)

- Noise and disruption from early in the morning until late into the evening every weekday, and also during the day at weekends
- Noise, general disturbance and unruly behaviour
- Lighting nuisance
- Traffic pollution

Highways, Parking and Road Safety (addressed in paragraphs 7.28 – 7.34)

- Should be a restriction of no more than 75 community users to prevent overflow parking
- The proposed Community Use Agreement should require that any Community users must use the on-site car parking spaces and not park in the roads surrounding the School site
- Provision of onsite parking will encourage people to bring vehicles and increase traffic and pollution further
- Road safety hazard
- Likely to cause severe cumulative impacts
- Illegal parking
- A CPZ should be considered if parking problems persist

Impact on conservation area (addressed in paragraph 7.35)

Other (addressed in Section 3 and paragraph 7.36)

- the Council should pass a resolution that says what was discussed during the planning application and that no further submissions be permitted for 5 years
- Do not understand definitions
- Don't understand process or why there are numerous versions of the CUA

6. POLICIES AND GUIDANCE

National Policy Framework (NPPF) 2023

- 6.1 Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 In accordance with Paragraph 47 of the Framework, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.3 Other relevant paragraphs are referred to in the main assessment.

National Planning Practice Guidance (NPPG)

6.4 Relevant paragraphs are referred to in the main assessment.

The London Plan (March 2021)

6.5 Relevant policies:

Policy D13 Agent of Change

Policy D14 Noise

Policy S3 Education and childcare facilities

Policy T2 Healthy Streets

Policy T4 Assessing and mitigating transport impacts

Policy T5 Cycling

Policy T6 Car parking

Bromley Local Plan 2019

6.6 Relevant policies:

26 Health and Wellbeing

27 Education

28 Educational Facilities

30 Parking

32 Road Safety

33 Access for All

37 General Design of Development

55 Urban Open Space

7. ASSESSMENT

Principle of Community Use – Acceptable

- 7.1 Historically this site has been used by a number of local groups and sports providers including for Football coaching, Primary school Events such as Sports days, Moon Watch - Local Astrological Society, Summer School Football Coaching, Local (neighbours) Running Group Practice and, most recently, the Bromley 228 Squadron Air Training Cadets which operated on the site immediately prior to the original planning permission for the school being granted at appeal.
- 7.2 It is understood that the Bromley 228 Squadron Air Training Cadets previously used the site on Monday's from 18:30 - 21:30 hrs, on Wednesday's from 18:30 - 21:30 hrs and on Saturday's from 09:00 - 13:00 hrs (occasional Saturday use).
- 7.3 At application stage the applicant presented a Bullers Wood School for Boys Community Use Statement 2016 which set out the following terms of lettings:
- o Facilities will be available to hire between 17:00 - 21:30 hrs Mondays to Thursdays and from 09:00 - 12:30 hrs on Saturdays*
 - o The site and premises will be closed during the Christmas School Holiday period as well as Bank Holidays*
 - o Hiring will be extended to daily use during other school holiday breaks from 09:00 - 16:00*
 - o Parking will be provided within the school grounds - the expectation is that most people will access the site by public transport*
 - o In the case of single and multiple lettings, there will be a limitation on numbers in order to ensure that all vehicles can be accommodated on the site*
- 7.4 The principle of community use of the site was subsequently allowed by the Planning Inspector with the precise details of the community use reserved for subsequent approval by the LPA under condition 24.
- 7.5 The applicant acknowledges that the current CUA differs in areas from the draft summary document that supported the original application, however, they are of the view "That document is now of some age and did not benefit from the on-site operational experience that the school now have. It also does not reflect current funding conditions."
- 7.5 The proposed use of the sports hall and playing field is consistent with the potential facilities for after-hours which were identified at application stage. While it is noted that the 2 MUGAs were not specifically referred to at application stage, there are no 'in principle' planning policy reasons to oppose the use of the MUGAs as this would enhance the community offer. Overall there are fewer facilities included in the

current CUA than was set out in the Bullers Wood School for Boys Community Use Statement 2016.

- 7.6 Local residents have questioned the need for a community use of these facilities, the impact it will have on the amount of sports provision for the pupils themselves and who the intended end users/occupiers will be. They are concerned that it will become a stand-alone business.
- 7.7 The Community Use Agreement stipulates that the hirer shall not use the premises for any purpose other than that agreed upon in the licence, as set out on the hire request form. Furthermore, the community function would never be running concurrently with the school function so would not impact on sports provision for pupils. Sport England are also supportive of the proposed arrangements.
- 7.8 The principle of opening-up educational facilities to enable community use is supported both at the strategic and the local level and is a common condition of planning consents involving schools. London Plan Policy S3 requires education development to "*maximise the extended or multiple use of educational facilities for community or recreational use through appropriate design measures*", and to "*ensure that new developments are accessible and inclusive for a range of users, including disabled people, by adopting an inclusive design approach*". Bromley's own Local Plan Policy 28 states that "*the dual use of educational facilities by the wider community will be encouraged*".
- 7.9 The provision and making available of the school's accessible indoor and outdoor facilities to a diverse range of users, including children, older people and those with a disability, is a considerable benefit of this development.
- 7.10 The applicant has had regard to other CUAs which have been approved at other schools and sites in the Borough. While it is seldom possible to make a case that permission should be granted or refused on the basis of what has happened at another site (as planning law requires that each application be considered on its individual merits) officers have reviewed the CUAs at a number of other sites, as follows:
- St Olaves Grammar School, Goddington Lane, Orpington) (Condition 21, ref.18/04454/CONDT1, approved on 24.11.21)*
- 7.11 The proposed hours of community use are limited to term-time and school holidays with no Sundays or Bank Holidays as per condition 17 of permission ref. 18/04454/FULL1. The relationship of this site to the nearest residential properties is comparable to Bullers Wood Boys School which is flanked by residential roads on its north, east and southern boundaries. It also proposes community use of its outdoor facilities.
- 7.12 At application stage It is noted that Sport England objected to the application due to the omission of Sunday letting, given that many local clubs and organisations will wish to use the facility on Sundays. Sport England considered that "It would be inappropriate to restrict community access on a Sunday, particularly within hours that are not usually considered to be unsocial"

- 7.13 Notwithstanding this, the Officer's report to committee noted that the Applicant has proposed its Community Use Strategy in consultation with the local community and "as such the proposed level and hours of usage appear to be a reasonable balance between increasing opportunity and participation in sport and preserving the amenities of the local area and its residents and on this basis" and, on this basis, approval was recommended. Given Sport England's objection, the application was subsequently referred to the Secretary of State who decided not to call in this application, being content that it should be determined by the local planning authority.

Eden Park High School, Balmoral Avenue, Beckenham (Condition 22, ref.16/03145/CONDT5, approved on 9/6/2020)

- 7.14 Again, this school has a similar relationship to the surrounding residential properties as Bullers Wood Boys School and also includes community use of its outdoor facilities. The approved CUA for Eden Park High School does not distinguish between term-time and school holiday letting hours.

Langley Park Primary School, Hawksbrook Lane, Beckenham (Condition 21, ref.17/01652/CONDT3, approved on 13/06/2019).

- 7.15 The CUA at Langley Park primary allows for later finishing at weekends than proposed at Bullers Wood Boys (until 6pm on Saturdays during term time and until 9pm in the school holidays on Saturday and Sunday). It is also noted that Langley Primary School is some 200m away from the nearest residential dwellings to the south-west in South Eden Park Road.

Track Pavilion, Norman Park, Hayes Lane, Bromley (ref.18/01660/CONDIT, approved on 1.10.2021)

- 7.16 This relates to a replacement pavilion building to provide a modernised sport facility, including a new café, indoor warm-up track, changing rooms and physio rooms at Track Pavilion, Norman Park. The approved hours allow later finishing at weekends (until 6pm) than proposed at Bullers Wood Boys School; however, this site was already an established sports facility, well-used by local community groups prior to its redevelopment. Furthermore, the Pavilion is an indoor facility.

National Westminster Sports Ground, Copers Cope Road, Beckenham (ref.08/00148/DET approved on 22.12.2008)

- 7.17 The applicant has referred to the approved community use hours of the former five-a-side football pitches/5m high netting and eighteen 8m high floodlights at 'Goals Soccer Centre', National Westminster Sports Ground, Beckenham. This allowed use of the site until 5:30pm Mon-Fri; use on Saturday from 9am until 6pm and use on Sunday from 9am until 5.30pm.

National Westminster Sports Ground, Copers Cope Road, Beckenham (Condition 21, ref.19/04644/CONDT1, approved on 22.10.2021)

- 7.18 This agreement relates to permission ref.19/04644/FULL1 for the erection of a covered full-size football pitch, creation of an artificial full-size pitch with floodlighting, and regrading of the site to create a full-size show pitch with spectator seating & six training pitches (two full-size, two 3/4 size & two half-size).
- 7.19 These facilities include an external 3G pitch, which would be useable by the community up until 10pm on Friday and Saturday and up until 9pm on Sunday. Furthermore, the 3G pitch is located in close proximity to two residential properties on Worsley Bridge Road.
- 7.20 The principle of opening-up the school's facilities to community use in the manner proposed is therefore considered acceptable.

Neighbourhood Amenity - Acceptable

- 7.21 The CUA expressly states that lettings will be managed so as to avoid Community Use lettings taking place concurrently with any whole-school events, including Open Days, Parents' Evenings and Sports Day. It also expressly excludes the use of the facilities for wedding receptions and private parties unrelated to the Trust or school, meaning the types of use will be limited to sports, health, community groups and education uses, as discussed in the Bullers Wood School for Boys Community Use Statement 2016. It is not considered that wedding receptions or private parties related to the Trust or school would occur on a regular basis or be frequent enough so as to cause significant noise nuisance or disturbance at adjacent residential sites.
- 7.22 On the matter of the potential numbers of community users which could be accommodated at Bullers Wood Boys school at any one time; the applicant has advised that *"it is not possible for those types of uses to set out 'capacity' per se, as there would be a number of variables (e.g. younger users being accompanied by parents etc)."* Day to day use would be managed by the school and a scenario in which all facilities are being let out at the same time, they add, would be very infrequent.
- 7.23 Schedule 2 part 3 'Application Process' of the CUA further states:
- Upon any confirmation of a booking, the school will make the hirer aware of the need for facilities to be used responsibly to avoid any undue disturbance to neighbouring residents, including the need for hirers and attendees to enter and leave the site in an orderly manner and for any external facilities to avoid any significant use or activity unduly close to the site boundaries.
- 7.24 In addition to the above considerations, In the event that local residents were subjected to an unreasonable and significant nuisance this would be subject to separate powers of enforcement by the Council's Environmental Health and Public Protection team under the Environmental Protection Act (1990).
- 7.25 The external playing fields and courts are not floodlit, and the school says that they have no plans to do so. In the absence of floodlighting the external use will be naturally regulated by the availability of daylight hours, regardless of the hours

proposed, and would not give rise to any significant impacts on wildlife or protected species using the site. Furthermore, neighbouring residential amenities will not be impacted by any additional lighting. Any additional lighting or floodlighting required would be subject to planning permission.

