

Rolfe Judd

Planning

On behalf of The Herne Hill Velodrome Trust (HHVT)

School Outdoors Dulwich (SOD)

Land at the Herne Hill Velodrome, 104 Burbage Road, London, SE24 9HE

Planning, Design and Access Statement

RJP: P08088

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1.0 Introduction

1.1 Overview

- 1.1.1 This Planning Statement is prepared on behalf of the Herne Hill Velodrome Trust (herein 'the Applicant' or 'HHVT') in support of a part retrospective planning application relating to Land at the Herne Hill Velodrome, 104 Burbage Road, London, SE24 9HE (herein 'the Application Site'). Full planning permission is sought for use of the Application Site as an outdoor nursery (and temporary use as a holiday club) and the stationing of associated temporary free-standing structures.
- 1.1.2 This submission follows correspondence with the London Borough of Southwark's planning enforcement team, who requested that an application be submitted to regularise an alleged breach of planning control (ref. 20/EN/0297). The alleged breach of planning control is the unauthorised change of use of land from a recreational use (falling within Use Class F2(c)) to an outdoor nursery and holiday camp (falling within Use Class E(f)).
- 1.1.3 The Application Site is surplus to the operational requirements of the Herne Hill Velodrome ('HHV') and for the last 20 months (since January 2020) has been operated by School Outdoors Dulwich ('SOD') as an outdoor nursery and summer holiday camp providing alternative outdoor learning experiences. SOD has become an important facility for the local community, providing essential early years education and a form of day care to parents in the borough over the school summer holidays.
- 1.1.4 The Application Site is an appropriate location for a nursery based on its good level of public transport accessibility and makes effective use of surplus recreational land to provide benefits to the local community. The facility clearly fulfils an unmet need for alternative early years education provision, given the ongoing attendance of children since it opened in January 2020.

1.2 Planning Statement

- 1.2.1 The purpose of this Planning Statement is to examine the key planning issues associated with the development and assess the suitability of the proposals having regard to the relevant planning policy framework at a national, strategic, and local level. The Statement structure is as follows:

Section 1: **Introduction.**

Section 2: **The Application Site and Surrounding Area** – sets the context the current proposal and provides a detailed description of the application site and its previous uses.

Section 3: **Pre-application and Consultation** – provides an overview of the pre-application engagement and public consultation undertaken with the Council and local community.

Section 4: **The Proposal** – provides an overview of the outdoor nursery use, including hours, attendance numbers and overall management.

Section 5: **Planning Policy Context** – summarises the planning policy relevant to the proposal at national, strategic, and local levels.

Section 6: **Planning Considerations** – reviews the proposal in terms of the relevant policy context and other material considerations; and

Section 7: **Conclusion**

1.3 Supporting Application Documents

1.3.1 This Planning Statement should be read in conjunction with the following additional documents, which accompany the application:

- Site Location Plan, prepared by Hopkins Architects
- Existing Site Plan, prepared by Hopkins Architects
- Proposed Site Layout Plan, prepared by Hopkins Architects
- Transport Technical Note, prepared by Caneparo Associates
- Preliminary Ecological Appraisal, prepared by Ecology Partnership
- Noise and Vibration Assessment, prepared by Hawkins Environmental
- Photographic Schedule, prepared by Rolfe Judd Planning

2.0 The Application Site and Surrounding Area

2.1 Site Description & Location

2.1.1 The Application Site falls within the grounds of the HHV - a cycling facility comprising a 450m long purpose-built cycle racing track with terraced spectator stands and a pavilion containing a clubhouse, changing rooms, WCs, and storerooms. The Application Site also accommodates a sports pitch in the centre of the oval-shaped track, an 'off-road' mountain bike trail and various cycle storage adjacent to the main pavilion.

2.1.2 The Application Site comprises a 2,430sqm parcel of land, which is in the southwest portion of the HHV grounds. It is adjacent to the mountain bike trail. The location and extent of the Site is shown in Figure 2.1 below.

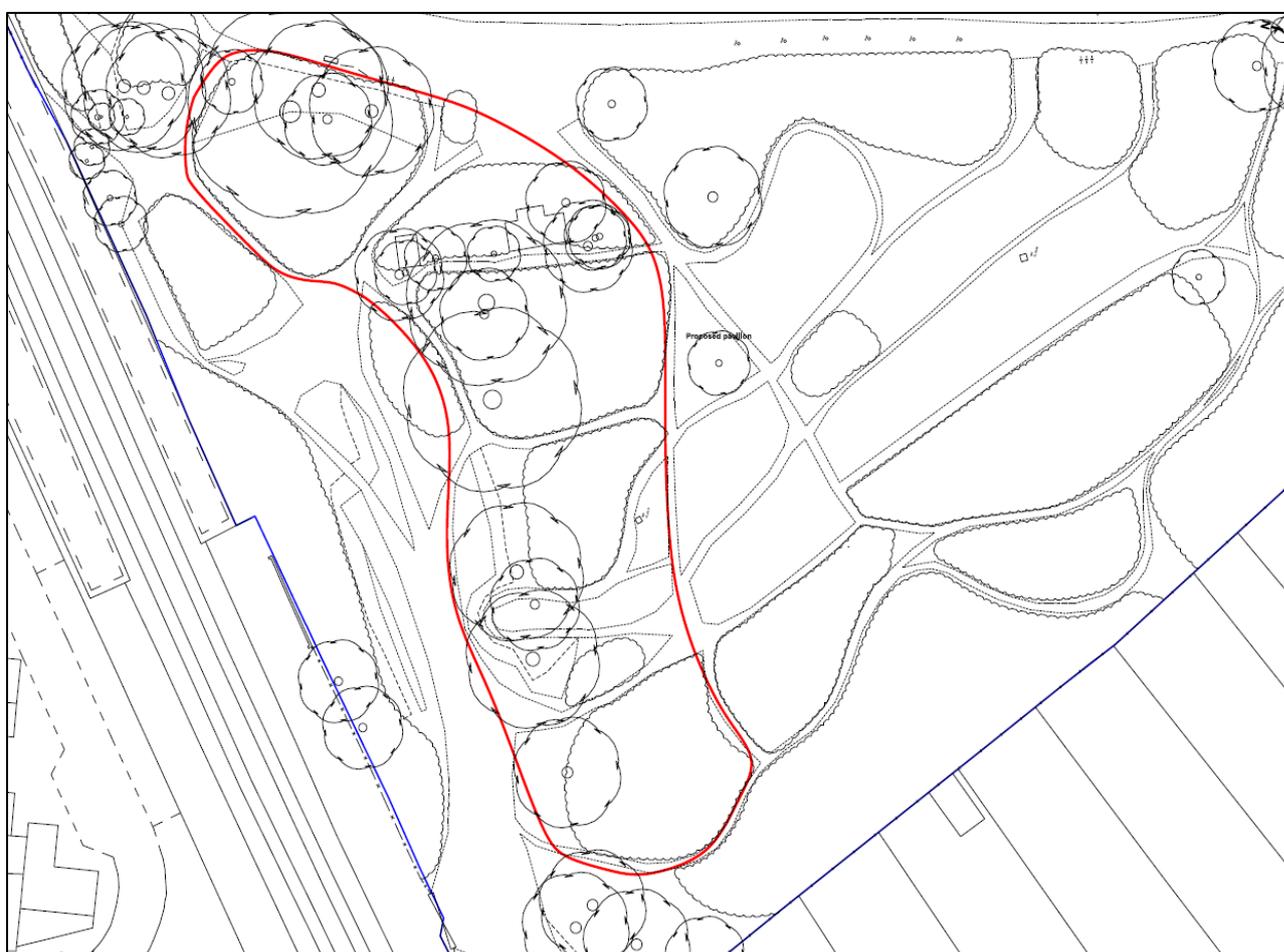


Figure 2.1: Location and extent of the Application Site

2.1.3 The red line area indicates the extent of land proposed for the sole use by the nursery moving forward; however, the areas of the HHV currently used by the nursery are shown on the Existing Site Plan. The proposals include the partial re-location of the nursery use away from the shared boundary with properties along Burbage Road. This is in response to concerns raised by residents about the proximity of nursery activities to their gardens and associated noise and disturbance; however, it is important to note that this decision is made without prejudice to

the fact that the noise levels generated by the nursery are deemed acceptable and no greater than the prevailing background noise in the area.

