

Impact on Vulnerable Adults and Children

1. Summary of Impact: School place need as set out in report and application documents
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Children and Young People Quality Environment Safe Bromley:
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Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Planning / Development Control
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Not Applicable:
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Procurement

1. Summary of Procurement Implications: N/A
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments?
2. Summary of Ward Councillors comments: Any comments will be reported verbally

3. COMMENTARY

General Background to the Report

- 3.1 Planning application reference 16/03315/FULL1 [“the first application”] for “*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*” was refused by Development Control Committee on 25th January 2017 by decision dated 31st January 2017 for the following reason. The decision notice is appended to this report (Appendix 1).

“The potential traffic generation and capacity of the existing highway network along with the proposed access arrangements raise both road and pedestrian safety concerns that have not been fully addressed in the proposal and are likely to cause severe cumulative impacts contrary to Policy T18 of the Unitary Development Plan 2006 and paragraph 32 of the National Planning Policy Framework 2012.”

An appeal was submitted to the Planning Inspectorate against this refusal with a start date of 21st September 2017. The appellant requested the written representations procedure.

- 3.2 Planning application 17/02468/FULL1 [“the current application”] for “*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)*” was considered at Development Control Committee on 4th October 2017. Members resolved to grant planning permission subject to planning conditions and a S106 legal agreement and referral to the Mayor of London and Secretary of State. The committee report (Appendix 2), minutes (Appendix 3) and draft conditions and heads of terms for the s106 legal agreement (Appendix 4) are all appended to this report.
- 3.3 The second application amended the scheme with the following changes: improvements to the Chislehurst Road access including the insertion of safety railings and a new pathway (approximately 17m in length and 1.8m in width) and a raised table crossing; 15 additional drop off bays in the car park; and changes to the coach access (coaches would now enter the site). As well as these changes, the second application was supported by additional assumptions about trip generation and modal split which differed from the original scheme.
- 3.4 During preparation of the Section 106 legal agreement for the current application 17/02468/FULL1 (which is required to be completed prior to the issue of the planning permission), the appeal decision for the first application (16/03315/FULL1) was published on 11th December 2017, following consideration by a government Planning Inspector. The appeal was dismissed and the decision letter is appended to this report (Appendix 5).

Procedural Background

- 3.5 The Council has sought legal advice prior to the publication of this report on the procedural matters raised. This report is published taking into account the advice received.
- 3.6 Section 70(2) of the Town and Country Planning Act 1990 (the 1990 Act) says as follows:

“In dealing with an application for planning permission or permission in principle that authority shall have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations.”

- 3.7 Case law is clear that if a delegated officer becomes aware of a new material consideration before issuing a decision, the authority is bound to have regard to it. It is also clear that in this context a new material consideration must be one that might have had an effect on deliberations had it occurred before the decision was made, but it need not be one that is determinative to a decision. In other words, upon reconsideration, it is open to a committee to make the same decision as it did before, so long as it has taken into account the new material consideration.
- 3.8 Material planning considerations are not specifically defined in legislation or guidance, however it is widely accepted that a planning decision on a related application would constitute a material planning consideration. The Inspector’s decision is considered to be a new material planning consideration which ought to properly be considered by the Local Planning Authority prior to the issue of the planning permission subject of the resolution of Development Control Committee on 4th October 2017. This report provides Officer comments on the matters raised in the appeal decision and how they relate to the current application, to assist the committee in its consideration of all relevant matters and in deciding whether to confirm its previous decision to approve the application and upon what basis.
- 3.9 Further advice has been also been sought from the Council’s Highway Engineer (Appendix 6) and the externally appointed independent Highway Consultant (Appendix 7) on the points raised in the Inspector’s decision. This advice is appended and has been considered in the drafting of the report. The content of this report should be read in conjunction with the application documents and original committee report for the current application.
- 3.10 Members should note that the Inspector mistakenly referred to Bickley Road as part of the Transport for London Road Network (TLRN) in his Decision Notice. It is a classified road, a London Distributor route, and part of the A222. It is, as he said, a main east-west route across south London and a bus route.