- 7.26 The proposed reduction in hours of use at weekends in this latest version of the CUA, together with the omission of any use taking place on Sundays and Bank Holidays, would give surrounding residents a break from noise and general activity on these days, when it can reasonably be expected.
- 7.27 Having regard to the above, it is not considered that the use of the site in the manner proposed would give rise to any unacceptable noise or disturbance at neighbouring residential sites.

Highways and Transport - Acceptable

Parking Arrangements

- 7.28 All car parking on site comprising the main car park, visitor car park and disabled parking bays near the main entrance shall be available to park for all community users. This provides a total of 69 parking spaces with capacity for an additional 20 vehicles in the drop-off bays. For infrequent larger events, the hard play area near the Chislehurst Road entrance shall also be made available for overspill parking.
- 7.29 The CUA includes a commitment by the School to advising all hirers and community users that they should, in the first instance, use the on-site parking and if none is available, they should park respectfully and not across driveways or in a manner which would cause a nuisance/danger to highway use. While this would not be enforceable by the school any contravention of parking would be enforceable by the Council's parking attendants.
- 7.30 Paragraph 8.2 of the CUA also states "*A review will also be undertaken in the event that a Community Use event has given rise to a significant number of complaints*".
- 7.31 Schedule 3 part 2 'Parking Arrangements' of the CUA sets out that the school will make it clear to hirers and community users that there are a variety of public transportation options available via Bickley Station and bus stops along Bickley Road. Encouraging sustainable travel modes would help to mitigate the potential impacts of the community use on pollution and air quality.
- 7.32 In accordance with paragraph 109 of the NPPF, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.33 At appeal stage the Inspector did not anticipate any issues with parking required in connection with the community use, noting at paragraph 52 of their report:

“There is no reason why the on-site car parking should not be used in connection with the community uses and therefore parking along surrounding roads would be unlikely to be necessary.”

- 7.34 Taken together with the other measures the applicant is proposing for managing the community lettings, the proposals are not anticipated to result in any undue highways or road safety impacts.

Impact on Conservation Area - Acceptable

- 7.35 In considering the impact of traffic generation and parking in the adjacent conservation area, as discussed, it is considered that community users can be satisfactorily accommodated on the site and parking in the surrounding roads is unlikely to be necessary. As such the characteristics of the adjacent conservation areas would be preserved.

Other Matters

- 7.36 With regard to the suggestion by a local resident of preventing the applicant from submitting further applications within 5 years; it is open for an applicant to submit details in relation to a planning condition, even if those details might differ from what was indicated during the application stage. It is for the Local Planning Authority to assess the details in accordance with the relevant planning policies and decide whether to approve or refuse. The Inspector's condition, as worded, does not refer to the document provided at application stage or require the final CUA to accord with it. The Inspector's wording leaves the hours of use, and other details, open and to be agreed by the LPA at the discharge of condition stage.

8. CONCLUSION

- 8.1 The community use of this new educational facility was permitted under the original planning permission for the school and is supported at the national level by Sport England, at the strategic level by policies in the London Plan and, at the local level, by policy 28 of the Local Plan. It is acceptable in principle.
- 8.2 Whilst it is acknowledged that the proposed hours of use do represent some increase in hours from those originally specified at application stage, it was left open to the applicant to seek different hours as part of the CUA approval process under condition 24 of the planning permission.
- 8.3 The proposed hours of use are similar to those that have been agreed at other schools and sports clubs in the Borough, also with residential development nearby.
- 8.4 No technical objections have been raised from an environmental health or highways perspective and there are no planning reasons to resist the hours now proposed on amenity or highway safety grounds.
- 8.5 Accordingly, the details submitted to discharge condition 24 (community use agreement) are recommended for approval.

- 8.6 In reaching this conclusion Officers have had regard to the statutory provisions of Section 70 of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 which dictate that decisions must be undertaken in accordance with the development plan, unless material considerations indicate otherwise.
- 8.7 These details have been assessed with due regard to the Public Sector Equality Duty. The details are not considered to conflict with the Duty.

RECOMMENDATION: APPROVAL OF DETAILS

The development shall be used in compliance with the approved Community Use Agreement (V7 MARCH 2023).

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BULLERS
WOOD
SCHOOL
FOR BOYS



COMMUNITY USE AGREEMENT

March 2023 V7

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Parties	means the parties to this Agreement
Planning Permission	means planning permission (reference DC/17/02468/FULL1) granted at appeal under reference APP/G5180/W18/3203724 on 19 th December 2018
Priority Groups	means those groups identified by the Parties as being under represented for the particular activity engaged in
School Core Times	means 0700 to 1700 Mondays to Fridays during term time as defined in Schedule 2 to this Agreement
School Premises	means the land and buildings comprising Bullers Wood School for Boys

3. Aims

The Parties agree to pursue the following aims:

- Providing opportunities for the local community and sports organisations to participate in sport and physical activity for health improvement and development of their skills, particularly amongst low participant groups;
- Generating positive attitudes in sport and physical activity by young people and reducing the drop out rate in sports participation with age;
- Increasing the number of people of all ages and abilities participating in sport and physical activity including people with disabilities;
- Using the facilities to encourage the range, quality and number of school sports club links and to stimulate competition that is inclusive of young people and adults;
- To provide affordable access to the facilities and to be self financing in terms of community use;
- Using the facilities responsibly to avoid any undue impact upon neighbouring amenity.

4. Arrangements for Community Use

- 4.1 The School agrees to make the Sports Facilities available for Community Use in accordance with the provisions of Schedule 2 to this Agreement Targets for Community Use
- 4.2 The School shall use reasonable endeavours to achieve community use targets and provide a range of opportunities and pathways for the community. These may include existing initiatives and will also include new and local activities.

5. Marketing and Promotion

The School will be responsible for marketing and promoting the Sports Facilities in accordance with the agreed aims and targets. A marketing strategy will be prepared and implemented and reviewed on an annual basis.

6. Management

- 6.1 The School will be managing the facility bookings and marketing associated with this agreement. This will be reviewed, agreed and audited by the Chief Financial & Operating Officer for Bullers Wood Multi Academy Trust
- 6.2 The School will, in accordance with this Agreement, seek to establish a practical policy framework for the management and operation of the Sports Facilities during agreed periods of Community Use. This framework should seek to enable:
 - (a) affordable pricing to assist in the achievement of the aims of this Agreement.
 - (b) the promotion and forward planning of development activities, at times which best suit the target groups;
 - (c) equal opportunities of access;
 - (d) an easy and accessible booking arrangement;
 - (e) an appropriate marketing strategy for the marketing of the Sports Facilities for Community Use.

- 6.3 The School will be responsible for the Sports Facilities and shall:
- (a) resource, control and routinely ensure the maintenance of the Sports Facilities in a manner that will allow achievement of the agreed aims, and
 - (b) make the Sports Facilities available on the occasions and times specified in Schedule 2:
 - (c) ensure provision of heat, light and water and such other amenities as required for the Sports Facilities and their intended use;
 - (d) ensure that the Sports Facilities comply with all legislation and guidance in force at the time of this Agreement relating to access for disabled users;
 - (e) cover the cost of gas, fuel, oil, electricity, water, rates and taxes that may be attributable to the use of the Sports Facilities.
- 6.4 The Local Governing body will review the Lettings policy on a yearly basis to make sure the framework enables:
- (a) a policy of affordable pricing to assist in the achievement of the aims of this Agreement.
 - (b) the promotion and forward planning of development activities, at times which best suit the target groups;
 - (c) equal opportunities of access;
 - (d) an easy and accessible booking arrangement for Casual Use and block booking, this system to be reviewed on an annual basis;
 - (e) an appropriate marketing strategy for the marketing of the Sports Facilities for Community Use.

7. Financial Matters

- 7.1 The School endeavours to ensure that the costs of operating Community Use at the Sports Facilities will be fully covered by income from such use and any surplus will be utilised to:
- (a) contribute to a contingency or sinking fund for major maintenance, repairs and ultimately renewal of fixed life elements of the Sports Facilities.
 - (b) improve and increase the stock of sports equipment for use in connection with the Sports Facilities.

8. Monitoring and Review

- 8.1 The School will review usage, bookings, maintenance and financial matters relating to the Community Use of the Sports Facilities annually.
- 8.2 The Review Committee (Local Governing Body) will undertake an annual review; relative community sports representative will be invited to provide comments and pathways for the future. This will then be reported to the trustees. A review will also be undertaken in the event that a Community Use event has given rise to a significant number of complaints.
- 8.3 The review shall undertake an assessment of the adequacy of the implementation of this Agreement in relation to:
- hours of use of the Sports Facilities;
 - pricing policy;
 - compliance with targets and aims of this Agreement;
 - marketing;
 - financial performance of the Sports Facilities during the previous year; and
 - maintenance.
- 8.4 The School shall implement all reasonable recommendations of the review as soon as reasonably practicable.

- 8.5 In the event any significant changes are required to this Agreement as a consequence of each or any annual review prior written approval of each of the Parties to this Agreement shall be required.
- 8.6 The School shall not materially reduce the level of community access to the Sports Facilities required by Condition 24 of the Planning Permission without the prior written approval of the local planning authority.

9. Duration of Agreement

This Agreement shall operate for so long as the School Facilities are provided in accordance with the Planning Permission. In the event the School should cease the Parties agree to make every effort to secure the continued operation of the Sports Facilities for Community Use.

10. Authority

- 10.1 The School warrants that it has the full right and authority to enter into this Agreement.
- 10.2 IN WITNESS whereof the hands of the parties or their duly authorised representatives the day and year first above written.

Signed by

Duly authorised by the School

11. No Variations

This Agreement may only be varied in writing by a document executed by all the Parties hereto.

