

# **Harris Academy Beckenham, Manor Way**

**Application No:** 15/00909/FULL1

**Ward:** Kelsey & Eden Park

**Address:** Harris Academy Beckenham, Manor Way, Beckenham BR3 3SJ

**OS Grid Ref: E:** 537430 **N:** 168596

**Applicant:** Kier Construction

## **Description of Development:**

Demolition of all buildings on site (except the basketball block) and erection of replacement buildings to accommodate a 3 storey 6FE Academy (8,112 sqm GIA) for 1,150 pupils and a 2 storey primary Academy (2,012 sqm GIA) for 420 pupils together with temporary classroom accommodation for a period of two years, provision of 97 car parking spaces, 170 cycle parking spaces, associated circulation and servicing space, multi-use game areas and landscaping

## **Key Designations**

Biggin Hill Safeguarding Birds

London City Airport Safeguarding

Urban Open Space

Within Manor Way Conservation Area (shown on Map – see Attachment 2)

PTAL 1a

## **Proposal**

Harris Primary Beckenham was given permission by the Secretary of State for Education to open a 2FE primary school in September 2014, however following the refusal of an application for temporary accommodation on this site (14/01636) the opening of the school was deferred for a year to September 2015. The application for temporary primary school classes (14/01636) was allowed on appeal.

The current application is for the new primary Free School 2 Forms of Entry (2FE) and the re-provision of the existing secondary Academy (including 6<sup>th</sup> form) (6FE) and temporary secondary school provision to provide accommodation during construction of the secondary school.

## **BACKGROUND**

This report concentrates on events after the resolution of the Committee at its 13<sup>th</sup> July 2015 meeting to grant planning permission for application 15/00909 subject to the completion of a s106 agreement. It should be read alongside all material received prior to the DCC meeting and available to the Committee in particular the 13<sup>th</sup> July Agenda. Advice on Legal implications is given in the confidential Part 2 of this report.

On 24<sup>th</sup> July, a Pre-Action Letter Judicial Review was received from Kelsey Estate Protection Association (KEPA). This sets out a Proposed Claim for Judicial Review of the Council's 13<sup>th</sup> July resolution to approve planning permission. This letter preceded the grant of planning permission mainly due to the need for the s106 agreement to be prepared and completed before the application could be granted. The issuing of a decision on 15/00909 has been held back, taking account of Legal advice and allowing time for further contact and mediation. By way of context it should be added that planning permission was granted on 15<sup>th</sup> July 2015 for application 15/00908, which was for the replacement secondary school (without the new Primary school) as this was not subject to a s106 agreement.

Relevant documents are appended as follows: -

- Document A – DCC Agenda 13/07/15 for 15/00909
- Document B – DCC Minutes for 13/07/15 for 15/00909

## **Harris Academy Beckenham, Manor Way**

At Document A, the 13<sup>th</sup> July Agenda is set out without change. The approved minutes for that meeting are shown in Document B. These indicate the matters reported to the Committee at the 13 July meeting and matters drawn to the Committee's attention. These matters include late objections received from KEPA on the topics of transport and educational need. They also include oral representations on behalf of KEPA, oral representations on behalf of the applicant and oral representations about education need on behalf of the Portfolio Holder for Education.

### **SUBSEQUENT CORRESPONDENCE**

Selected correspondence is attached in chronological order. This is summarised and analysed below in the sequence:

- Correspondence between KEPA and the Council
- Correspondence between the applicant and the Council

### **Correspondence between KEPA and the Council**

The 'Pre-Action Letter – Judicial Review' dated 24 July 2015 is set out at Document C.

In brief, this is a challenge to the decision of the Committee on the grounds that it was not based on objective evidence-based planning facts and was therefore fundamentally administratively flawed.

The matters that are subject to challenge by KEPA are as follows: -

#### Education Need

KEPA refers to the Education PDS report of 27 January 2015 which shows a surplus of places in the (education) planning areas 1 and 2 from 2015/16 to 2017/18. In addition more places could come forward at the proposed Langley Park School, adding to the surplus.

#### Transport and Conservation Area Impacts

KEPA refer to the Conservation Officer's report as being flawed because it is based on an erroneous approach to parking and traffic assessment. The walk distance of 200 metres should have been used under the Lambeth methodology, not 500 metres. The erroneous analysis should in KEPA's view have been remedied.

#### Balance of Education need and damage to the Conservation Area

The Committee were unable to make a balanced judgement, in KEPA's view, between Education need and damage to the Conservation Area, due to erroneous information provided.

The KEPA 'Pre-Action Letter – Judicial Review' dated 12<sup>th</sup> August 2015 is set out in full at Document E, itself in response to the Council's letter dated 6<sup>th</sup> August (attached at Document D). This KEPA letter in brief makes additional points as follows: -

#### Educational Need

KEPA add that for Educational Areas 1 and 2, the Council figures include 5% headroom for educational choice and 8% of the demand profile for private education and ignored the 60 places available at the approved Langley School. The current figure for educational need excluding the 5% and 8% factors should have been presented to the Committee, in KEPA's view there is a surplus of 29 places in 2017/18.