Matters raised in the appeal decision

- 3.11 The Inspector was determining the first application, and therefore his comments and decision are required to be considered in that context, however there are considerable similarities between the two proposals, the main differences being set out above in section 3.3 above.
- 3.12 The Inspector notes from his own observations that the queueing to the roundabout on Bickley Road is much greater in length than the queues recorded in the appellant’s queue survey for the same time on a weekday.
- 3.13 The Inspector specifically raises concerns about the impact of queuing through the site which he considers would be worse as a result of difficulties for drivers turning right out of the site. He considers not only that this would constitute a safety hazard but also that it would have the effect of some drivers not entering the site but picking up and dropping off pupils on surrounding roads, concluding (paragraph 11) that there would be *“a severe and unacceptable cumulative impact on highway safety on Bickley Road and Chislehurst Road which are already subject to a lack of capacity at peak times.”*
- 3.14 The Inspector dismissed the appeal, stating (paragraph 12) that *“...the mechanisms by which traffic [entering the site], and its users, would interact with the other traffic on the network which is my concern and which in my view, would be likely to prevent the achievement of safe and suitable access to the appeal site in conflict with paragraph 32 of the [National Planning Policy]*

Framework. In terms of the limited vehicle stop times to drop-off or pick-up, this interaction would be difficult to regulate.” He concludes (paragraph 14) “...that the proposal would have an unacceptable adverse impact on highway safety and that it would thus conflict with UDP Policy T18 and the [National Planning Policy] Framework”.

- 3.15 The Inspector also stated in his conclusions (paragraph 15) that *“The existence of clear educational planning policy context support for the proposed facility and an urgent and demonstrable need for the scheme are relevant matters in the consideration of this appeal. They would not however outweigh the harm that I have identified which does not relate to the facility or its location as such, but to the chosen access arrangements for the site.”*
- 3.16 The designation of Chislehurst Road as a yellow route on the London Cycle Network is raised in the appeal decision (paragraph 11) and this is a matter which has not been considered previously. The Inspector considers that the concerns raised in paragraph 11 about driver behaviour on Chislehurst Road would conflict with the aims of this designation.
- 3.17 The Inspector also sets out that he does not consider that the quantum of additional traffic that would result from the proposal would have a severe impact on the transport network.
- 3.18 The Inspector’s concerns can therefore be summarised as follows:
- (ii) ‘Much greater’ queuing at the roundabout junction of Bickley Road on his site visit than identified in the applicant’s survey work;
 - (i) Safety and suitability of the Bickley Road egress from the site;
 - (iii) Severe and unacceptable cumulative impact of the consequential increase in pick up and drop off on surrounding roads on highway safety; and
 - (iv) Conflict with the London Cycle Network designation for Chislehurst Road.

Commentary on matters raised

(i) Queuing

- 3.19 The Inspector also identifies ‘much greater’ queuing at the roundabout on Bickley Road than that identified in the applicant’s survey work. His observations led him to be concerned that the queue would pass the Bickley Road egress and make the egress unsafe and delay traffic entering the site.
- 3.20 The applicant and supporters of the scheme have provided information that points to the fact that the circumstances in the road network on the day of the Inspector’s visit were out of the ordinary due to various incidents. It is clear that the incidents and roadworks identified could have had an impact on traffic in this area, but it is not possible to come to a clear conclusion about the impact of road conditions on this specific location on a date in the past. It should be noted that the traffic survey data submitted to the Council with the applications do not show queuing as far back as the Inspector witnessed.
- 3.21 The Council’s Highway Engineer has commented as follows on this point:
- “Queue lengths are likely to vary on a day to day basis, particularly when a junction is nearing or at capacity. The applicant’s survey showed lengthy queues here during the AM peak between 7:50am until the end of the survey at 8.30am. The queue may also extend past the site at other times of the day including at the time of the Inspector’s site visit.*

The potential for road works to have affected the queuing and traffic conditions on Bickley Road on the day of the site visit (15/11/17) have been raised. There were 2 such locations in the vicinity of the application site, a road closure by the railway bridge in Yester Road and temporary lights in Bromley Road, Chislehurst. There was also a closure of the London bound carriageway of the A20 between Frognaal Corner and Fiveways due to diesel spill. There were substantial delays in the morning through Chislehurst associated with the temporary lights on Bromley Road which were removed around midday. Whether there would have been any knock-on effects from any of these works on Bickley Road during the afternoon of the Inspector's site visit is very difficult to ascertain."

- 3.22 The Inspector does not consider that the quantum of additional traffic that would result from the proposal would have a severe impact on the transport network and his concerns appear to be limited to the impact of queuing on the behaviour of drivers and those dropping off or picking up children, and the resultant safety impacts of that behaviour, which he considers would be 'severe and cumulative'.