12. No Agency

Nothing in this Agreement shall be construed as creating a partnership, a joint venture, a contract of employment or a relationship of principal and agent between the parties hereto.

13. Severability

If any term condition or provision contained in this Agreement shall be held to be invalid unlawful or unenforceable to any extent such term condition or provision shall (save where it goes to the root of this Agreement) not affect the validity legality or enforceability of the remaining parts of this Agreement.

14. Waiver

No term or provision of this Agreement shall be considered as waived by any party to this Agreement unless a waiver is given in writing by that party.

15. Non-Assignability

This Agreement is personal to the parties and none of them shall assign sub-contract or otherwise deal with their rights or obligations without the prior written consent of the others.

16. Governing Law and Jurisdiction

This Agreement shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1 Facilities

1. The outdoor sports areas and facilities to be made available for Community Use shall comprise the following (as shown in the plan below):
 - Multi Use Games Area (MUGA)
 - Playing Fields
2. The indoor sports areas and facilities (together with any ancillary facilities toilets, changing rooms etc) to be made available for Community Use shall comprise the following (as shown in the plan below):
 - Sports Hall



Schedule 2 Arrangements for Community Use

1. Hours of Access

TERM-TIME

Community Use

Mon - Fri:	6.00pm – 9.00pm MUGA & Playing Fields*
	6.00pm – 9.30pm Indoor areas
Sat:	9.00am – 4.30pm

SCHOOL HOLIDAYS

Community Use

Mon - Fri:	8am – 6pm (all areas), 9.30pm West Playground
Sat:	9.00am – 4.30pm

Bank Holidays: Closed

Christmas Day to New Years Day (inclusive): Closed

Use of the MUGAs and playing fields will be seasonally constrained by the availability of daylight hours as there is **no external floodlighting** for these areas.

Lettings will be managed so as to avoid Community Use lettings taking place concurrently with any whole-school events, including Open Days, Parents' Evenings and Sports Days.

2. Pricing

2.1 The rates for hiring out different areas are listed in the table below. We may decide that certain organisations or activities can use the premises for a reduced rate, or free of charge, if it supports the core aims of the school. Organisations such as the Air Training Cadets will be charge under a separate leasing agreement.

2.2 Rates

Area	cost
Sports hall	£50.00 ph.
MUGA	£40 ph.
Playing Field (Upper)	£40 ph.
Playing Field (Lower)	£40 ph.

2.3 Cancellations

We reserve the right to cancel any agreed hiring. A full refund will be issued if we do cancel a hire. The school shall not be liable for any indirect or consequential losses, including (without limitation) any loss of profits, loss of business or the loss of any revenue arising out of the cancellation of any hire. The hirer of the premises can cancel any hire with a minimum of 7 days' notice in writing and a minimum of 48 hours for changes to the booking. If less notice than this is given, the licensee shall not be entitled to a refund.

2.4 Review

The revenue raised from hiring out will be reviewed by the school and will be fed into the school's financial reporting, to ensure best value is being achieved. This policy and the charges will be reviewed by the governing body annually to ensure the prices are competitive and community use is at the heart of the policy.

3. Application Process

Those wishing to hire the premises must fill out the hire request form and read the terms and conditions of hire set out in the section below.

The hirer must fill out and sign the hire request form and submit it to the school office. Approval of the request will be determined by the school.

If the request is approved, the school will contact the hirer with details of how to submit payment and make arrangements for the date and time in question. The school will also send on details of the emergency evacuation procedures and other relevant health and safety documents. The hirer will also need to provide proof of their public liability insurance.

Upon any confirmation of a booking, the school will make the hirer aware of the need for facilities to be used responsibly to avoid any undue disturbance to neighbouring residents, including the need for hirers and attendees to enter and leave the site in an orderly manner and for any external facilities to avoid any significant use or activity unduly close to the site boundaries.

The school reserve the right to decline any applications at our absolute discretion, in particular where the organisation does not uphold the values of the school, or reputational damage may occur.

Use of the premises will not be granted for the following activities and any hiring is subject to the condition that the premises will not be used for such activities.

- a) For political purposes or the teaching of party politics
- b) Showing of films for public exhibition.
- c) The supply, or offering to supply, any items of an offensive or indecent nature, or any firearms, ammunition, or replicas of such items.
- d) For a firework display or letting off of fireworks as part of a hiring for another purpose.
- e) For religious purposes

- f) For wedding receptions and private parties unrelated to the Trust or school

Specific fire regulations including capacity numbers will be adhered to for all lettings. In addition, parking availability and congestion will be considered when assessing multiple, concurrent or overlapping requests.

In the event that any complaints are received relating to community use of the site, these will be handled by the school in line with their adopted complaints procedures.

4. Terms and Conditions of Hire

The following terms and conditions must be adhered to in the hiring of the school premises. Any breach of these terms will result in cancellation of future hires without refund.

1. “Hirer” means the person or entity identified in the relevant hire request form.
2. The hirer shall pay the full amount as stipulated by the school and shall not be entitled to offset any amount owing to the school against any liability, whether past or future, of the school to the licensee.
3. The hirer shall occupy the part(s) of the premises agreed upon as a nonexclusive licensee and no relationship of landlord and tenant is created between the hirer and the school by this licence.
4. The hirer shall not sub-licence any of the premises under the licence.
5. The hirer shall not use the premises for any purpose other than that agreed upon in the licence, as set out on the hire request form.
6. Any additional uses of the premises not agreed in writing by the school will result in the immediate termination of the licence.
7. The school shall retain control, possession and management of the premises and the hirer has no right to exclude the school from the premises.
8. The hirer shall be responsible for all matters relating to health and safety and shall be responsible for those in attendance during the specified time and must take out its own public liability insurance with a reputable insurer approved by the school and, where requested by the school, shall provide of copy of the relevant insurance certificate no less than 10 days before the start date of the licence.

9. The hirer shall not conduct, nor permit or suffer any other person to conduct, any illegal or immoral act on the premises, nor any act that may invalidate any insurance policy taken out by the school in relation to the premises.
10. The hirer shall indemnify and keep indemnified the school from and against:
 - a. any damage to the premises or school equipment;
 - b. any claim by any third party against the school; and
 - c. all losses, claims, demands, fines, expenses, costs (including legal costs) and liabilities, arising directly or indirectly out of any breach by the hirer of the licence or any act or omission of the hirer or any person allowed by the hirer to enter the premises
11. Save that nothing in the licence shall exclude or limit either party's liability for personal injury or death arising from the negligence of either party or any other liability that cannot be excluded by law, the school shall not be responsible for any losses of a direct or indirect nature, and its maximum liability to the hirer shall not exceed the total fees paid or to be paid to the school by the hirer under the licence.
12. Any cancellations by the hirer received with less than 7 days' notice will not be refunded.
13. Any cancellations by the school will be refunded.
14. The hirer will read the emergency evacuation procedures and be ready to follow them in the event of a fire or other similar emergency.
15. The hirer will leave the premises in the condition it was found in, leaving the area clean and tidy and not leaving any of their own equipment behind.
16. The hirer shall not display any advertisement, signage, banners, posters or other such notices on the premises without the prior written agreement from the school.
17. If the hirer breaches any of the terms and conditions the school reserves the right to terminate the licence and retain any fees already paid to the school, without affecting any other right or remedy available to the school under the licence or otherwise.
18. The hirer shall observe the maximum capacity rules of the part(s) of the premises being hired and not allow this to be breached.
19. The hirer will acquire all appropriate additional licenses for any activities they are running, including those required for use of any third-party intellectual property.
20. The hirer is responsible for carrying out any risk assessments of the premises relating to the activities they are running.

21. The hirer shall comply with all applicable laws and regulations relating to its use of the premises.
22. The school's premises hire policy, the relevant hire request form submitted by the hirer and the relevant hire confirmation letter issued by the school shall apply to and are incorporated in the licence.
23. This licence shall be governed, construed and interpreted in accordance with the laws of England and Wales.
24. The school and the hirer irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising from this licence.
25. No smoking or gambling is permitted anywhere on the premises or surrounding site.
26. No gratuity is to be paid to the Site Manager or Site Management Team, who any other employees of the school/trust.

5. Parking Arrangements

- 5.1 All car parking on site comprising the main car park, visitor car park and disabled parking bays near the main entrance shall be available to park for all community users. This provides a total of 69 parking spaces with capacity for an additional 20 vehicles in the drop-off bays. For infrequent larger events, the hard play area near the Chislehurst Road entrance shall also be made available for overspill parking.

Schedule 3

1. Safeguarding

We are dedicated to ensuring the safeguarding of pupils at all times.

It is the responsibility of the hirers to ensure that safeguarding measures are in place while hiring out the space.

If there is a chance that those hiring the premises will come into contact with pupils, for example if the hire occurs when pupils may be present in the school (during after school clubs or extra-curricular activities), we will ask for confirmation that the hirers have had the appropriate level of DBS check.

2. Parking Arrangements

All car parking on site comprising the main car park, visitor car park and disabled parking bays near the main entrance shall be available to park for all community users. This provides a total of 69 parking spaces with capacity for an additional 20 vehicles in the drop-off bays. For infrequent larger events, the hard play area near the Chislehurst Road entrance shall also be made available for overspill parking..

Hirers and community users will be advised that they should, in the first instance, use the on-site parking and if none is available they should park respectfully and not across driveways or in a manner which would cause a nuisance/danger to highway users.

The school will make it clear to hirers and community users that there are a variety of public transportation options available via Bickley Station and bus stops along Bickley Road. Users will be directed to TFL for timetables and services.

IN WITNESS whereof the hands of the parties or their duly authorised representatives the day and year first above written.