- 2.1.4 The Application Site is surplus to the operational requirements of the HHV and for the last 20 months (since January 2020) has been operated by School Outdoors Dulwich ('SOD') as an outdoor nursery and holiday camp (Use Class E(f)). Unlike a traditional nursery, where outdoor play is usually limited to a morning and afternoon session, SOD is a recognised 'forest school' where all activities and play take place outdoors for the entire day (forming part of the charity and governing body, The Forest School Association).
- 2.1.5 There are no buildings within the Application Site but there are a few free-standing, temporary structures and facilities that are necessary for the day-to-day operation of the nursery. This includes a tent for storage, food preparation and shelter (when necessary) and three small wooden sheds that are used for additional storage and as toilet facilities. Tarpaulin is also tied between trees on an ad-hoc basis to provide shelter from the rain or sun in the height of summer. Please refer to the submitted photographic schedule and site plan.
- 2.1.6 The Application Site shares a vehicle access with the HHV via Burbage Road, which leads to a hardstanding car park.

2.2 Planning Constraints and Designations

- 2.2.1 According to the Council's adopted policy maps, the Application Site is affected by the following planning constraints and designations:
- Metropolitan Open Land ('MOL')
 - Site of Importance for Nature Conservation ('SINC')
 - Air Quality Management Area ('AQMA')
 - Suburban Density Zone – South
 - Herne Hill Conservation Area ('Herne Hill CA')
- 2.2.2 The Application Site is in Flood Zone 1, which has the lowest annual risk of flooding. There are no listed buildings within the Application Site or within the immediate vicinity.

2.3 Surrounding Area

- 2.3.1 To the immediate south of the Application Site a row of detached dwellings front onto Burbage Road and to the north-west is the railway viaduct linking Tulse Hill and North Dulwich National Rail stations. The viaduct / arches also includes a light industrial business for the hire and sale of plant and machinery (accessed from Burbage Road). The wider surrounding area is principally characterised by two/three storey suburban housing, with the Herne Hill Velodrome stadium to the northeast and Griffin Sports Club beyond.

2.4 Relevant Planning History

- 2.4.1 The HHV site has had an established recreational and sporting use for over a century. The Velodrome was originally constructed in 1891 and was used as an Olympic Venue in both 1908 and 1948 London Olympics, often attracting crowds of over 10,000. The track eventually fell into disrepair and the pavilion was closed to the public in 2005. Since this time, the HHVT has taken responsibility for the future operation of the site and improving access and on-site facilities to the wider community.
- 2.4.2 Over the past ten years the HHVT have submitted several planning applications for various improvement works, as summarised below:
- 12/AP/3196: *“Construction of a 250m flat junior track in the centre of the main velodrome track and associated multi-use games area with fencing.”* Approved 31/01/2013
 - 15/AP/0790: *“Demolition of existing pavilion building and spectator seating areas, and erection of proposed two storey pavilion building with spectator seating, erection of new gazebo-pavilion tent to provide external cover, rationalisation of existing shipping containers and provision of new cycle and car parking spaces”* Approved 10/06/2015
- 2.4.3 The Application Site therefore benefits from a long-established use associated with outdoor sports and recreational facilities. Until 1st September 2020, the site was recognised as being in Class D2(e) (an area for indoor or outdoor sports or recreation). Following the Government's recent amendments to the Use Class Order in September 2020, the lawful use of the site is now recognised as Class F2(e) (areas or places for outdoor sport or recreation (not involving motorised vehicles and firearms)).
- 2.4.4 It should be noted that neither of the permissions restrict any future operational use of the Application Site, the intensity of its use for recreational purposes, or such ancillary functions which may from time to time be desired.

3.0 Pre-application engagement

3.1 Pre-application engagement with the LPA

Correspondence with the London Borough of Southwark's Enforcement Team

- 3.1.1 On behalf of the HHVT, Rolfe Judd Planning have liaised extensively with the Council's Planning Enforcement team regarding the alleged breach of planning control at relating to the Application Site (LPA ref. 20/EN/0297). The breach of control alleged by the Council is the unauthorised change of use of land from a recreational use to a nursery/day centre and the stationing of associated temporary structures.
- 3.1.2 Following correspondence, the Council's Enforcement team issued a Planning Contravention Notice ('PCN') on the 19th of January 2021 requesting further information in respect of the sites use, operation, and the nature of structures related to the use. The PCN was completed by the HHVT, in consultation with SOD, and returned to the Council on the 8th of February 2021.
- 3.1.3 After reviewing the HHVT's response, the Council requested that an application be submitted to regularise the breach of planning control.

Pre-application discussions with the London Borough of Southwark Planning Applications Team

- 3.1.4 After the Council confirmed that an application should be submitted to regularise the use, the Applicant submitted a request for pre-application advice to the Council (May 2021) to agree the form and scope of the application, including the supporting documentation that would need to be provided.
- 3.1.5 The Council issued their formal written response in July 2021, which concluded that the principle of the proposed use could be considered acceptable, with the key considerations being the impact of the use on the amenity of neighbouring occupiers, transport impacts and ecology implications.
- 3.1.6 Given the enforcement history of the site, the Council requested that the application be submitted without delay. Since this time, the HHVT has been liaising with various consultants and the SOD to ensure a complete and appropriated application is submitted and supported by the necessary reports.

3.2 Public Consultation

- 3.2.1 The HHVT has been in consultation with the local community since the summer 2020 and remain in dialogue to keep those local residents informed of the operation and the submission of this application.
- 3.2.2 Over the Summer of 2020, and in response to a small number of unsolicited inquiries, the Dulwich Estate ran a consultation exercise with residents whose properties backed onto the Velodrome's site, regarding the operation of School Outdoors Dulwich.
- 3.2.3 The Estate received 11 responses, which represented 39.3% of those consulted. The response commented on the following broad themes.

- the lack of an earlier consultation.
- potential increase in vehicular traffic on Burbage Road.
- the location of SOD.
- amenity impact from noise.
- a perceived security risk.
- the number of weeks SOD operated throughout the year.
- and the loss or diminution of mountain biking and cyclocross facilities.

- 3.2.4 The HHVT acknowledge that earlier engagement with residents would have been prudent prior to SOD commencing its operations. Following this initial consultation, representatives of the HHVT have continued to engage with concerned residents and the Burbage Road Residents Association ('BRRRA'). Virtual meetings took place throughout 2020 and 2021 to discuss the Forest School and wider matters relating to the operation of the HHV. In addition to virtual meetings, the HHVT met with the BRRRA on site (11th June 2021) to consider and discuss the SOD.
- 3.2.5 It is important to note that there have been many other interactions between the HHVT, the Dulwich estate, BRRRA and individual residents on the topic of the Forest School and its operation. It is not possible to document all interactions that have taken place over the last year; however, the events reported above demonstrates that engagement has been continuous and ongoing.
- 3.2.6 Following various meetings with local residents and the BRRRA, the HHVT agreed to make some changes to the existing arrangements with SOD to mitigate any potential impact on residents' amenity. This included relocating the kindergarten's activities at least 20 feet (6m) from the fence of any garden on Burbage Road (*NB. previously one of the areas of use directly abutted three residents' gardens, this meant that now none of bordered the perimeter of any resident's land*) and opening two new spaces for SOD to use, to limit potential disturbance.
- 3.2.7 The HHVT met with members of the BRRRA on site, where it was collectively observed that the impacts from the nursery were considered to be minor given the background noise of the railway viaduct, plant hire company and general activities associated with the Velodrome. In addition, those mitigation measures (relocating part of the use) would ensure a greater distance between the SOD's operations and those neighbouring gardens.
- 3.2.8 The HHVT sent a letter to residents informing them that a planning application was being submitted to the London Borough of Southwark to regularise the nursery use, which summarises the changes that have been made to the operation to alleviate concerns raised following the summer 2020 consultation. A copy of this letter is enclosed as **Appendix 1**.
- 3.2.9 Upon validation of the application by LB Southwark, a further letter will be issued to residents informing them of the application reference number and opportunity to make various comments.

4.0 The Proposal

4.1 Overview

- 4.1.1 This planning application seeks full, part retrospective planning permission for the use of the Application Site as an outdoor nursery and temporary use as a holiday camp (Use Class E(f)). It also seeks to regularise the associated operational development, which includes a collection of free-standing structures of a temporary nature that are required for the day-to-day running of the nursery.