(ii) Bickley Road Access

- 3.23 The Inspector's concerns about safety at and the suitability of the Bickley Road egress were not available for the committee to consider; indeed, this issue was not a matter considered in detail. Moreover, although previously the committee would have been aware of concerns raised about pick up and drop off on surrounding roads, these were not in the context of the Inspector's concerns relating to the Bickley Road egress and the lack of attractiveness of the route through the site consequent on this.
- 3.24 By comparison to the first application, the current application includes assumptions that considerably fewer drivers will wish to turn right from the site. This was 80% in the first application and is 43% in the current application. The assumption is understood to come from postcode information of prospective parents' home addresses. Despite the difference in information provided about likely use of the egress between the first and current applications, Members did not take specific issue with these assumptions when the application was considered previously, however the Inspector's concerns about safety were not evident to the committee previously.
- 3.25 The applicant has in the light of the Inspector's decision and evident concern informally proposed a 'no right turn' out of the site onto Bickley Road and comments from the Council's Highway Team are that this would be technically feasible and enforceable. However, there is a concern that this restriction would also discourage drivers from entering the site at all, given that if they wished to head westwards into Bromley, they would need to make an approximate 1.2 – 1.5km detour, meaning they may then choose to drop off on local roads instead.
- 3.26 The Council's Highway Engineer comments that there are two likely scenarios which could occur with the proposed 'no right turn':
- "(1) those drivers who wanted to turn right are unlikely to go through the site as the diversion route via either Pines Road / Chislehurst Road or Page Heath Lane / Bird in Hand Lane would add between 1.2 – 1.5km to their journey depending on the route the vehicles are taking. The alternative is to park on the road to drop off and pick up pupils.*
- (2) given these are drivers who would use the access on a daily basis, there are some that may still try and turn right."*
- 3.27 Therefore, whilst a 'no right turn' would partly address the Inspector's concern in that it would improve the safety of the egress onto Bickley Road, it is considered that it would also potentially discourage drivers from entering the site due to the additional journey time it would add if they wished to continue their journey westwards. Thus it is possible it would have a similar impact to

the delays the Inspector considered would occur as a result of queuing cars waiting to turn right out of the site.

- 3.28 Notwithstanding the above, if Members do agree with the Inspector's concerns regarding right turns from the Bickley Road egress, it would be possible to impose a specific planning condition requiring a 'no right turn' out of the site and based on design and signage this would be enforceable.

(iii) Impact of Pick Up and Drop Off on Local Roads

- 3.29 The Inspector is concerned about the highway safety impact of picking up and dropping off on local roads. This was a matter raised by the Council's Highway Engineer during consideration of the current application and therefore is not a new issue in itself, however the Inspector's observations of the local traffic conditions and his concerns around the Bickley Road egress are directly related to this concern.

(iv) Impact on London Cycle Network designation

- 3.30 The London Cycle Network point was not a point raised as a concern by the Committee. Chislehurst Road is a 'yellow' route which is defined on the Transport for London Local Cycling Guide as "*other roads that may have been recommended by cyclists that may connect other route sections.*" The road is therefore identified as a potential quiet route for cyclists, and there may be some impact on cyclists using the road during busier school pick up and drop off times.
- 3.31 Whilst the status of the road was known at the time of the Committee's previous decision, it is to be noted that the Inspector considered that this designation added weight to his concerns about indiscriminate short term parking relating to the school. However, this designation is not a specific planning policy designation at local or London level, and carries limited weight as a planning consideration.

Applicant's comments

- 3.32 The applicant has been given an opportunity to make further submissions pursuant to the publication of the appeal decision. No formal amendments to the application have been submitted; however information has been submitted informally for comment, including technical details of a 'no right turn' option for Bickley Road.
- 3.33 The applicant has also set out that they consider the Inspector finds in favour of the appellant in respect of education need and highways impacts with regard to capacity and further confirms that the dismissal of the appeal is not related to the location or facility proposed. They consider that there is nothing new in the Inspector's decision which Members did not consider previously when determining the application. The applicant also considers that the 'no right turn' option addresses the Inspector's concerns about Bickley Road. Any further submissions will be reported to the committee.

Public representations received

- 3.34 A number of representations have been received in respect of this matter and in summary these raise the following issues set out below. Any further representations will be reported to the committee and representations are available on the Council's website.
- The Borough is building more houses and therefore we need more school places
 - More people will move to the Borough for a good school which is therefore more money coming into Bromley
 - The planning application was blighted by the traffic conditions on a single day when a burst water main and temporary traffic lights caused chaos.