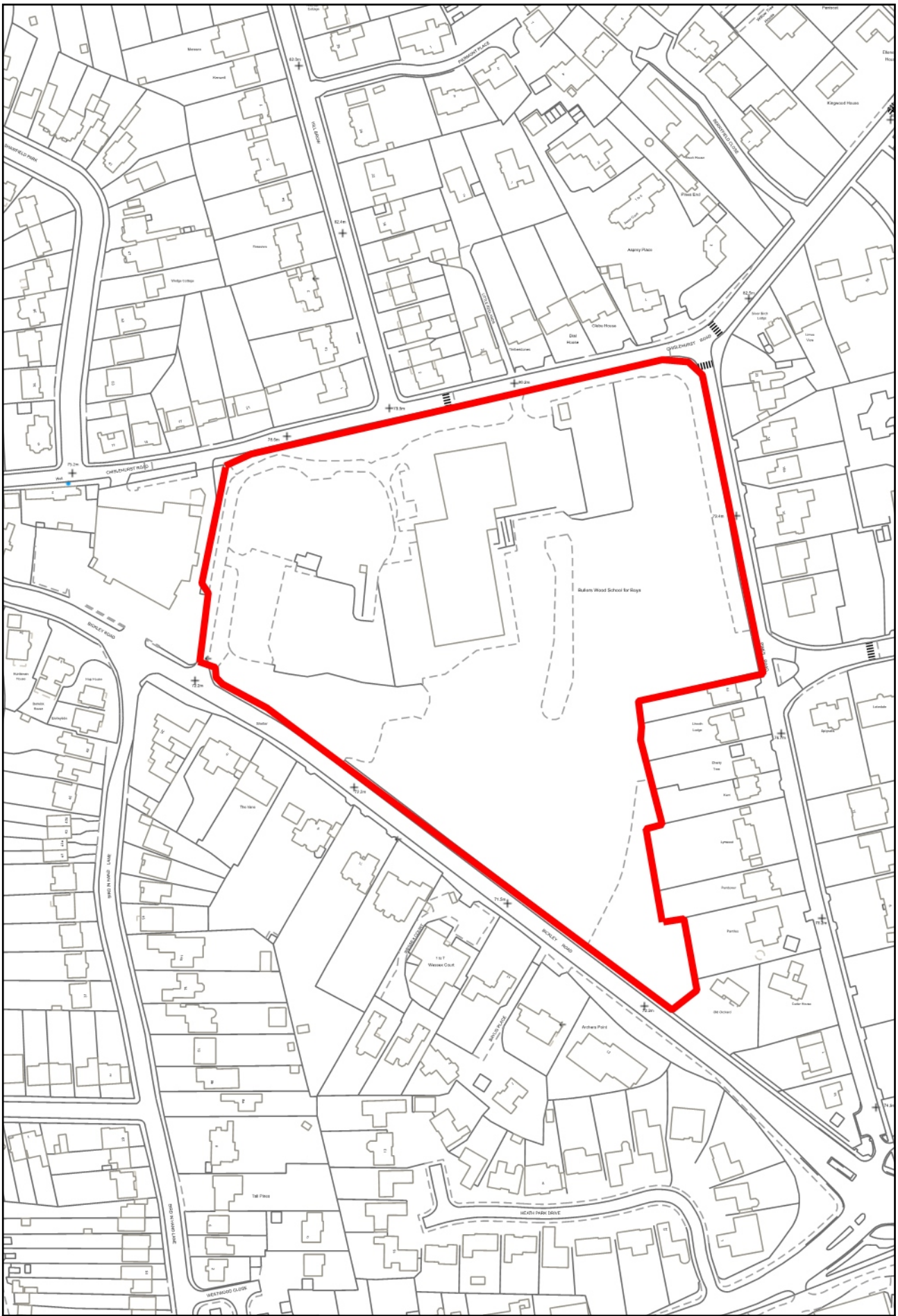
[Amend as appropriate]

Signed by

Duly authorised by the School

Signed by

Duly authorised by the Council



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Committee Date	26.10.2023		
Address	243 Court Road Orpington BR6 9BY		
Application Number	22/04947/ELUD	Officer - Robin Evans	
Ward	Orpington		
Proposal	Use of C3(a) dwellinghouse as C3(b) dwellinghouse. (RETROSPECTIVE). LAWFUL DEVELOPMENT CERTIFICATE (EXISTING)		
Applicant		Agent	
Mrs Norrma Goldsmith 380 Kingsland Road London N21 3NA		Mr Clyde Bacchus 65 Ashley Road Kingswood Lodge Flat 3 Walton On Thames Surrey KT12 1HQ	
Reason for referral to committee	Call-In		Councillor call in Cllr Tunncliffe Reason: "Residents concerns"

RECOMMENDATION	Existing Use/Development is Lawful
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KEY DESIGNATIONS Biggin Hill Safeguarding Area London City Airport Safeguarding Smoke Control SCA 31
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Land use Details		
	Use Class or Use description	Floor space (GIA SQM)
Existing	C3(a) dwellinghouse	125
Proposed	C3(b) dwellinghouse	125

Representation summary	Neighbour letters sent 11.05.2023 Site notices displayed 16.05.2023	
Total number of responses	12	
Number in support	0	
Number of objections	11	

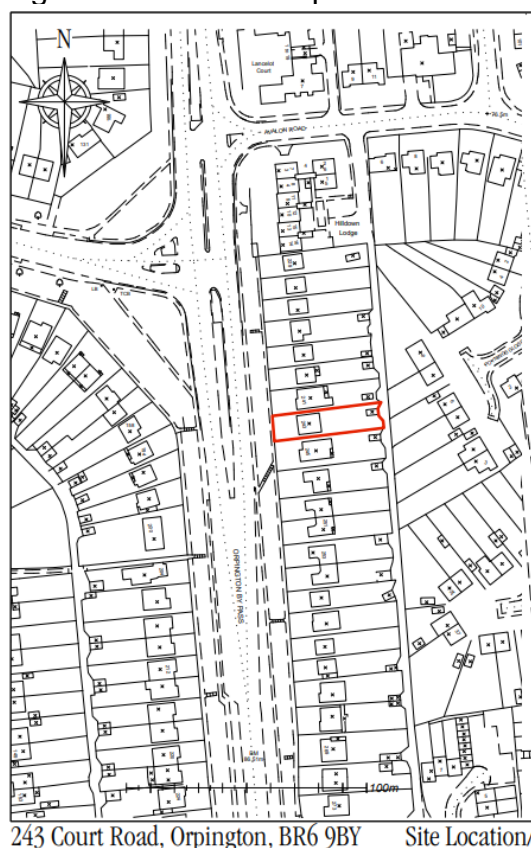
1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The use of the property from C3(a) to C3(b) is lawful.

2. LOCATION

2.1 The application site is No. 243 Court Road, Orpington, a detached single storey bungalow located on the eastern side of the highway close to the junction with Spur Road. The dwelling has a single storey flat roofed rear extension. There are some outbuildings in the rear of the property although they are not included in this application and are not included in the assessment or decision.

2.1.2 Figure 1 Site location plan.



3. PROPOSAL

- 3.1 The proposal seeks formal confirmation from the Council that the use of the C3(a) dwellinghouse use by a single person or a family as C3(b) dwellinghouse is lawful.
- 3.2 For completeness and the avoidance of doubt:

4. RELEVANT PLANNING HISTORY

18/03307/HHPA - Single storey rear extension, extending beyond the rear wall of the house as existing by 7.95m (beyond the original rear wall by 7.95m), for which the maximum height would be 2.7m (maximum height of proposed and previous extensions 2.7m), and for which the height of the eaves would be 2.4m (maximum eaves height of proposed and previous extensions 2.4m) - (42 Day Notification for Householder Permitted Development Prior Approval) did not require prior approval.

18/04338/PLUD - Single storey rear extension for which prior approval was not required under ref. 18/03307/HHPA LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) was withdrawn and did not receive a formal decision.

18/05128/PLUD - Single storey rear extension for which prior approval was not required under ref. 18/03307/HHPA LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) was withdrawn and did not receive a formal decision.

19/00428/FULL6 - Single storey rear extension following demolition of conservatory and elevational alterations (RETROSPECTIVE) was approved on 19.03.2019.

21/00785/CHANGE - Alleged use of shed for accommodation and HMO in the house and the case was closed on 31.10.2022.

22/03390/FULL2 - Change of use from C3 dwellinghouse, to C3(b) dwellinghouse with supported care for up to three adults with on-site live-in staff, external access ramp to rear garden. (RETROSPECTIVE) is pending a decision.

5. CONSULTATION SUMMARY

A) Statutory

N/A

B) Local Groups

N/A

C) Adjoining Occupiers

Nearby owners/occupiers were notified of the application and representations were received, which can be summarised as follows:

- o the owner is an absentee landlord seeking to run a care home business from the dwellinghouse in breach of title deed/covenants on the property,
- o the application is made in the company name and not in the Applicant's name, and the property is a business/trade asset and is not privately owned,
- o business use is contrary to the Title Deeds,
- o the dwelling has been significantly extended, it is not clear whether the extensions were authorised, construction was taking place at the site from March 2020 for approximately 18-20 months,

- o the application details are incorrect; the description of existing Use/development should include the existing operational development as well as the Use,
 - o development is already taking place, application is submitted retrospectively with disregard for the proper planning system and benefitting from rent obtained in the meantime,
 - o overdevelopment of a cramped space/site; impractical and unsuitable for multiple occupants,
 - o 2 existing parking spaces would be removed, and it is not clear what the land would be used for,
 - o noise disturbance from the property including loud voices and music,
 - o antisocial and violent behaviour from occupants of the property, exacerbated by their possible mental health issues, harmful to neighbouring residents' amenity and safety and with numerous recorded Police visits,
 - o duty of care to neighbouring residents and to the occupants/patients of the property,
 - o possible occupation of the in the garage building,
 - o unsuitable access for the residents/occupants,
 - o poor access for emergency services is a significant risk to the health and safety of the occupants and staff attending the property,
 - o poor supervision of and potential safeguarding issues for occupants of the building,
 - o contrary to the Town and Country Planning Act 1990, the Health and Safety at Work Act 1974, and Article 8 of the Human Rights Act 1998,
 - o the Council's decision may be challenged by local residents,
 - o comments from planning application 22/03390/FULL2 should be transferred to the LDC application,
 - o the antisocial behaviour/crime is affecting local house sales,
- Please note the above is a summary of objections received and full text is available on the Council's website.

6. POLICY CONTEXT AND GUIDANCE

The Town and Country Planning (Use Classes) Order 1987 (as amended).

Town and Country Planning Act (1990)

National Planning Practice Guidance (NPPG)

7. ASSESSMENT

7.1 Considerations

- 7.1.1 The current application seeks formal confirmation that the use of the C3(a) dwellinghouse as a C3(b) dwellinghouse is lawful and would not have required planning permission at the time the application was made.
- 7.1.2 The key consideration is whether the use of the C3(a) dwellinghouse as a C3(b) dwellinghouse comprises a material change of use of the land and therefore whether or not it comprises development as defined in Section 55 of the Town and Country Planning Act 1990 (as amended).

- 7.1.3 In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

7.2 Information and Evidence

7.2.1 Applicant's information/evidence

- 7.2.1.1 Application form and statements describing the use and operation of the building.