4.2 Use, Operation and Management

- 4.2.1 School Outdoors Dulwich ('SOD') is the sister company of Under the Willow Nursery, Dulwich, which operates locally from premises at 198 Croxted Road, SE21 8NW, adjacent to intersecting railway lines connecting Tulse Hill and North and Herne Hill and West Dulwich.
- 4.2.2 SOD is licensed Under the Willow Ltd T/A School Outdoors Dulwich (Registration no. 7751499) and has a registered and compliant with the regulator Ofsted. Together with its operations at Willow Nursery, the SOD is an experienced and established nursery operator which has been supporting the local community since October 2012.
- 4.2.3 The HHVT's relationship with the Nursery group began in early 2019 when they made a first booking for riding balance bikes at the track. Over the course of that year the pupils visited the velodrome on several occasions, for riding and exploratory play, and discussions also commenced with management regarding the establishment of what would ultimately become SOD. The site used by SOD today was partially cleared by Herne Hill Youth Cycling Club in Summer 2019 while these discussions were ongoing, and towards the end of the year agreement was reached about when the school would open.
- 4.2.4 The extent of land proposed for use by SOD is marked on the Site Location Plan, comprising an area of 2,430sqm.
- 4.2.5 SOD operates on a full-time basis and is available to children aged from 2 to 5 years. It is open to children 52 weeks a year, Monday to Friday, between 08:00am and 18:00pm. Access to staff members for opening and closing is 07:15am to 18:30am. The maximum number of pupils that can attend the nursery daily is 24 and currently the nursery cares for around 8-10 children a day.
- 4.2.6 In terms of the holiday/summer camp operation, this runs for 10 weeks, commencing from the first week of July. The days and hours of opening is the same as the Nursery (Monday to Friday 08:00 to 18:00). The maximum number of pupils who can attend the summer camp is 20, meaning that the maximum number of students that would attend the Nursery/holiday camp at any one time is 44. The summer camp is open to children up to 11 years old.
- 4.2.7 SOD shares a vehicle access with the HHV via Burbage Road, which leads to a hardstanding parking area.

4.2.8 The waste generated by the Nursery is limited and any refuse is accumulated in bags and then transferred to a dedicated storage area near the entrance to the site for collection. SOD use the same collection as the HHV for food and dry recycling, to reduce the number of vehicles visiting the site.

4.3 Temporary Structures and Facilities

4.3.1 Whilst the ethos of SOD is for all activities to take place outside, there are a handful of temporary structures stationed on the land that enable the effective operation of the Nursery and holiday camp. This includes a tent for storage, food preparation and shelter (when necessary) and three small wooden sheds that are used for additional storage and as toilet facilities. Tarpaulin is also tied between trees on an ad-hoc basis to provide shelter from the rain or sun.

4.3.2 Buildings and structures aren't required for the administrative activities associated with the use, as these are consolidated within the Under the Willows premises.

4.3.3 The location of these structures is identified on the Proposed Site Layout Plan, which are supplemented by photographs to highlight their appearance and scale (**Appendix 1**).

4.4 School Outdoors Dulwich - Teaching Philosophy and Methods

4.4.1 SOD is a forest school that adopts a unique educational approach to early years education. They focus on the power of nature and its ability to provide endless learning experiences and a nurturing environment to support development and wellbeing. Further information about SOD and their teaching philosophy and methods is included below. This has been summarised directly from SOD's website, which can be accessed via the following link <https://www.schooloutdoors.co.uk/>.

4.4.2 At SOD, children spend all day outdoors taking part in hands on experiences which can range from outdoor play, using tools, building dens, making fires or many more outdoor activities, which are both designed by the leader and instigated by the children themselves. The philosophy of SOD is to focus on the child as an individual and nurture their journey through forest school, building a sense of independence and confidence in their own abilities and interests.

4.4.3 Like most other Early Years settings in the UK, SOD adheres to the EYFS (Early Years Foundation Stage) and understands the great importance not only within the three prime areas of development (Physical Development, Personal, Social and Emotional Development and Communication and Language) but also within the four sub-prime areas (Understanding the World, Arts and Creativity, Literacy and Math's). SOD ensures that every day each child can practice learning within all seven areas of the EYFS, in addition to a few supplementary areas.

4.4.4 Further information about SOD and their teaching philosophy and methods is outlined below. This has also been summarised directly from their website, accessed via the following link <https://www.schooloutdoors.co.uk/>.

“The period of a child’s life from 0-5 years is extremely important as far as development is concerned, in these years’ children learn processes that will shape them for the rest of their lives. Forest School

complements the early year's curriculum and allows young children to get outdoors and gain the huge benefits from engaging with nature. Forest school is child led and works in small ratios to allow for the best opportunities for experiential learning."

Benefits of Forest School

"...There is overwhelming evidence that getting children outdoors provides the best possible start in life and we are proud to foster this at School Outdoors Dulwich. Studies demonstrate that children now know less about the natural world than ever before in the history of humankind. According to the National Trust, fewer than one in ten children regularly play in wild places compared to almost half a generation ago, a third have never climbed a tree, and one in ten can't ride a bike. These increasingly indoor and sedentary lifestyles are leading to distressing physical and mental symptoms, including obesity (linked to low overall fitness levels), behavioural problems, stress and a lack of awareness of nature and its benefits."

Fortunately, increasing outdoor time for children is the simplest way to tackle these problems and a forest education offers a range of proven health and wellbeing benefits..."

Fitness

"...SOD focus on getting children outside and scientific evidence suggests that this is one of the best ways to address the inactivity that leads to obesity and other related health issues. Studies have shown that children have higher physical activity levels in greenspaces compared to non-greenspaces and that children who spend more time outdoors have better motor skills and fitness, especially balance and coordination. Playing outside for prolonged periods has been shown to have a positive impact on children's development, particularly in the areas of balance and agility, but also manual dexterity, physical coordination, tactile sensitivity, and depth perception.

According to these studies, children who attend forest schools experience fewer injuries due to accidents. A child's ability to assess risks also improves. Playing outdoors strengthens the immune systems of both children and outdoor professionals..."

Reduced Behavioural Problems/Improved Resilience

"Behavioural problems are becoming more prevalent, with studies suggesting these may stem from children having little interaction with the natural world. We also live in complicated and stressful times and managing stress is an important life skill to develop.

Nature allows unstructured play, generating a sense of freedom, independence, and inner strength which children can draw upon when experiencing future incidents of stress. Research indicates that green outdoor spaces not only foster creative play and improve interactions with adults, but also improves concentration and relieves the symptoms of ADHD. Some researchers go so far as to claim that contact with nature may be as important to children as good nutrition and adequate sleep."

5.0 Planning Policy Framework

5.1 Policy and Legislative Framework

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act ('PCPA') 2004 requires applications for planning permission to be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise.

5.1.2 The Development Plan for the London Borough of Southwark (herein 'LB Southwark' or 'the Council') comprises the following documents:

- London Plan 2021
- Saved Southwark Local Plan ('SLP') 2007 and
- Core Strategy ('CS') 2011

5.1.3 It is noted that the New Southwark Plan ('NSP') is at an advanced stage of preparation, and they are currently consulting on main modifications following Examination in Public ('EiP') hearing sessions. Therefore, the policies that are not subject to further change through this process carry significant weight in decision making. The policies where modification is sought will still carry moderate weight dependent on the nature and extent of the modifications. Accordingly, this Statement has been produced to demonstrate compliance with emerging policies, as well as the current, adopted policies.

5.1.4 The National Planning Policy Framework ('NPPF' or 'the Framework') 2021 is also an important material consideration in decision taking. The relevant parts of the NPPF are outlined below as a precursor to reviewing the relevant adopted and emerging Development Plan policies.

5.1.5 The relevant policies from the aforementioned policy documents are listed below and expanded upon within the 'Planning Considerations' section of this Statement.

5.2 The National Planning Policy Framework 2021

5.2.1 The revised NPPF was published in July 2021 and must be considered as an important material consideration in decision taking. The NPPF outlines the Governments planning policies for England and how they should be applied, providing a framework within which locally prepared plans for housing and other development can be produced (*NPPF, Paragraph 1*).

5.2.2 The NPPF should be read as a whole, including its annexes and footnotes. However, the following sections are considered relevant to the proposal.