#### Transport, Conservation Area and overall Balance

KEPA consider that whilst the Lambeth Methodology envisages a degree of flexibility, this has been taken beyond a rational and reasonable application. There will be a greater level of

## **Harris Academy Beckenham, Manor Way**

parking stress than in the planning officer's report. Had the planning committee had accurate statistics on parking stress and educational need, it would have come to a different conclusion.

The KEPA 'Pre-Action Letter – Judicial Review' dated 7<sup>th</sup> September 2015 is set out in full at Document G. This letter is a rebuttal of Council officer comments of 4<sup>th</sup> September (Document F).

KEPA 'Radial Maps' message and map attachments of 18<sup>th</sup> September 2015 is set out in full at Document H. KEPA consider that map 1 and map 2 based on out-turn school roll numbers in 2014 and 2015 respectively shows there to be no known educational need.

### **Correspondence between the Applicants and the Council**

The Applicants set out their comments on Pre-Action matters in their letter dated 17<sup>th</sup> September 2015 and accompanying documents. These comprise an overall commentary in a report by T.P. Bennett and a Technical Note by the (transport) consultant RPS (dated 13 August 2015). They are attached in full at Document J.

The T.P Bennett report points out that the late submissions by Peacock and Smith were responded to by the applicant in their address to the Committee. The T.P Bennett report continues with an analysis based on the London Plan Policy 3.18D:

*In particular, proposals for new schools should be given positive consideration and should only be refused where there are demonstrable negative local impacts which substantially outweigh the desirability of establishing a new school and which cannot be addressed through the appropriate use of planning conditions or obligations.*

The T.P Bennett report goes on to assess Educational Need, Parking 'stress' and the overall balance.

### **Education Need**

T.P Bennett consider, based on the Council's Primary School Development Plan, that there is a shortage of Education Planning Area 2 places in 2015/16 even with the 60 places provided by Harris Beckenham. There is a surplus of places in Planning Areas 1 and 2 together but only with Harris Beckenham, Crystal Palace Primary School and an extra form of entry at both Stewart Fleming and James Dixon Primary Schools. Of these, only Harris Beckenham has a planning permission and that is for a temporary period. Similarly, Park Langley School lacks a planning permission.

The Government's Education Funding Agency (EFA) state that '*Bromley continues to need places for primary children and you have rightly included the school in your place planning*'. In conclusion, T.P Bennett consider that there is a demonstrable need for additional primary school places to serve this part of the Borough.

### **Parking Stress** (the amount of on-street parking and capacity)

The applicant's team point out that the Lambeth Methodology is only a guideline, it has no policy status. There is no 200 metre guideline for schools where parking visits are brief. The 200m guideline relates to residential development. The applicants agreed the approach in discussions with the Highways team and carried out their survey of current circumstances at the time of maximum peak parking demand.

The applicant's team consider that their surveys are in line with the Lambeth Guidance and are appropriate. There will be sufficient capacity to accommodate on-street drop-off and pick up. Furthermore, a planning condition is to be attached to secure a school Travel Plan including measures to encourage the use of alternative modes of transport to the car.

## **Harris Academy Beckenham, Manor Way**

### **Planning Balance**

The Applicants' team consider that there is a demonstrable need for Primary school places to serve this part of the Borough. The new Primary Academy is now open and these pupils would need to be accommodated elsewhere while the permanent school is not built. Traffic impacts will be mitigated by the school travel plan. There will be no detrimental impact to the adjoining Manor Way Conservation Area. The proposals should be granted planning permission as early as possible due to the delay in permanent accommodations for the Primary School and the considerable public cost.

### **Officer Comments**

Officer comments taking into account the correspondence since 13<sup>th</sup> July are set out below:

- Please refer to Document K Officer Comments on KEPA letter of 24/07/15 – Education
- Please refer to Document L Officer Comments ? Conservation
- Please refer to Document M Officer Comments – Transport

### **DISCUSSION**

At the root of the KEPA challenge are the assessments of Educational Need, Transport/Parking, impact on the Conservation Area and the overall planning balance.

The Council offered an all parties meeting with a view to exploring a mediated solution. This did not take place, leading the Council to invite written comments which are referred to earlier in this report.

The essentials of a planning decision are development plan policy and material planning considerations. The officer report to the DCC in July sets out: - the proposal; the supporting evidence; comments from the local community including the original objections from KEPA (Peacock & Smith); and the Consultee comments. It moves on to identify the relevant Planning Policies and Planning History before addressing the main evaluation in the Conclusion and Summary section and Recommendation.

In short, the July DCC report analyses the development plan policy and material planning considerations, as it should do. It draws attention to strong policy support for schools from both the NPPF and the London Plan (2015). In addition, the report draws attention to the full copies of documents available on the Planning File.

At this October 2015 Special DCC, the original documents and the subsequent material should be considered.