- 7.2.1.2 Previously existing and existing (proposed) floor plan drawings.

7.2.2 Council's information/evidence

- 7.2.2.1 Planning and Planning Enforcement records/history:
investigating an alleged use of the dwellinghouse as a HMO and a shed for residential accommodation (21/00785/CHANGE), and
subsequently planning application submitted seeking to regularise the change of Use from a C3(a) dwellinghouse to a C3(b) dwellinghouse with supported care for up to three adults with on-site live-in staff, external access ramp to rear garden (22/03390/FULL2),

7.2.3 Other information/evidence

- 7.2.3.1 The Town and Country Planning (Use Classes) Order 1987 (as amended) which states:

C3 Dwellinghouses - This class is formed of three parts

- o C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child,
- o C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems,
- o C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.

7.3 Procedural matters

- 7.3.1 The Council is mindful of the Government guidance that if it has no evidence itself, nor from any others, to contradict or otherwise make the Applicant's version of events less than probable, there would be no good reason to refuse the application.

- 7.3.2 Notwithstanding comments received, this is an application for a Lawful Development Certificate, in this case as the Applicant considers that it complies with the Use Classes Order, and as such the material planning considerations that might be relevant in assessing a planning application may not apply. As such the assessment is whether or not the stated Use, as described in the application, was lawful according to the terms of the Use Classes Order, on the date that the LDC application was made. The assessment is not whether the proposal would be suitable in this property or in this location, in planning terms, as may be relevant considerations in assessing a planning application. Planning history may comprise a material planning consideration however notwithstanding this, each case is procedurally individual/separate and is assessed on its own merits and comments received on one application cannot be transferred to another and they should be re-stated.
- 7.3.3 Notwithstanding comments received matters relating to any restrictions on title deeds/covenants are not a planning matter and they are a private/legal/civil matter to be addressed by the individual parties involved.
- 7.3.4 Notwithstanding comments received, this Lawful Development Certificate application relates to the use of the dwellinghouse and not to any outbuildings within or outside its curtilage.

7.4 The Meaning of Development

- 7.4.1 According to section 55(1) of the Town and Country Planning Act 1990 "development, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

7.5 Analysis

- 7.5.1 The provisions of the Use Classes Order are noted. With specific reference to Class C3 the relevant subcategories are:
- Class C3(a) a dwellinghouse for use by a single person or a family, and
 - Class C3(b) a dwellinghouse for use by up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
- 7.5.2 It is noted that the Use Classes Order allows for a change to take place within a Class e.g. from one sub-category to another sub-category within that same Class.
- 7.5.3 As mentioned in this report, the Council's Planning Enforcement Enquiry Team recorded and examined an alleged change of Use within the building and an outbuilding in September 2021 (21/00785/CHANGE). A planning application: seeking to regularise a retrospective change of Use from a C3(a) dwellinghouse for a single family to a C3(b) dwellinghouse for up to six people living together as a single household and receiving care, was received by the Council on 26.08.2022 (22/03390/FULL2). As such this indicates that the former C3(a) dwellinghouse use

had already ceased by that point and that a different use, in this case the proposed/claimed C3(b) supported care use, had begun.

- 7.5.4 The Applicant has since chosen to submit an Existing Lawful Development Certificate (LDC) application (22/04947/ELUD) in the place of the planning application (22/03390/FULL2) and based on the previous history, observations, and claims, it is considered that on the balance of probabilities, the claimed C3(b) use had begun before the LDC application had been made and submitted to the Council.
- 7.5.5 According to the application details the dwellinghouse, formerly used as a C3(a) dwellinghouse for a single family is now in use as a C3(b) dwellinghouse for up to three adults with on-site live-in staff attending the site on a full-time rota system in partnership with the Community Multi-Disciplinary Team providing supported care including supervision of resident medication training and rehabilitation for transition into fully independent living and liaison with the Community Mental Health Team as necessary, and was in use on the date that the current LDC application 22/04947/ELUD was made.
- 7.5.6 On this basis the use of the property as described in the application comprises a change from one sub-category within Class C3 to another sub-category within Class C3, as permitted by the Use Classes Order, and it does not comprise a material change of use of the land/building,

7.6 Summary

- 7.6.1 The use of the building formerly used as a C3(a) dwellinghouse and now as a C3(b) dwellinghouse would not comprise a material change of use of the land/building.

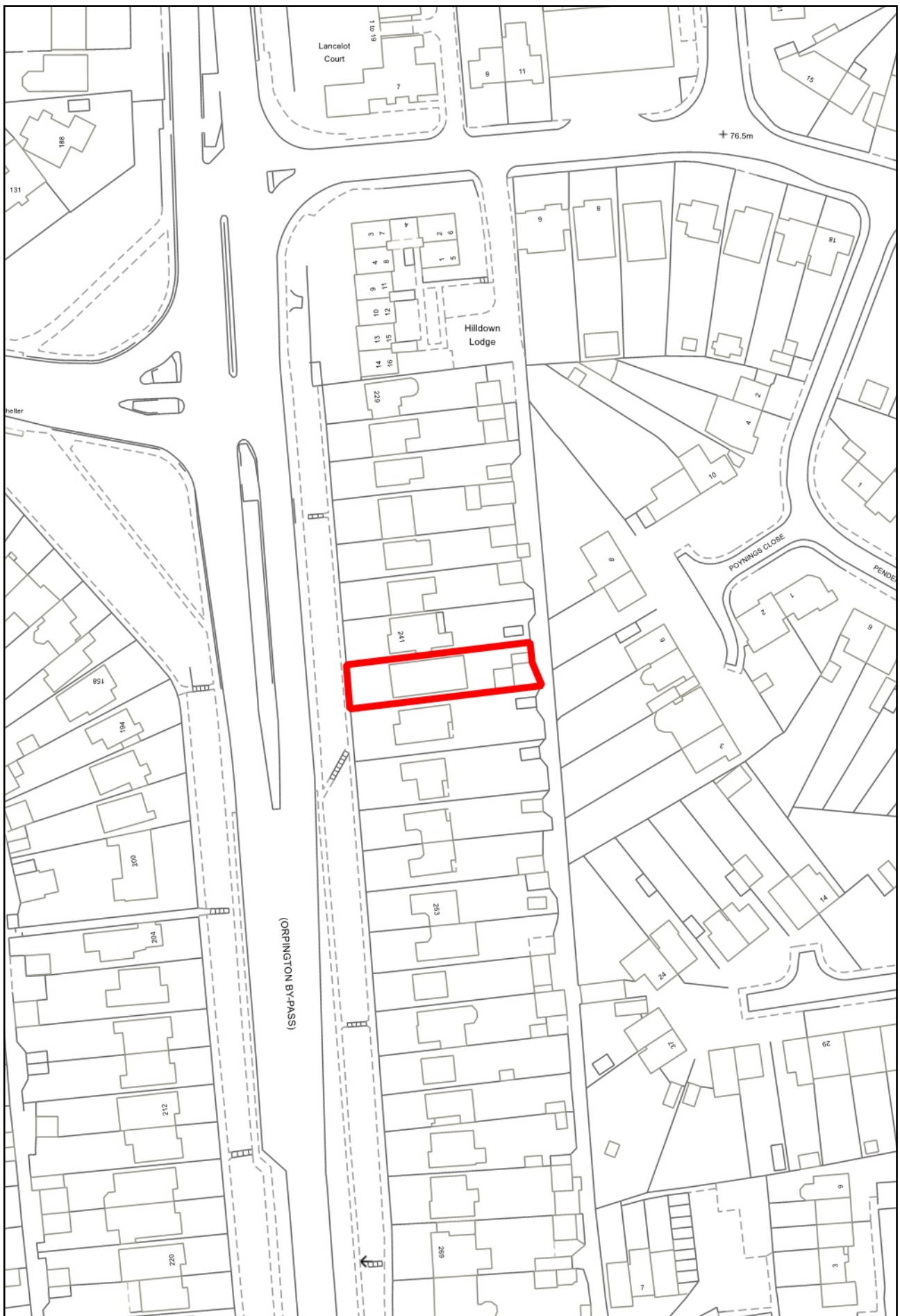
8. CONCLUSION

- 8.1 Based on the submitted information and other information available the proposal would not comprise development of the land or a material change of use of the land, it would therefore be lawful under section 192 of the Town and Country Planning Act 1990, and it is recommended that a Lawful Development Certificate is granted.
- 8.2 Background papers referred to during production of this report comprise all correspondence on the file, excluding exempt information.

RECOMMENDATION:

CERTIFICATE BE GRANTED

Reason: The use of a C3(a) dwellinghouse as a C3(b) dwellinghouse would not comprise development of the land or a material change of use of the land/building according to Section 55 of the Town and Country Planning Act 1990. On the balance of probabilities, the use of the property for this purpose had begun prior to the submission of this application.



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Committee Date	26 October 2023	
Address	Crystal Palace Park Thicket Road Penge London SE20 8DT	
Application Number	23/03026/FULL1	Officer: Louisa Bruce
Ward	Crystal Palace and Anerley	
Proposal	Changing place facility for users of the park with severe disabilities at land adjacent to the Crystal Palace Park Cafe	
Applicant	Agent	
Mr Max Graham Crystal Palace Park Thicket Road Penge London SE20 8DT	Mr E Douthwaite 51 Trinity Street Huddersfield HD1 4DN	
Reason for referral to committee	Outside Delegated Powers	Councillor call in No

RECOMMENDATION	Application Permitted
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KEY DESIGNATIONS

Conservation Area: Crystal Palace Park
 Areas of Archeological Significance
 Article 4 Direction
 Biggin Hill Safeguarding Area
 Capital Ring
 Green Chain
 Historic Parks and Gardens
 London City Airport Safeguarding
 Local Distributor Roads
 Metropolitan Open Land
 Renewal Area
 Sites of Interest for Nat. Conservation
 Smoke Control SCA 6

Representation summary	Nearby owners/occupiers were notified of the application and the application was advertised by way of 3 site notices affixed within the park and a press advertisement.	
Total number of responses	0	
Number in support	0	
Number of objections	0	

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal is considered to be acceptable in principle, as the permanent openness of the Metropolitan Open Land and the public open space would be retained, having regard to the small scale of the proposed modular building.
- The new building would have a neutral impact on the character and appearance of the Conservation Area.
- The delivery of four new Changing Places facilities across the borough (including the one proposed within Crystal Palace Park) will have positive impacts and enable people who use Changing Places facilities, including people with complex and multiple disabilities, their families, and carers, to enjoy days out in a safe and comfortable manner.
- It is considered that the proposal would not have a significant impact on the amenity of nearby sensitive receptor sites, namely the nearby residential properties in Thicket Road.