Achieving Sustainable Development

- 5.2.3 *Paragraph 7* states that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being, and environmental protection.
- 5.2.4 *Paragraph 8* sets out that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). These objections are:
- a) an economic objective - to help build a strong, responsive, and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation, and improved productivity; and by identifying and coordinating the provision of infrastructure.
 - b) a social objective - to support strong, vibrant, and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful, and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
 - c) an environmental objective - to protect and enhance our natural, built, and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 5.2.5 *Paragraph 10* suggests that to ensure sustainable development in a sustainable way, at the heart of the Framework is a presumption in favour of sustainable development. For decision making means approving developments proposals that accord with an up-to-date development plan without delay (*NPPF, Paragraph 11*).

Decision Making

- 5.2.6 *Paragraph 38* requires local planning authorities to approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available and work proactively with applicants to secure developments that will improve the economic, social, and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 5.2.7 *Paragraph 47* reiterates the provisions of S.38(6) of the PCPA 2004, which requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.2.8 However, *Paragraph 48* acknowledges that local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given).
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Promoting Healthy and Safe Communities

- 5.2.9 *Paragraph 92* requires planning policies and decisions to achieve healthy, inclusive, and safe communities, which enable healthy lifestyles.
- 5.2.10 *Paragraph 93* requires planning policies and decisions to plan positively for the provision social infrastructure to meet the needs of the community.
- 5.2.11 *Paragraph 95* emphasises the importance of having a sufficient choice of school places available to meet the needs of existing and new communities. Local Planning authorities should take a proactive, positive, and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
 - a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
 - b) work with schools' promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

Promoting Sustainable Transport

- 5.2.12 *Paragraph 110* states that in assessing proposals for development, it should be ensured that
 - a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.
 - b) safe and suitable access to the site can be achieved for all users.
 - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code.
 - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.2.13 *Paragraph 111* makes it clear that 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.

Protecting Green Belt Land

5.2.14 *Paragraph 147* of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5.2.15 When considering proposals that affect the Green Belt, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (*NPPF, Paragraph 144*)

5.2.16 However, certain forms of development are appropriate in the Green Belt provided they preserve its openness and does not conflict with the purposes of including land within it. This includes material changes in the use of land (*NPPF, Paragraph 150e*) and the provision of appropriate facilities for outdoor recreation (*NPPF, Paragraph 149b*).

5.3 The Development Plan

London Plan 2021

5.3.1 The London Plan 2021 is the Spatial Development Strategy for Greater London, setting out a framework for how London will develop over the next 20-25 years and the Mayor's vision for Good Growth. The following policies are considered relevant.

5.3.2 *Policy S1 Developing London's Social Infrastructure – (D)* Development proposals that provide high quality, inclusive social infrastructure to address a local or strategic need and supports service delivery strategies should be supported. (E) New facilities should be easily accessible by public transport, cycling and walking and should be encouraged in high streets and town centres.

5.3.3 *Policy S3 Education and Childcare Facilities – (B)* Development proposals for education and childcare facilities should:

- 1) locate facilities in areas of identified need.
- 2) locate facilities in accessible locations, with good public transport accessibility and access by walking and cycling
- 3) locate entrances and playgrounds away from busy roads, with traffic calming at entrances
- 4) link to existing footpath and cycle networks to create healthy routes to schools, and other education and childcare facilities, to enable all children to travel actively to school (walk, cycle or travel by public transport)

- 5) maximise the extended or multiple use of educational facilities for community or recreational use, through appropriate design measures
- 6) encourage the shared use of services between schools, colleges, universities, sports providers, and community facilities, and between early years and health and social care providers
- 7) ensure that new developments are accessible and inclusive for a range of users, including disabled people, by adopting an inclusive design approach
- 8) ensure that facilities incorporate suitable, accessible outdoor space
- 9) locate facilities next to parks or green spaces, where possible

5.3.4 *Policy HC1 Heritage Conservation and Growth* – (C) Development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early in the design process.

5.3.5 *Policy G3 Metropolitan Open Land* – (A) Metropolitan Open Land (MOL) is afforded the same status and level of protection as Green Belt:

- 1) MOL should be protected from inappropriate development in accordance with national planning policy tests that apply to the Green Belt.
- 2) boroughs should work with partners to enhance the quality and range of uses of MOL.

5.3.6 *Policy G6 Biodiversity and Access to Nature* – (D) Development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. This should be informed by the best available ecological information and addressed from the start of the development process

5.3.7 *Policy G7 Trees and Woodlands* – (C) Development proposals should ensure that, wherever possible, existing trees of value are retained.

5.3.8 *Policy T4 Assessing and Mitigating Transport Impacts* – (C) Where appropriate, mitigation, either through direct provision of public transport, walking and cycling facilities and highways improvements or through financial contributions, will be required to address adverse transport impacts of development.

5.3.9 *Policy T5 Cycling* – (A) Development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. This will be achieved through: (2) securing the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located. Developments should provide cycle parking at least in accordance with the minimum standards.

5.3.10 *Policy T6 Car Parking* – (B) Car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed

to provide the minimum necessary parking ('car-lite'). Car-free development has no general parking but should still provide disabled persons parking in line with Part E of this policy. (E) Appropriate disabled persons parking for Blue Badge holders should be provided as set out in Policy T6 .1 Residential parking to Policy T6 .5 Non-residential disabled persons parking.

- 5.3.11 *Policy T6.5 Non-Residential Disabled Parking* – (A) Disabled persons parking should be provided in accordance with the levels set out in Table 10.6, ensuring that all non-residential elements should provide access to at least one on or off-street disabled persons parking bay. For education uses, 5% of the total parking provision should be designated bays and 5% should be enlarged bays.

Southwark Core Strategy 2011

- 5.3.12 The Core Strategy sets out the Council's long-term vision, spatial strategy and strategic policies with an implementation plan up until 2026 to deliver sustainable development. The following policies are considered relevant.
- 5.3.13 *Strategic Policy 1 Sustainable Development* – states that development will improve the places where people live and work and enable a better quality of life for Southwark's diverse population. It will help meet the needs of a growing population in a way that respects the limits of the planet's resources and protects the environment.
- 5.3.14 *Strategic Policy 2 Sustainable Transport* – states that the Council will encourage walking, cycling and the use of public transport rather than travel by car. This will help create safe, attractive, vibrant, and healthy places for people to live and work by reducing congestion, traffic, and pollution. The Council will aim to achieve this by planning places and development with priority for walking and cycling, whilst maximising the use of public transport and minimising car use.
- 5.3.15 *Strategic Policy 4 Places for Learning, Enjoyment and Healthy Lifestyles* – states that the Council will ensure there is a wide range of well used community facilities that provide spaces for many different communities and activities in accessible areas. Development will help create safe, healthy, and mixed communities. With respect to education provision, the Council will 3) protect schools where there is a long-term local need; 4) build new schools and improving existing schools to provide improved education opportunities; and 5) ensure development provides for new school places to increase the provision of education.
- 5.3.16 *Strategic Policy 11 Open Spaces and Wildlife* – states that the Council will improve, protect, and maintain a network of open spaces and green corridors that will make places attractive and provide sport, leisure and food growing opportunities for a growing population. We will protect and improve habitats for a variety of wildlife.
- 5.3.17 *Strategic Policy 12 Design and Conservation* – requires development to achieve the highest possible standards of design for buildings and public spaces to help create attractive and distinctive places which are safe, easy to get around and a pleasure to be in. The Council aim to achieve this by requiring development to conserve or enhance the significance of Southwark's heritage assets, their settings and wider historic environment.

5.3.18 *Strategic Policy 13 High Environmental Standards* - requires development to help us live and work in a way that respects the limits of the planet's natural resources, reduces pollution and damage to the environment and helps us adapt to climate change.

Saved Southwark Local Plan 2007

5.3.19 Most policies in the Southwark Local Plan 2007 have been replaced by the Core Strategy. However, some of the policies have been saved and listed below are those considered relevant to the proposed development.

5.3.20 *Policy 2.4 Educational Deficiency: Provision of New Educational Establishments* – states that planning permission will be granted for new educational establishments especially in areas of demonstrated educational deficiency. This is on the proviso that opportunities are taken wherever possible to ensure that provision is made to enable the facility to be used by all members of the community.

5.3.21 *Policy 3.1 Environmental Effects* – states that planning permission for the establishment of uses that would cause material adverse effects on the environment will not be granted, and proposals for activities that will have a material adverse impact on the environment and quality of life will be refused.