- The staff and pupils are ready and expecting this school to open in September
- The children will walk to school
- There is room on the playing fields for the girls and the boys
- There is a considerable shortage of school places for boys
- This school has gone through the process and all issues regarding traffic / noise / safety have been addressed and dealt with
- The Inspector should have checked mitigating circumstances before writing his report
- The process is a farce
- The site is well connected
- If traffic is going slowly as part of the normal morning rush hour it is a safer environment for pedestrians.
- It's hugely disappointing to learn that following approval this appeal has to come back to the council.
- There is huge local support for a new school for boys alongside Bullers Wood Girls School and the council should consider this in their review of the appeal and uphold the democratic process by supporting the original decision made in the support of this appeal
- Bullers Wood School for Boys has received Department for Education approval and is showing as "pipeline" on the DofE website successful applications data. It now needs to be built in order to achieve a more equitable distribution of educational resources in the area

In addition video evidence showing traffic flowing freely on Bickley Road in the vicinity of the site on the afternoon of 17th January has been presented from supporters of the proposal.

Other Matters

- 3.35 Members should also consider the recent refusal of planning permission (application 17/00429/FULL1) by the Council for the proposed secondary age school at 1 Westmoreland Road, Bromley. This refusal occurred after the resolution to grant planning permission for the current application and is also therefore a new material planning consideration. This decision does effectively increase the educational need for secondary places within the Borough as it results in delivery of a school on that site being delayed for an unknown period of time or precluded, and thus weighs in favour of the proposal.

Summary

- 3.36 The Inspector's concerns focus on highway safety. These are primarily in connection with the proposed right turn onto Bickley Road from the site, and pick up and drop off on local roads as a consequence of the unattractiveness of the route through the site. In particular, the Inspector's conclusion that there would be a severe lack of safety due to right turn movements out of the site onto Bickley Road is an important new point which the Committee should take into account.
- 3.37 As a direct response to the Inspector's decision, the applicant has informally proposed a technical solution to address some of the Inspector's concerns. This comprises a 'no right turn' onto Bickley Road, which has been drawn up to a technical level and is feasible and enforceable. Therefore the concerns raised regarding the safety of the Bickley Road egress can be resolved. A specific condition requiring the Bickley Road 'no right turn' could be added to the appended draft conditions. This is a new requirement which results from the Inspector's decision as it is clear that this egress would be unsafe in the Inspector's view without such an arrangement. The National Planning Policy Framework sets out (paragraph 206) that "*Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*". The committee is asked in particular to give consideration to this question.
- 3.38 However, this solution will mean that the route through the site remains unattractive to some users, and will potentially encourage pick up and drop off on local roads, potentially having a

similar impact as the difficulties turning right from the site identified by the Inspector. This pick up and drop off and its impacts were also a concern of the Inspector. The London Cycle Network designation is also a new point related to this although carrying limited weight.

- 3.39 Thus the Inspector’s highway safety concerns which result from the consequence of drivers being less likely to enter the site remain outstanding. Members may consider that the impact of pick up and drop off on Chislehurst Road was a matter that they considered previously and that the impact of the ‘no right turn’ would potentially be similar to that impact previously identified to be caused by the potential queuing through the site, and therefore acceptable based on the previous committee resolution.
- 3.40 The increased unmet educational need identified as a consequence of the application at 1 Westmoreland Road being refused is a new material consideration which does lend support to the proposal and which Members should take into account.
- 3.41 Members are asked to give consideration to the Inspector’s decision and the advice above in the context of their previous decision and resolve accordingly with clear reference to any conditions to be imposed and reasons for granting permission in order to address any concerns arising from their deliberations. A decision to approve the application can then lawfully be given in the light of the new material planning consideration considered in this report, subject to the conditions and obligations (to be taken forward in the form of a Section 106 legal agreement) appended to the report. Any permission issued would be subject to the confirmation from the Mayor of London and Secretary of State that they do not wish to consider the matters raised in this report.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

School place need as set out in report and application documents

5. LEGAL IMPLICATIONS

The legal implications are set out in paragraphs 3.3-3.8 of this report. It is important to remember that Members made a decision to approve the grant of permission (subject to conditions and the completion of a Section 106 legal agreement) on 4th October 2017. The purpose of this report is therefore to enable Members to consider whether having regard to the new material considerations they should change that decision or not, rather than inviting Members considering the matter afresh. The Officer recommendation advises that Members can ratify their previous decision.

6. POLICY IMPLICATIONS

Addressed in the report and appended documents

Non-Applicable Sections:	FINANCIAL IMPLICATIONS; PERSONNEL IMPLICATIONS; PROCUREMENT IMPLICATIONS
Background Documents: (Access via Contact Officer)	Planning application and policy documents referred to in this report and previous appended committee report