2. LOCATION

- 2.1 The proposed changing rooms would be constructed along the South/East boundary of Crystal Palace Park, near the Penge Gate entrance. The proposal will place the facility adjacent to the existing car park off Thicket Road and to the rear of No. 81 Thicket Road, Anerley.
- 2.2 The application site lies within Crystal Palace Park which is a Grade II* Listed park designated as Metropolitan Open Land and within the Crystal Palace Park Conservation Area. The site borders Thicket Road, Crystal Palace Park Road and Anerley Hill.



Figure 1 – Photograph illustrating location of proposed facility.



Figure 2 – Location plan illustrating location of the proposed changing rooms

3. PROPOSAL

- 3.1 Planning permission is sought for a changing place facility for users of Crystal Place Park with severe disabilities at land adjacent to Crystal Place Park café. The building will provide WC, shower and changing facilities.
- 3.2 The proposal is for a 3.5m in depth x 4.8m in width x 3m in height. The modular single storey building which measures will have a flat roof and entrance door in the east elevation. The building will be constructed off-site and brought to site.
- 3.3 The application is accompanied by a Design, Access and Heritage Statement which states at paragraph 5.1 that the building is of timber frame construction with red cedar timber cladding. The building will have a grey EPDM rubber flat roof with red cedar PVCu fascia and soffits. Guttering will be black PVCu and the door into the building will be steel coloured red.
- 3.4 In March 2022, Bromley Council was awarded £220K grant funding from the Department of Levelling Up, Housing and Communities to deliver four Changing Places facilities at agreed locations across the Borough which included Crystal Place Park. Changing Places facilities support people with complex and multiple disabilities whose needs are not met by a standard accessible toilet. Changing Places facilities are larger and contain specialist equipment including an adult-sized changing bench and ceiling track hoist.

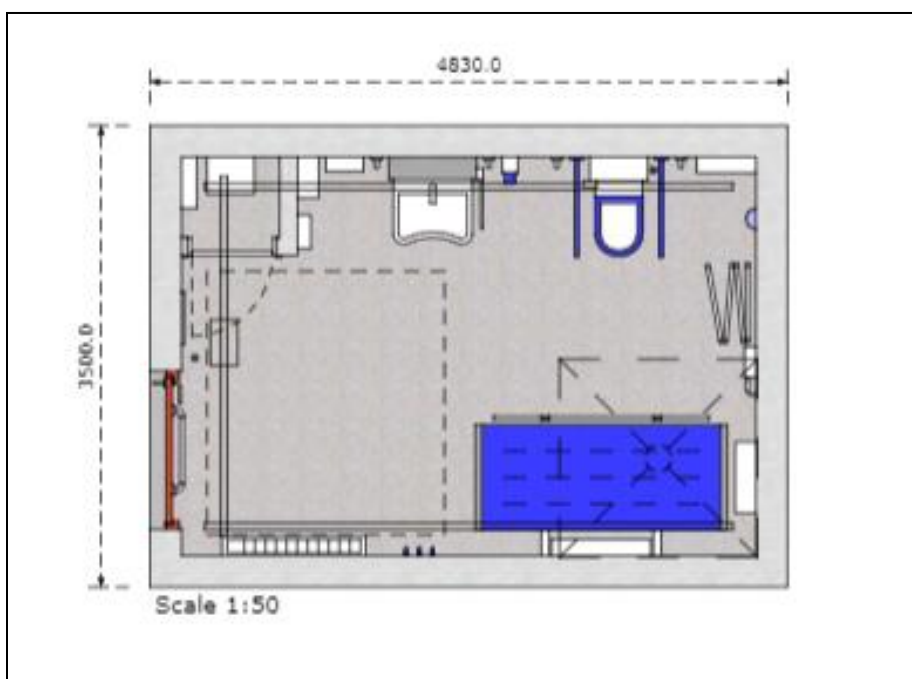
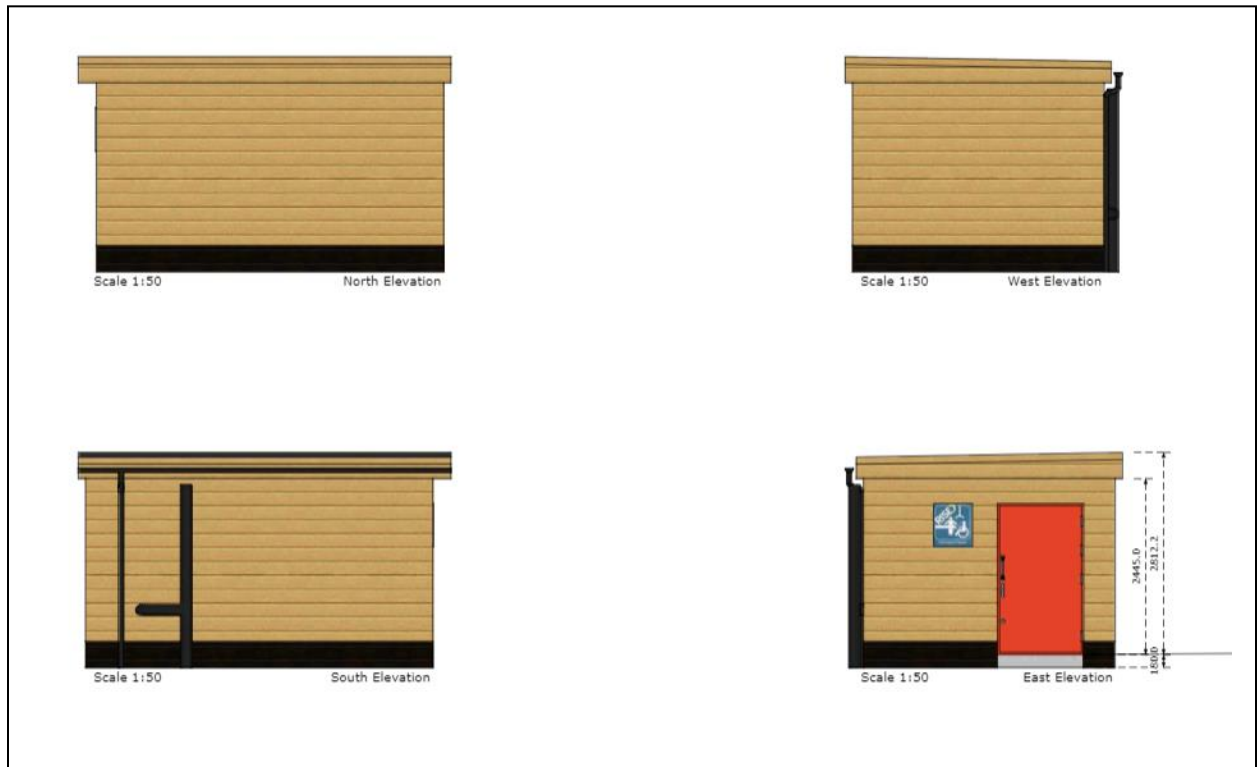


Figure 3 – floorplan of proposed changing rooms

Figure 4 – Elevations of proposed changing rooms



4. RELEVANT PLANNING HISTORY

- 4.1 The planning history of the park as a whole is long and complex, reflecting the size of the park and its historical significance relating to the Palace site and the listed dinosaur structures.
- 4.2 Of particular relevance to the determination of this application is the planning history relating to the café building which was granted planning permission in 2015 under planning application ref: 15/03106/FULL1 planning permission was granted on the 23rd November 2015 for 'Demolition of existing single storey cafe and terrace and erection of two storey building comprising cafe on ground floor and cafe/ event space on first floor; external ground and first floor terraces and construction of connecting bridge from first floor terrace to lakeside path'.
- 4.3 More recently, outline planning permission was granted under ref. 20/00325/OUT for comprehensive phased regeneration of Crystal Palace Park. This will include: conservation and repair of heritage assets; removal of existing hard surfaces; alterations to ground levels and tree removal; landscaping including planting of new trees; demolition of existing buildings and structures; creation of new pedestrian paths/vehicular access roads / car, coach and cycle parking; changes of use including part of the caravan site to part public open space and part residential; erection of new buildings and structures comprising: up to 2300sqm for a cultural venue (Use Class D2), up to 530sqm of park

maintenance facilities (Sui Generis) including the dismantling and reconstruction of existing maintenance depot; up to 150sqm information centre (Use Class D1); up to 670sqm for a community centre (Use Class D1); up to 3779sqm of educational institution at the Capel Manor College Farm Site (Use Class D1) of which 3399sqm comprises educational buildings and 380sqm comprises ancillary shelters/ outbuildings; and up to 16,352 sqm of residential (Use Class C3) accommodation to provide up to 210 residential dwellings, together with associated and ancillary works including utilities and surface water drainage, plant and equipment. Full planning permission is sought for alteration to highways access at Anerley Hill Gate entrance, Penge Gate car park, Old Cople Lane (Rockhills Gate), Sydenham Gate car park and the creation of three additional accesses for the residential development at Rockhills and Sydenham Villas. (amended description)

5. CONSULTATION SUMMARY

A) Statutory

Conservation Officer: I can confirm no heritage objection. This facility will be visually discreet and built using traditional materials in my view.

Highways: Roads in Crystal Palace Park and not considered adopted Highways. The Crystal Palace Park Trust is answerable for the day-to-day supervision of the Park, including any roads which are not maintainable highways running through it. Highway Planning would have no comments on the proposal.

The applicant is creating a 1.5m x 1.5m flat area in front of the door matching the existing pedestrian footway levels to ensure wheelchair users can easily access the Changing Places Toilet. This is better than having a slope.

Environmental Health: No comment

Drainage: The proposed connection of surface & foul water to existing network system is acceptable. No Comment.

Trees: No objection.

Designing out crime Officer: Having looked at the proposal, the MPS Designing Out Crime Group, will not be seeking to have planning conditions relating to crime and criminality and Secured by Design on this application.

The Gardens Trust: Initial objection raised. Any further comments to be reported verbally at the meeting.

Historic England: we acknowledge that this would result in loss of open space in the Grade II* Registered Park and Garden and some visual intrusion close to a main entrance. Whilst we don't wish to object to the proposals because

they deliver obvious public benefits, it would be great if they could be considered as a temporary installation in advance of the new WCs that would be coming forward in the masterplan works.