5.3.22 *Policy 3.2 Protection of Amenity* – states that planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise to present and future occupiers in the surrounding area or on the application site.

5.3.23 *Policy 3.16 Conservation Areas* – requires new development within conservation areas to preserve or enhance the character or appearance of the area.

5.3.24 *Policy 3.25 Metropolitan Open Land (MOL)* – explains that there is a general presumption against inappropriate development on Metropolitan Open Land (MOL). Within MOL, planning permission will only be permitted for appropriate development which is for the following purposes:

- i) Agriculture and forestry; or
- ii) Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL, and which do not conflict with the purposes of including land within MOL; or
- iii) Extension of or alteration to an existing dwelling, providing that it does not result in disproportionate additions over and above the size of the original building; or
- iv) Replacement of an existing dwelling, providing that the new dwelling is not materially larger than the dwelling that it replaces.

5.3.25 *Policy 3.28 Biodiversity* – states that the LPA will take biodiversity into account in its determination of all planning applications and will encourage the inclusion in developments of features which enhance biodiversity, requiring an ecological assessment where relevant. Developments will not be permitted which would damage the nature conservation value of Sites of Importance for Nature Conservation (SINCs) and Local Nature Reserves (LNRs)

and/or damage habitats, populations of protected species or priority habitats/species identified in the United Kingdom, London, or the Southwark Biodiversity Action Plan. Where, exceptionally, such developments are permitted, the Council will seek mitigation and/or compensation for the damage to biodiversity.

5.3.26 *Policy 5.1 Locating Developments* – states that the location of development throughout the borough must be appropriate to the size and trip generating characteristics of the development. Major Developments generating a significant number of trips should be located near transport nodes. Where new Major Developments are not located within easy access of public transport nodes, applicants must demonstrate that sustainable transport options are available to site users. Where these are not available, applicants must propose measures to promote sustainable travel.

5.3.27 *Policy 5.2 Transport Impacts* - Planning permission will be granted for development unless:

- i) There is an adverse impact on transport networks for example through significant increases in traffic or pollution; and/or
- ii) Adequate provision has not been made for servicing, circulation, and access to, from and through the site; and/or
- iii) Consideration has not been given to impacts of development on the Bus Priority Network and the Transport for London Road Network.

Where a development proposal is likely to have significant transport implications applicants will be asked to submit a Transport Assessment (TA), which includes a Travel Plan with their application

5.3.28 *Policy 5.3 Walking and Cycling* – states that planning permission will be granted for development provided:

- i) There is adequate provision for pedestrians and cyclists within the development, and where practicable within the surrounding area; and/or
- ii) There is good design, location, and access arrangements, including restrictions on parking, and the promotion of walking and cycling, with particular emphasis on disabled people and the mobility impaired; and/or
- iii) The development creates or contributes towards more direct, safe, and secure walking and cycling routes, integrating with surrounding networks where possible, furthering the delivery of the London Cycle Network Plus and strategic walking routes (including the Jubilee Walkway and the Thames Path); and
- iv) There is provision of convenient, secure, and weatherproof cycle parking to the minimum cycle parking standards

5.3.29 *Policy 5.6 Car Parking* – requires all developments to minimise the number of spaces provided and adhere to maximum standards. Where parking is sought as part of a development this should be justified.

5.4 New Southwark Plan 2021

- 5.4.1 The Council submitted their New Local Plan (New Southwark Plan/ NSP) for independent Examination in January 2020, and the EiP hearing sessions concluded in April 2021. Following the EIP, the Council asked the Planning Inspectorate under Section 20(7C) of the PCPA 2004 (as amended) to recommend main modifications to make their New Local Plan sound and legally compliant. The main modifications are being consulted on for seven weeks between the 6th of August and the 7th of September 2021.
- 5.4.2 In accordance with Paragraph 48 of the NPPF, the Council may give weight to emerging policies in local plan according to a) the stage of preparation in the emerging local plan; b) the level of unresolved objection to relevant policies; and c) the degree of consistency of the relevant policies in the emerging plan to this Framework.
- 5.4.3 The Southwark New Local Plan is undoubtedly at an advanced stage of preparation and the relevant policies that are not subject to further change through the main modifications process carry significant weight in decision making. The policies where revisions are sought may also carry weight depending on the nature and extent of the modifications. The relevant emerging policies are summarised below, including the changes proposed via the main modifications process (in bold).
- 5.4.4 Once adopted, the NSP will replace the Core Strategy 2011 and the Southwark Local Plan Saved policies 2007
- 5.4.5 *Policy SP3 ~~The Best~~ **A Great Start** in Life - We (*the Council*) will give all our young people the best a great start in life in a safe, stable, and healthy environment where they have the opportunity to develop, make choices and feel in control of their lives and future. This will be achieved through:*
1. Offering our young people and families, including those who are more vulnerable or have special educational needs, the right support at the right time, from their early years through adolescence and into successful adult life; and
 2. Delivering more childcare, school places and double the number of Southwark Scholarships; and
 3. Delivering a top-quality children's playground in every local area; and
 4. Providing free healthy school meals ~~fruit~~ for primary school's children and nurseries; and
 5. Investing in more early support for families; and
 6. Increasing library access; and
 7. Finding new ways to guarantee care and early education to help parents; and
 8. Encouraging developments where there can be more interaction between people of different ages, particularly elderly and young people; and

9. Ensure our residents and schools benefit from the digital revolution including improving access to superfast broadband

5.4.6 *Policy P19 Conservation Areas* – (1) Development relating to conservation areas will only be granted where the development it conserves and enhances the **character and appearance** ~~significance~~ of conservation areas **and their settings**, taking into account their **significance** ~~local character, appearance, views into and out of the conservation area and its~~ positive characteristics, ~~published~~ **identified** in Conservation Area Appraisals and Conservation Area Management Plans.

5.4.7 *Policy P26 Education Places* – (1) Development of educational facilities will be permitted where proposals provide pre-school, school, higher and further education places to meet identified needs and where there are sports, arts, leisure, cultural or community facilities that are shared with local residents and all members of the community.

5.4.8 *Policy P44 Healthy Developments* – (3) In exceptional circumstances, health, **community, sport and leisure** facilities can be replaced by another use where ~~they are surplus to requirements~~ **there are currently more facilities than needed**. This ~~needs to~~ **must** be demonstrated by a marketing exercise for two years, immediately prior to any planning application. **This should be for** both its existing condition and as an opportunity for an improved health, community, or leisure space at market rates.

5.4.9 *Policy P46 Community Uses* – (3) Development will be permitted where new community facilities are provided (~~Use Class D1, D2 and Sui Generis~~) that are accessible for all members of the community.

5.4.10 *Policy P49 Highways Impact* – Development must:

- 1) Minimise the demand for private car journeys; and
- 2) Demonstrate that the road network has sufficient capacity to support any increase in the number of the journeys by the users of the development, taking into account the cumulative impact of adjoining or nearby development; and
- 3) Ensure safe and efficient operation of the local road network, the bus network and the Transport for London Road Network; and
- 4) Ensure safe and efficient delivery and servicing that minimises the number of motor vehicle journeys; and
- 5) Incorporate delivery and servicing within large development sites and not on the public highway.

5.4.11 *Policy P53 Car Parking* – (1) ~~Residential Development must where development must provide carparking, the number of spaces provided must~~ **Residential Development must** adhere to the residential car parking standards.

5.4.12 *Policy P55 Protection of Amenity* - Development should not be permitted when it causes an unacceptable loss of amenity to present or future occupiers or users.

5.4.13 *Policy P56 Open Space* – (1) Development will not be permitted on Metropolitan Open Land (MOL) or Borough Open Land (BOL). In exceptional circumstances development may be permitted on MOL or BOL when:

1. It consists of ancillary facilities that positively contribute to the setting, accessibility, and quality of the open space and if it does not affect its openness or detract from its character. Ancillary facilities on MOL must be essential for outdoor sport or recreation, cemeteries or for other uses of land which preserve the openness of MOL and do not conflict with its MOL function; or
2. It consists of the extension or alteration of an existing building providing that it does not result in disproportionate additions over and above the size of the original building; or 3. It consists of the replacement of an existing building, provided that the new building is no larger than the building it replaces.