### **Education Need**

The main basis for identifying educational need in the July 2015 DCC report and the Council's subsequent analysis is the Council's Primary School Development Plan (PSDP) approved in January 2015. The PSDP sets out the demand for primary school places across the Borough and how they could be met by short term measures (e.g. temporary classes) and long term measures (e.g. new and extended schools). The PSDP details how this can happen in subdivisions of the Borough, the Education Planning Areas and explicitly shows the basis for the Primary School provision.

The Harris Beckenham Primary School is specifically shown in the PSDP as part of the Plan's proposals to meet educational need. Furthermore, of several schools proposed to meet the identified need in Planning Areas 1 and 2, it is one of the most advanced in terms of delivery.

The Officer Education commentary, after considering KEPA's numerical analysis, confirm that it is needed and should proceed without delay.

## **Harris Academy Beckenham, Manor Way**

### **Parking 'stress'**

The Council's Highways Officer has further considered the Parking 'Stress' issue in the light of KEPA's correspondence, the Technical Note prepared by the Applicant's consultant RPS and the material received before the DCC meeting of 13<sup>th</sup> July 2015. He concludes that the Parking survey carried out by RPS is not misleading. In reaching this conclusion, the Council's Highways Officer has advised that the extra walking time to cover 300 metres is about 2 to 3 minutes. The significance of the 300 metres distance is that it is the difference between the views of the Applicant's and KEPA's transport consultants as to a reasonable parking survey boundary.

The 'Lambeth Methodology' is a method for assessing car parking 'stress' (the amount of available car parking capacity) prepared by Lambeth Council for residential and commercial developments. It is often used elsewhere within Greater London. Nonetheless, it is guidance only.

This type of planning permission would be subject to a travel plan secured by planning condition. This travel plan will encourage staff, pupils and parents to travel to the school site by walking, cycling, public transport and car-sharing.

The Council's Highways Officer further concludes that there is sufficient on-street parking capacity to accommodate the primary school and the secondary school operating at full capacity.

### **Conservation Area and Balance**

The KEPA correspondence considers that the assessment of detriment to the Conservation Area is fundamentally flawed as it is predicated on the traffic officer's report which is in turn predicated on the outcome of traffic surveys deploying the Lambeth Methodology which in the view of KEPA's traffic consultants were incorrectly applied. The Council's Highways Officer has considered the matter again and concluded that the RPS survey is not misleading.. It follows that the assessment in relation to the Conservation Area is not 'fundamentally flawed'.

The Conservation officer considered the effect of the development on the Conservation Area but did not identify harm and found that it preserves the character and appearance of the Conservation Area and its setting, to which the Council is required to pay special attention and give considerable weight in the terms of national legislation, national policy and the Development Plan.

### **KEPA correspondence**

The KEPA letter dated 24<sup>th</sup> July 2015 identified action that the Council could take, including a referral of the application back to the Committee. This report does that, enabling the Committee to consider the challenges raised by KEPA.

### **Next Steps**

If the Council grants planning permission, a challenge by way of a Judicial Review could follow commencing within 6 weeks of the issuing of the Council's decision notice. If successful, that could ultimately lead to a quashing of the planning permission. There would be costs involved in the defence of any Judicial Review application, and, in the event of such a challenge being successful, there may be additional costs involved which are not quantifiable at this stage. The Council has taken Legal advice, set out in the Part 2 confidential attachment.

### **Summary**

The challenges raised by KEPA are referred to and addressed in the report. Technical analysis and reports are focussed on the given nature of the challenges by KEPA. These, and the officer responses, should all be taken into account.

## **Harris Academy Beckenham, Manor Way**

Overall, having reviewed and updated, the officer recommendation is the same as that on 13<sup>th</sup> July 2015.

### **Recommendation:**

- i. **That the Committee Review their resolution of 13<sup>th</sup> July 2015 taking into account this report; and**
- ii. **Permission be granted subject to the same S106 legal agreement and the same conditions as in the 13<sup>th</sup> July 2015 resolution.**

### **Documents in this report:**

- Document A - DCC Agenda of 13/07/15 meeting for application 15/00909
- Document B - DCC Minutes of 13/07/15 meeting for application 15/00909
- Document C - KEPA 'Pre-Action Letter – Judicial Review' dated 24<sup>th</sup> July 2015
- Document D - Council's letter dated 6<sup>th</sup> August 2015
- Document E - KEPA 'Pre-Action Letter – Judicial Review' of 12th August 2015
- Document F - Council's letter dated 4<sup>th</sup> September 2015
- Document G - KEPA 'Pre-Action Letter – Judicial Review' dated 7th September 2015
- Document I - Council's letter to KEPA and the Applicants dated 11<sup>th</sup> September 2015
- Document H - KEPA email dated 18<sup>th</sup> September 2015 with 'Radial Maps' attachments
- Document J - Applicant's comments on KEPA 'Pre-Action' matters by letter dated 17th September 2015  
and RPS Technical Note dated 13<sup>th</sup> August 2015
- Document K - Officer Comments– Education
- Document L - Officer comments – Transport

### **Attachments**

- Attachment 1 - Site plan (same as 13/07/15 DCC report)
- Attachment 2 - Conservation Area in vicinity of the site