Local Groups

No objections were received from residents' groups

B) Adjoining Occupiers

No objections were received from local residents.

6. POLICIES AND GUIDANCE

6.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

6.2 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

6.3 The development plan for Bromley comprises the London Plan (2019) and the Bromley Local Plan (2019). The NPPF does not change the legal status of the development plan.

6.4 The application falls to be determined in accordance with the following policies:

National Policy Framework 2021

NPPG

14: achieving sustainable development
17: principles of planning
32 to 36: promoting sustainable transport
56 to 61; 63 to 66: design of development
70; 74: promoting healthy communities
96 to 99: climate change

109; 117 to 118: conserving and enhancing the natural environment.

The London Plan (2021)

D1 London's form and characteristics
D4 Delivering good design
D5 Inclusive design
S4 Play and informal recreation
GG1 Building strong and inclusive communities
G3 Metropolitan Open Land
G4 Open space
G6 Biodiversity and access to nature
G7 Trees and woodlands
HC1 Heritage conservation and growth
SI13 Sustainable drainage

Bromley Local Plan 2019

Policy 20: Community Facilities
Policy 30: Parking
Policy 32: Road Safety
Policy 37: General Design of Development
Policy 41: Conservation Areas
Policy 45: Historic Parks and Gardens
Policy 50: Metropolitan Open Land
Policy 57: Outdoor Recreation and Leisure
Policy 58: Outdoor Sport, Recreation and Play
Policy 69: Development and Nature Conservation Sites
Policy 72: Protected Species
Policy 73: Development and Trees
Policy 77: Landscape Quality and Character
Policy 78: Green Corridors
Policy 79: Biodiversity and Access to Nature

7. ASSESSMENT

7.1 The main issues to be considered in respect of this proposal are:

- Metropolitan Open Land
- Design
- Heritage impacts
- Highway impacts
- Neighbouring Amenity

7.2 Metropolitan Open Land – *Acceptable*

- 7.2.1 Policy G3 of the London Plan states that the strongest protection should be given to London's Metropolitan Open Land (MOL) and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. In addition, essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.
- 7.2.2 Policy 50 of the Bromley Local Plan sets out that the council will not grant planning permission for inappropriate development in MOL unless other material considerations clearly outweigh the harm, and development with MOL will be inappropriate unless it is for agricultural, horticultural or animal related businesses or for outdoor sport and recreation or cemeteries.
- 7.2.3 The proposal would provide an appropriate facility to support the outdoor recreational use of the wider park by visitors with complex disabilities. Given the siting of the building and its relatively modest size, it is not considered that the openness of the MOL would be unduly harmed in this particular case. Accordingly, the proposal is considered to constitute one of the specific exceptions to inappropriate development in MOL and it is not necessary to demonstrate very special circumstances in this case.

7.3 Design – Acceptable

- 7.3.1 Design is a key consideration in the planning process. Good design is an important aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. London Plan and Bromley Local Plan (BLP) policies further reinforce the principles of the NPPF setting out a clear rationale for high quality design.
- 7.3.2 Policy 37 of the Bromley Local Plan (BLP) and the Council's Supplementary design guidance seek to ensure that new development, including residential extensions are of a high quality design that respect the scale and form of the host dwelling and are compatible with surrounding development.
- 7.3.3 The application has been submitted by the Council's Regeneration Team to provide accessible toilets and changing rooms to support the needs of the disabled persons. The purpose of the development is to provide adequate accessible facilities for visitors of Crystal Place Park.
- 7.3.4 The proposed modular building is rectangular in shape and will be designed of cedar cladding with all surface water and foul drainage connecting to the mains system on site. Entrance/exit into the building will be from a single door located on the eastern flank elevation. The building will not contain any windows. Level access will be provided for ease of access into the facility which will be located adjacent to the existing toilet block and Crystal Park café.
- 7.3.5 The accompanying Design and Access Statement sets out the proposed external materials have been chosen as they are sympathetic to the natural

elements of the park. Guttering and waste pipes will be black PVCu and 3 x LED downlights will be located on the front elevation.

7.4 Heritage Impacts – *Acceptable*

- 7.4.1 Policy 41(Conservation Areas) states that Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.
- 7.4.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a requirement on a local planning authority in relation to development in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 7.4.3 Interpretation of the 1990 Act in law has concluded that preserving the character of the Conservation Area can not only be accomplished through positive contribution but also through development that leaves the character or appearance of the area unharmed.
- 7.4.4 Whilst the site lies with the Crystal Palace Park Conservation Area no objections have been received from the Council's Conservation Officer from a heritage perspective. It is considered that the proposed building would be of an appropriate size and scale for the proposed use and its bulk, size and scale is appropriate. The materials would be appropriate for the setting, with the cedar cladding materials softening the appearance of the building and complementing the park landscaped setting of the proposed building. Accordingly it is considered that the character and appearance of the Conservation Area would be preserved in this case.
- 7.4.5 The Park is also registered as a Grade II Historic Park and Garden. Given the scale of the proposal and its siting on the park edge adjacent to the car park and nearby residential properties it is not considered that the special features, historic interest and setting of the park would be harmed as a result of the proposal. It is noted that the Gardens Trust had raised an initial objection to the proposal. The applicant has provided further supporting information in response and any further comments from the Trust will be provided at the Committee meeting.

7.5 Highway Impacts – *Acceptable subject to condition*

- 7.5.1 The NPPF recognises that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The NPPF clearly states that transport issues should be considered from the earliest stage of both plan making and when formulating development proposals and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 7.5.2 London Plan and Bromley Local Plan Policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. Car parking standards within the London Plan and Bromley Local Plan should be used as a basis for assessment.
- 7.5.3 The Highway Officer, during consultation, has referred to the accompanying Design and Access statement which sets out that the changing rooms will have level access for ease of access into the facility but that this information in the form of a drawing is notably absent within the submission. The Highways Officer has questioned if the level access will be from behind the bollards and a footway to the changing facility along the retaining wall. Wheelchair access is on the bend behind 81 Thicket Road could create a road safety hazard. At the time of writing the agent has been contacted but no response received by Officers. However, the Highways Officer has specified if level access is from behind the bollards and a footpath made on the grass verge to the changing facility along the retaining wall, then they would have no objection to the application. Officers consider a condition requesting a level access plan would be appropriate if Members resolve to grant planning permission.
- 7.5.4 The Highway Officer has raised no objections to the proposal on the basis that roads in Crystal Palace Park and not considered adopted Highways.

7.6 Trees – Acceptable

- 7.6.1 Policy 73 Policy 73 of the Bromley Local Plan states that proposals for new development will be required to take particular account of existing trees on the site and on adjoining land, which in the interests of visual amenity and/or wildlife habitat, are considered desirable to be retained. Policy 77 of the Bromley Local Plan states that development proposals will seek to safeguard the quality and character of the local landscape and seek the appropriate restoration and enhancement of the local landscape through the use of planning obligations and conditions.
- 7.6.2 Para 3.2 of the D&A statement sets out *“a number of trees are located adjacent to the development, however no trees will be affected by the development”*. The Tree Officer has indicated that they raised no objections to the proposed development.

7.7 Neighbourhood Amenity - Acceptable

- 7.7.1 Policy 37 of the Bromley Local Plan seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.
- 7.7.2 The closest neighbours to the proposed changing rooms will be No.75, 77, 79 and 81 Thicket Road. No letters of objection have been received and it is not considered that the proposed development would cause undue noise and

disturbance to nearby residents, nor result in an unacceptable visual impact or loss of outlook given its scale and siting.

7.8 Other considerations

- 7.8.1 Consideration has been given to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010. This includes the need to advance equality of opportunity for people who share a protected characteristic. The development would provide an accessible toilet and changing facility to meet the needs of visitors with complex and multiple disabilities whose needs are not met by a standard accessible toilet. This consideration would also weigh in favour of the development.

8. CONCLUSION

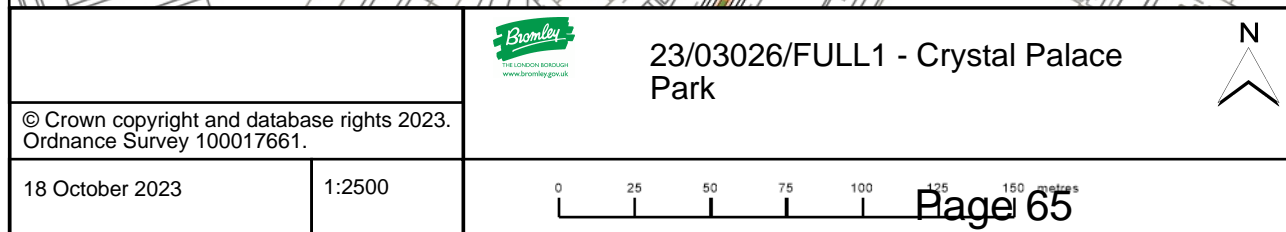
- 8.1 The proposal is considered to be acceptable on balance, as it would constitute an appropriate form of development within the MOL and would preserve the character and appearance of the Conservation Area and respect the special features and historic interest of the Park. No adverse highways or residential amenity impacts are expected to arise. Furthermore, the public benefits of the proposal in meeting the needs of park visitors will also weigh in favour of the development.

RECOMMENDATION: PERMISSION

Conditions

1. Time Period
2. Compliance with approved plans
3. In accordance with submitted materials
4. Level Access Plan to be submitted

Any other planning condition(s) considered necessary by the Assistant Director of Planning.



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Committee Date	26 October 2023		
Address	Pedestrian Subway Under Crystal Palace Parade Crystal Palace Parade Anerley London		
Application Number	23/03116/PLUD	Officer: Stephanie Gardiner	
Ward	Crystal Palace And Anerley		
Proposal	The proposal consists of the erection of 3 no. electrical cabinets to supply the Crystal Palace Subway with small power, lighting and emergency lighting. These are to be erected to the north of the site (Lawful Development Certificate Proposed)		
Applicant		Agent	
Ms Mollie Lyon Civic Centre Bromley BR1 3UH		Mr Clive England 177 Kirkdale London SE26 4QH	
Reason for referral to committee	Outside Delegated Powers		Councillor call in No

RECOMMENDATION	Proposed Use/Development is Lawful.
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<p>KEY DESIGNATIONS</p> <p>Areas of Archaeological Significance Biggin Hill Safeguarding Area London City Airport Safeguarding Metropolitan Open Land Smoke Control SCA 6</p>

Representation summary	Local neighbours were written to.	
Total number of responses	0	
Number in support		
Number of objections		

1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposal is considered to comply with Schedule 2 Part 12 Class A of the General Permitted Development Order (2015) (As Amended). It is recommended that a Lawful Development Certificate is granted.