5.4.14 *Policy P59 Biodiversity* – (1) Development must contribute to net gains in biodiversity through:

1. Enhancing the nature conservation value of Sites of Importance for Nature Conservation (SINCs), Local Nature Reserves (LNRs), designated ancient woodland, populations of protected species and priority habitats/species identified in the United Kingdom, London or adopted Southwark Biodiversity Action Plan; and
2. Protecting and avoiding damage to SINCs, LNRs, populations of protected species and priority habitats/species; and
3. Including features such as green and brown roofs, green walls, soft landscaping, nest boxes, habitat restoration and expansion, improved green links and buffering of existing habitats.

(2) Any shortfall in net gains in biodiversity must be secured off site through planning obligations or as a financial contribution.

5.4.15 *Policy P60 Trees* – (2) Development must retain and protect significant existing trees including

1. Trees designated with Tree Protection Orders (TPOs); and
2. Trees that have a high amenity value; and
3. Trees within Conservation Areas or the setting or curtilage of listed buildings; and
4. Veteran, ancient, and notable trees.

6.0 Planning Considerations

6.1 Overview

6.1.1 This section summarises the key planning policy considerations which are relevant to the determination of the application. These considerations include, however are not limited to, matters of land use, impacts on residential amenity, transport implications and ecology. These matters are cross referenced to relevant planning policies contained within the London Plan 2021 and Southwark's adopted and emerging policies alongside those material considerations of the NPPF.

6.1.2 As detailed at Section 3, this planning application has been prepared following pre-application discussions with LB Southwark to agree the scope of the application and supporting documentation required to address key items. The application scheme has taken into consideration these discussions as well as comments and suggestions made by members of the public, including the Burbage Road Residents Association.

6.1.3 The application seeks full planning permission for the ongoing use of the application site as an outdoor nursery and temporary use as a holiday camp (Use Class E(f)). It also seeks to regularise the associated operational development linked with the use, which includes structures of a temporary nature that are required for the day-to-day running of the nursery.

6.1.4 In summary, the key planning considerations relevant to the application scheme include:

- Land Use (Section 6.2)
- Metropolitan Open Land (Section 6.3)
- Impacts on Residential Amenity (Section 6.4)
- Visual Impact (Section 6.5)
- Transport Impacts (Section 6.6)
- Trees and Ecology (Section 6.7)

6.2 Land Use

6.2.1 School Outdoors Dulwich (SOD) is a forest school that adopts a unique educational approach to early years education. They are the sister company of Under the Willows Ltd, which operates from premises along Croxted Road, Dulwich. SOD has operated from within the grounds of the HHV since January 2020 and during that period has become an important facility for the local community, providing essential early years education and doubling up as a holiday camp during the summer months, commencing from the first week of July.

6.2.2 Paragraph 95 of the NPPF 2021 states that it is important to provide sufficient school places to meet the needs of existing and new communities. Local Planning Authorities should take a positive and collaborative approach to

meeting this requirement and to development that will widen choice in education, by giving great weight to the need to create, expand or alter schools through planning decisions.

6.2.3 The London Plan also emphasises the importance of providing a sufficient supply of good quality education and childcare facilities to meet demand, as well as offering educational choice. Policy S3(B) outlines a criterion that new education related development should adhere to. Taking each in turn:

1) *locate facilities in areas of identified need*

6.2.4 Although the Application Site isn't located in an area considered to be deficient in education provision, SOD has operated from the HHV for 20 months and is now an important facility for the local community.

6.2.5 The ongoing operation of the Nursery, consistent attendance and its popularity with parents and children alike, demonstrates that the nursery fulfils an unmet need for an alternative early year's education provision in the borough. [insert approximate / average attendance numbers]

2) *locate facilities in accessible locations, with good public transport accessibility and access by walking and cycling*

6.2.6 The Application Site has a PTAL of 3, which represents a moderate level of access to public transport. The Transport Statement outlines the proximity of bus and rail infrastructure from the site and highlights opportunities for walking and cycling. Importantly, there is excellent walking and cycling infrastructure in the immediate locality, which enables most children who attend the nursery to travel by foot or cycle.

3) *locate entrances and playgrounds away from busy roads, with traffic calming at entrances*

6.2.7 The entrance to the nursery is within the HHV and utilises the existing vehicle access off Burbage Road. The existing access is safe and suitable, and there is not considered to be a need for further traffic calming measures above those that already exist. The land used by the nursery (following amendments to the nursery's operations in consultation with residents) is now set back significantly from Burbage Road, and beyond the rear gardens of the properties that front Burbage Road [can we add an approximate measurement??]

4) *link to existing footpath and cycle networks to create healthy routes to schools, and other education and childcare facilities, to enable all children to travel actively to school (walk, cycle or travel by public transport)*

6.2.8 The HHV and therefore the nursery can be reached by foot or cycle and is particularly appropriate for the latter given the primary function of the velodrome is as a cycling facility. Moreover, the travel data provided with the accompanying Transport Statement shows that most children walk to the nursery or utilise public transport, evidencing that there is good walking infrastructure in the area to encourage sustainable travel patterns.

5) *maximise the extended or multiple use of educational facilities for community or recreational use, through appropriate design measures*

6.2.9 During the summer months, starting from the first week of July, the nursery also operates as a holiday camp with capacity for an additional 20 children. It therefore provides additional recreational benefit to local parents and children during the school holiday period, by providing childcare.

6) encourage the shared use of services between schools, colleges, universities, sports providers, and community facilities, and between early years and health and social care providers

6.2.10 The nursery operates on land owned, but not fully utilised by, the Herne Hill Velodrome and therefore aligns with the Mayor's objective and the NPPF in encouraging proposals for development to make efficient use of land. This is especially important for children living in London where safe access to open land and the natural environment nature may be limited.

7) ensure that new developments are accessible and inclusive for a range of users, including disabled people, by adopting an inclusive design approach.

6.2.11 The nursery caters to all children from different backgrounds and there are no design impediments that prohibit disabled children from attending.

8) ensure that facilities incorporate suitable, accessible outdoor space.

6.2.12 The nursery is entirely outdoors within a woodland setting, where there is more than sufficient outdoor space to meet the needs of the nursery and holiday camp.

9) locate facilities next to parks or green spaces, where possible.

6.2.13 As outlined above, the nursery operates entirely outdoors and therefore benefits from excellent access to open space. Given the location of the site and the nature of the use, proximity to parks and open space is less important than it might be for more traditional educational uses that operate indoors. Nonetheless, the Application Site is proximate to Brockwell Park and Dulwich Park, which are both equidistant from the Application Site and commutable by foot in around 10 minutes.

6.2.14 Based on this assessment, the application site is an appropriate location for a nursery based on its good level of public transport accessibility. It makes effective use of surplus recreational land to provide educational choice and delivers additional benefit to the borough by providing a temporary holiday camp during the summer months. Moreover, it clearly fulfils an unmet need for alternative early years education provision given the ongoing attendance of children since it opened in January 2020.

6.2.15 In terms of local policies regarding education provision, the Core Strategy states that the Council will protect schools where there is a long-term local need; **build new schools and improving existing schools to provide improved education opportunities**; and ensure development provides for new school places to increase the provision of education.

6.2.16 Saved Policy 2.4 states that planning permission will be granted for new educational establishments, especially in areas of demonstrated educational deficiency, where opportunities are taken wherever possible to ensure that

provision is made to enable the facility to be used by all members of the community. New Southwark Plan Policy P26(1) adopts a similar approach and clarifies that the shared facilities for use by the community can be sports, arts, leisure, cultural or community.

6.2.17 As mentioned previously, SOD provides educational choice for parents and children in the local area and has been well attended over the past 20 months. It shares its facilities with the HHV and provides additional use to the community by providing a holiday camp for children aged up to 11.

6.2.18 Based on the above assessment, the ongoing use of the land as an outdoor nursery and holiday camp is in accordance with policies T3 and GG2 of the London Plan, saved policy 2.4 and NSP policy P26(1).

6.3 Metropolitan Open Land

6.3.1 The Herne Hill Velodrome, and therefore the Application Site, is designated as Metropolitan Open Land (MOL), which is afforded the same status and protection as Green Belt. The London Plan (Policy G3(1)) states that MOL should be protected from inappropriate development in accordance with the national planning policy tests that apply to the Green Belt.

6.3.2 Paragraph 147 of the NPPF states that Inappropriate development is, by definition, harmful to the MOL and should not be approved except in very special circumstances (*NPPF, Paragraph 150*). The construction of new buildings should generally be regarded as inappropriate in the MOL; however, exceptions to this include: the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments. This is on the proviso that the facilities preserve the openness of the MOL and do not conflict with the purposes of including land within it.

6.3.3 Paragraph 150 of the NPPF states that there are other forms of development that aren't inappropriate provided they preserve its openness and don't conflict with the purposes of including land within it. This includes material changes in the use of land (*NPPF, Paragraph 150(e)*).

6.3.4 Saved Policy 3.25 repeats the wording of the NPPF with respect to MOL, whereas draft NSP Policy 56 adopts a more localised approach and states that in exceptional circumstances, development may be permitted on MOL when *"it consists of ancillary facilities that positively contribute to the setting, accessibility, and quality of the open space and if it does not affect its openness or detract from its character. Ancillary facilities on MOL must be essential for outdoor sport or recreation, cemeteries or for other uses of land which preserve the openness of MOL and do not conflict with its MOL function"* (Rolfe Judd emphasis).

6.3.5 Notwithstanding the use of the land as a nursery and holiday camp, the activities that take place (as explained within this Statement) are more akin to a recreational use than that of a traditional nursery/ day centre, to the extent that the use can be considered as an appropriate form of development. Moreover, the wording of draft Policy 56 is clear that any ancillary facilities must be essential for the outdoor sport or recreation, cemeteries or "other uses of land" provided they preserve the openness of MOL and do not conflict with its MOL function.

6.3.6 For clarity, the five purposes of Green Belt / MOL are outlined by paragraph 133 of the NPPF and seek to restrict urban sprawl; safeguard the countryside from encroachment; stop neighbouring towns from merging; preserve the setting and character of historic towns; and assist in urban regeneration through the recycling of derelict and other urban land. The NSP and London Plan state that land designated as MOL should satisfy one or more of the following criteria:

- 1.) Land that contributes to the physical structure of London by being clearly distinguishable from the built-up area.
- 2.) Land that includes open air facilities, especially for leisure, recreation, sport, arts, cultural activities and tourism which serve the whole or significant parts of London.
- 3.) Land that contains features or landscapes of historic, recreational, nature conservation or habitat interest at a metropolitan or national level.
- 4.) Land that forms part of a green chain and meets one of the above criteria or based on the Council's discretion informed by an evidence base study.

6.3.7 The Application Site contributes to these strategic functions, being used for recreational purposes and providing open space for nature conservation. The use of the site as an outdoor nursery does not conflict with these functions, as the site continues to provide recreational benefits to children albeit in a controlled early year's educational setting. Moreover, the openness of the site is maintained, and the ethos of the Nursery means that it encourages interaction with and the protection of the environment, rather than resulting in harm to it. There is also a Preliminary Ecological Appraisal (PEA) submitted with the application, which outlines mitigation and enhancement measures to improve ecology within the site.

6.3.8 Moreover, it is considered that the associated structures preserve the openness of MOL. Indeed, none of the structures are permanent and are limited to a tent used for storage, food preparation and shelter (when necessary) and small wooden sheds used as toilet facilities. The structures do not exceed what is considered to be reasonably necessary to ensure the nursery can operate effectively whilst ensuring their health and wellbeing is catered for. Moreover, the temporary nature of structures means they can be easily removed in the future without an impact upon the site or the environment.

6.3.9 The proposed nursery use is highly compatible with the existing function of the site, with the focus of activities being outdoor and recreational.

6.3.10 It is therefore considered that the continued use of the land as a nursery preserves the openness of MOL and does not conflict with its strategic purposes, in accordance with the NSP (Policy P56), the London Plan (Policy G3) and the wider objectives of the NPPF.

6.4 Impacts on Residential Amenity

6.4.1 Saved policy 3.2 of the Southwark Plan states that planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise to present and future occupiers in the

surrounding area or on the application site. Policy P55 of the NSP will adopt the same approach, stating that development should not be permitted when it causes an unacceptable loss of amenity to present or future occupiers or users.

- 6.4.2 As explained previously, the Nursery use takes place on land to the southwest of the HHV cycling track, adjacent to the mountain bike track. This planning application seeks retrospective planning permission to retain the land currently used as a nursery, whilst relocating a parcel of land away from the shared boundary with properties fronting Burbage Road.
- 6.4.3 The Nursery is tucked away in the southwest corner of the HHV, and the temporary structures are of a limited scale and do not have a visual impact on residents along Burbage Road owing to the presence of a circa.1.8m fence, which delineates their demise from the velodrome and serves to eradicate any potential for overlooking or a loss of privacy. Moreover, whilst the shared boundary is roughly 10 metres from the nursery use, the rear of the dwellings will now be approximately 50m from the proposed nursery use.
- 6.4.4 Notwithstanding this, it is acknowledged that the introduction of a Nursery in this location has potential to change the noise environment and impact on the amenity of residents. The relevant policies regarding noise are as follows:
- London Plan: Policy D13 (Agent of Change)
 - London Plan: Policy D14 (Noise)
 - Saved Southwark Plan: Policy 3.2 (Protection of Amenity)
 - New Southwark Plan: Policy P55 (Protection of Amenity)
- 6.4.5 At the request of the Council, an acoustic impact assessment has been prepared to determine whether noise emissions from the Forest School is likely to have an impact. The report, prepared by Hawkins Environmental Ltd, forms part of the application submission and should be read in full to understand the methodology and guidance used to measure sound levels and determine acceptability in different contexts.
- 6.4.6 In order to determine the extent to which the site is affected by sound, a detailed sound measurement study was carried out at the Application Site. Sound measurements were also carried out in order to determine the background sound levels for the day and night-time periods. The survey was conducted on Thursday 2nd September 2021.
- 6.4.7 The relevant guidance requires background sound levels to be determined at a location representative of potentially representative receptors. Sound measurements were conducted at location within the proposed development site, situated away from the Forest School, at a location that is likely to be representative of the closest properties on Burbage Road. This was to enable noise measurements to characterise what background noise levels would be like at the closest dwellings on Burbage Road without contribution from the Forest School.

- 6.4.8 As part of the assessment, it was confirmed that the Forest School will be operational between 8am to 6pm Monday to Friday. Consequently, background noise measurements were conducted over this period.
- 6.4.9 The assessment shows that during the day, sound levels are between 39 and 41 dB, providing a very consistent level of background noise.
- 6.4.10 In addition to measuring background noise, Hawkins Environmental measured the noise levels from the Forest school whilst it was in operation. This was based on the current areas of activity, which are slightly different to the areas of use proposed through this planning application.
- 6.4.11 The noise measurements presented in the report describe activities at different distances, but all have been normalised to 10m for direct comparison. The results show that the noisiest activity is the school drop off (58.3db), which occurs by the entrance of the site but occurs over a relatively short period of time. However, general activities within the camp are much quieter (between 45.2dB and 50.6dB). Figure 6.1 provides some useful, additional context to the measured noise levels.
- 6.4.12 On the day of measurement, there were 24 children in attendance. Therefore, the measurements are considered representative of a typical day.

Approximate Noise Level (dB(A))	Example
0	Limit of hearing
30	Rural area at night
40	Library
50	Quiet office
60	Normal conversation at 1 m
70	In car noise without radio
80	Household vacuum cleaner at 1 m
100	Pneumatic drill at 1 m
120	Threshold of pain

Figure 6.2: Typical noise levels

- 6.4.13 In terms of the impacts of the Forest school, it has been identified that noise from the Forest School will typically be up to 48.8 dB at a distance of 10m. Much of the activity was noted to occur at areas A and C, which is located approximately 62m from the closest dwelling (56 Burbage Road). This equates to a worst-case noise level at the closest dwelling attributed to the Forest School of 33 db.