2. LOCATION

- 2.1 The application relates to the East Courtyard of the Crystal Palace Subway. This is set within the historic Crystal Palace Park which is a Grade II* Listed Registered Park and Garden. It is also Designated as MOL, a Conservation Area and an Area of Archaeological Significance.

Fig 1: Site plan

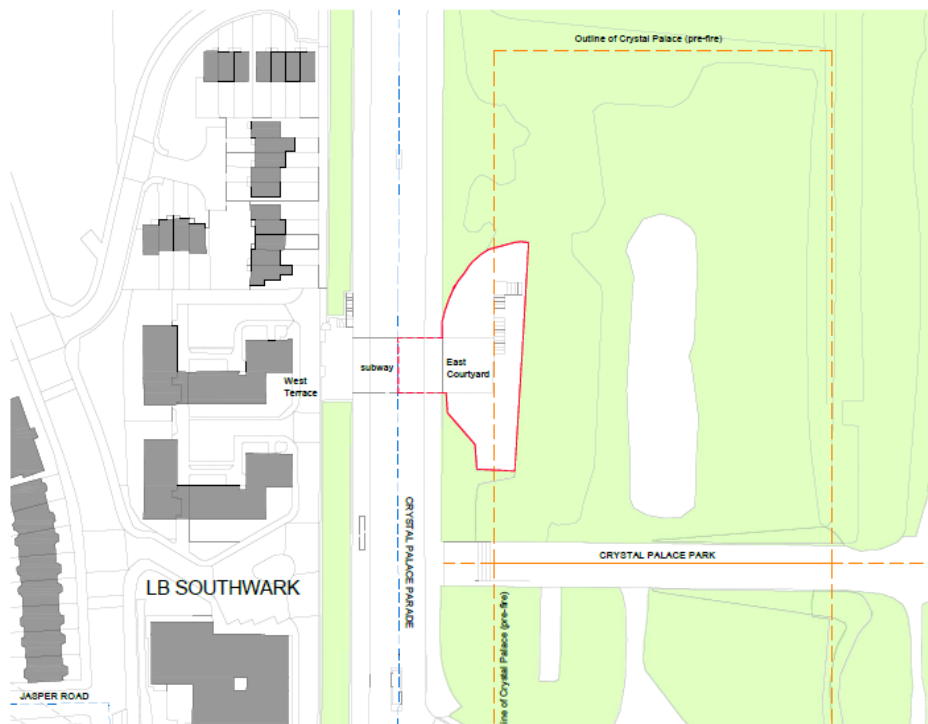


Fig 2: Aerial view of the site



3. PROPOSAL

- 3.1 The application seeks a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 (as amended) for erection of 3 no. electrical cabinets to supply the Crystal Palace Subway with power, lighting, and emergency lighting. The cabinets have now been erected to north of the East Courtyard. The three cabinets measure:

Cabinet A: 0.5m x 2m x 2m

Cabinet B: 0.65m x 1.51m x 1.5m

Cabinet C: 0.85m x 2m x 1.68m

Fig 3: Photos of cabinets in situ.



4. RELEVANT PLANNING HISTORY

17/03321/LBC - Installation of new retaining walls behind the existing north and south retaining walls of the East Courtyard of Crystal Palace Subway. Removal of the trees behind the north retaining wall of the East Courtyard. Consent

20/00325/OUT - Outline application with all matters reserved except highways access for comprehensive phased regeneration of Crystal Palace Park. This will include: conservation and repair of heritage assets; removal of existing hard surfaces; alterations to ground levels and tree removal; landscaping including planting of new trees; demolition of existing buildings and structures; creation of new pedestrian paths/vehicular access roads / car, coach and cycle parking; changes of use including part of the caravan site to part public open space and part residential; erection of new buildings and structures comprising: up to 2300sqm for a cultural venue (Use Class D2), up to 530sqm of park maintenance facilities (Sui Generis) including the dismantling and reconstruction of existing maintenance depot; up to 150sqm information centre (Use Class D1); up to 670sqm for a community centre (Use Class D1); up to 3779sqm of educational institution at the Capel Manor College Farm Site (Use Class D1) of which 3399sqm comprises educational buildings and 380sqm comprises ancillary shelters/ outbuildings; and up to 16,352 sqm of residential (Use Class

C3) accommodation to provide up to 210 residential dwellings, together with associated and ancillary works including utilities and surface water drainage, plant and equipment. Full planning permission is sought for alteration to highways access at Anerley Hill Gate entrance, Penge Gate car park, Old Cople Lane (Rockhills Gate), Sydenham Gate car park and the creation of three additional accesses for the residential development at Rockhills and Sydenham Villas. (amended description). Permission subject to Legal agreement

21/02656/FULL1 – Repairs to and restoration of Crystal Palace subway including partial deconstruction and rebuilding of existing retaining walls and construction of new parapet walls and roof structure. Permission

21/02649/LBC - Repairs to and restoration of Crystal Palace Subway; partial deconstruction and rebuilding of existing retaining walls; construction of new parapet walls and roof structure (LISTED BUILDING CONSENT). Consent

5. NEIGHBOURING CONSULTATION SUMMARY

- 5.1** Nearby owners/occupiers were notified of the application and no representations were received.

6. PLANNING CONSIDERATIONS

- 6.1** The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Schedule 2, Part 12, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 and specifically whether any limitations/conditions of the Order are infringed.

7. CONCLUSION

- 7.1** Schedule 2, Part 12 relates to Development by Local Authorities. Class A Permits 'The erection or construction and maintenance, improvement, or other alteration by or on behalf of a local authority of -

- (a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on land otherwise as statutory undertakers.

Paragraph A.2 clarifies that any small ancillary building, works or equipment in reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.

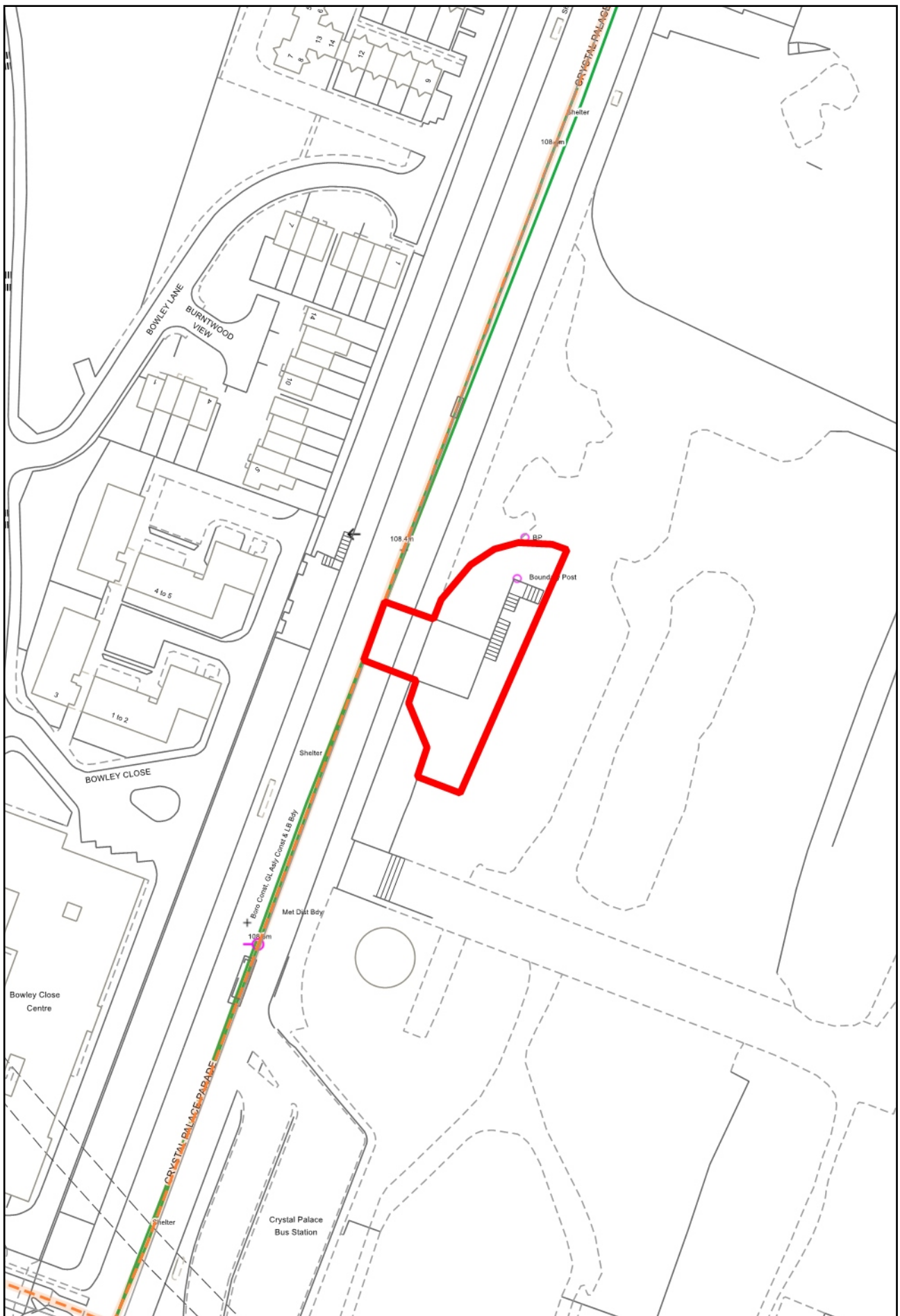
- 7.2** The application is made by the London Borough of Bromley. The proposal includes the erection of equipment to supply emergency power, electricity, and lighting to the Site. The cabinets would not exceed 200 cubic metres in capacity or 4m in height.

- 7.3 Therefore, the proposed development would comply with Class A, Schedule 2, Part 12 of the General Permitted Development Order (2015) (as amended).
- 7.4 Background papers referred to during production of this report comprise all correspondence on the file, excluding exempt information.

Recommendation: CERTIFICATE BE GRANTED

The proposed development would comply with Class A, Schedule 2, Part 12 of the General Permitted Development Order (2015) (as amended).

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