- 6.4.14 It should be noted that at present, most activity occurs in area A and C, with some in area D, as noted in the existing site plan Figure 4.1 (as shown in the Acoustic Report??). However, it is proposed to extend the area of operation of the Forest School over a larger area, such that noise will be less concentrated, with Figure 1.1 showing a much larger area of operation (the area bounded by the red line), with area A removed entirely from the area of operation. The calculations assume that the Forest School will be operating exclusively in areas A and C, whereas, whilst some activity will occur in area C, more will occur in locations further from Burbage Road. As a consequence, the calculations assume a worst-case scenario, with the actual noise levels likely to be lower than those quoted
- 6.4.15 The report goes on to assess the suitability and acceptability of nursery use by comparing the background sound level with the noise effects of the nursery. It is known that the noise from the nursery would be approximately 33 dB at the closest dwelling (known as the specific sound level) however in accordance with BS 4142 a character correction has been applied to consider the character of the specific sound at noise sensitive locations and the extent to which such acoustically distinguishable characteristics will attract attendance. A 3db penalty was applied to the sound levels from the Forest School, thus increasing to 36dB (known as the specific sound level).
- 6.4.16 The predicted sound levels have been compared to the criteria in BS 4142. **Table 5.3** below considers the sound levels in a BS 4142 assessment during the period when the school will be operational. In a BS 4142 assessment, the ‘industrial’ sound is rated by comparison against the background sound level. The difference between the rating sound level and lowest background sound level gives an indication of the likelihood of complaint.

	Background Sound Level L_{A90}	Specific Sound Level L_{Aeq}	Rating Sound Level L_{Aeq}	Difference between Rating Level and Background Sound Level
56 Burbage Road	39	33	36	-3

Figure 6.3: BS 4142 Assessment

- 6.4.17 As the Rating level is expected to be below the background noise level, it is concluded that complaints are unlikely, and the nursery will have a low impact in terms of noise.
- 6.4.18 The proposal was also assessed against the IEMA guidance “Guidelines for Environmental Noise Assessment” and BS8233 “Guidance on Sound Insulation and Noise Reduction for Buildings” and found to be acceptable.
- 6.4.19 On this basis, it is concluded that the nursery use has not and will not result in unacceptable impacts to the amenity of residential amenity of neighbouring residents and is acceptable with respect to noise impacts, in accordance with the London Plan (Policy D13 and D14) the saved South Plan (policy 3.2), the New Southwark Plan (Policy P55) and the NPPF.

6.5 Design and Access

- 6.5.1 In June 2013, changes were introduced under the Town and Country Planning (Development Management Procedure) (England) (Amendment) Order which altered the requirements relating to Design and Access Statements.
- 6.5.2 As a result of this change, Design and Access Statements are only required for major development proposals, Listed Building applications and applications within a Conservation Area where applications relate to the provision of one or more dwelling houses, or the provision of a building, or buildings where the floor space created by the development is 100 square metres or more.
- 6.5.3 The application site is in the Herne Hill Conservation Area; however, the associated structures are of a temporary nature and in any event, the buildings do not provide floorspace greater than 100sqm and would not be visible from the surrounding public vantage points.
- 6.5.4 A design and access statements is therefore not required for material changes of land or buildings.

6.6 Transport Impacts

- 6.6.1 Core Strategy Policy 2 states that the Council will encourage walking, cycling and the use of public transport rather than travel by car and aims to achieve this by planning places and development with priority for walking and cycling, whilst maximising the use of public transport and minimising car use.
- 6.6.2 Saved policy 5.2 relates to the transport impacts of development and states that planning permission will be granted unless it results in adverse impact through significant increases in traffic, adequate provision had not been made for servicing and consideration has not been given to the bus priority network and the TfL Road network.
- 6.6.3 New Southwark Plan Policy P49 does not form part of the development plan but is most closely aligned with the London Plan 2021 (incl. Policy T4), and for this reason carries more weight than adopted policies. It states that development must:
- 1) *Minimise the demand for private car journeys; and*
 - 2) *Demonstrate that the road network has sufficient capacity to support any increase in the number of the journeys by the users of the development, taking into account the cumulative impact of adjoining or nearby development; and*
 - 3) *Ensure safe and efficient operation of the local road network, the bus network and the Transport for London Road Network; and*
 - 4) *Ensure safe and efficient delivery and servicing that minimises the number of motor vehicle journeys; and*
 - 5) *Incorporate delivery and servicing within large development sites and not on the public highway.*

- 6.6.4 The planning application is supported by a Transport Statement prepared by Caneparo Associates, which considers the likely transport affects associated with the Nursery use and provides an assessment of suitability having regard to relevant polices.
- 6.6.5 The report includes an overview of the site's accessibility, including the proximity of public transport infrastructure and the walking and cycling infrastructure in the vicinity. It also looks at the condition of the highway network. The sites Public Transport Accessibility Level ('PTAL') of 2/3 represents a moderate level of access to public transport and is a fair reflection given the proximity to bus and rail infrastructure. However, opportunities for walking and cycling are considered to be very good.
- 6.6.6 In undertaking their assessment of the transport impacts, Caneparo's have considered the operation of the HHV and have acquired information from the HHV (and SOD??) on their event schedule. A copy of the HHV weekly schedule is included in the Transport Statement and a survey has been undertaken to ascertain the number of attendees at each session and their mode of travel (i.e., walking, cycling, bus, car etc). The survey data is enclosed with the report as an Appendix.
- 6.6.7 The survey results show that attendance at each session ranges from 1 person (during a private learn to cycle lesson) and up to 90 people at the adult racing event, although such a number is typically only seen once weekly on a Wednesday evening at 19:00hours. The survey data shows the majority of sessions are attended by 15-30 participants and last two hours, although attendance at weekends is slightly higher. Importantly, during the week there are only a limited number of events that occur at the same time at which the children arrive for Nursery (07:30 – 08:00) and when they leave (17:30 – 18:00). In terms of how those attending the HHV travel, the survey data shows that the majority (67%) travel by sustainable modes and 57% travel by foot or bicycle.
- 6.6.8 To summarise, the majority of HHV users currently arrive/depart at different times to the nursery, with events that coincide with the arrival and departure activity of the Nursery typically accommodating small groups of less than 30 people. Furthermore, most people are known to travel by sustainable modes, for which 50-60% travel on foot or by cycle.
- 6.6.9 In terms of the effects of the Nursery, a comprehensive survey was undertaken in early September to inform an understanding of the way in which pupils travel to and from the nursery each day. The survey data is included in the report and shows that most children arrive on foot, by buggy or cycle (88%) and the rest are dropped off or picked up by car (12%). This demonstrates that the majority of attendees are from the local community.
- 6.6.10 The data was based on the attendance of between 8-12 children and so the modal share data has been factored against the anticipated maximum occupancy during much of the year (24 pupils) and the 10-week summer camp (44 pupils). It shows that during the summer months when attendance could theoretically be at its peak, the number of children arriving at, or departing from the nursery, will be no more than 6.
- 6.6.11 The site will accommodate a maximum of 44 children, who would arrive / depart in 30-minute window at the beginning and end of the day, which equates to 1-2 pupils arriving or departing per minute. However, the majority of those travelling to the nursery do so by sustainable modes and so there would not be a perceptible impact upon the local transport network. Moreover, the number of children arriving to and departing from the site will be

even less perceptible for the 42 weeks of the year when the nursery operates at its 24-pupil capacity, which would result in approximately one child per minute arriving to the site.

6.6.12 Paragraph 110 of the National Planning Policy Framework (NPPF dated July 2021) provides a framework for considering the acceptability of planning applications and reads as follows:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree”.

6.6.13 It is considered that the nursery aligns with the requirements of Paragraph 110 as it is located to meet a local demand and therefore reducing the need to travel by car, with most pupils and staff travelling on foot or by cycle. The nursery takes advantage of an existing and established access that serves the HHV, including cyclists and vulnerable road users (including children) and the size of the proposals is such that it would not be expected to yield a significant impact in transport terms.

6.6.14 It is therefore concluded that the nursery yields a limited impact that would be unlikely to be perceptible, for which the impacts have been considered within the context of national planning policy and is acceptable. The proposal is therefore considered to be in accordance with the London Plan (Policy T4), the Core Strategy (Policy 2), the saved Southwark Plan (Policy 5.2) and the New Southwark Plan (Policy P49).

6.7 Ecology

6.7.1 Strategic Policy 11 of the Core Strategy states that the Council will protect and improve habitats for a variety of wildlife and saved policy 3.28 builds on this by saying biodiversity will be considered in the determination of all planning applications and will encourage the inclusion in developments of features which enhance biodiversity, requiring an ecological assessment where relevant. Policy 3.28 proceeds to say that developments will not be permitted which would damage the nature conservation value of Sites of Importance for Nature Conservation (SINCs) and Local Nature Reserves (LNRs) and/or damage habitats, populations of protected species or priority habitats/species. Where, exceptionally, such developments are permitted, the Council will seek mitigation and/or compensation for the damage to biodiversity.

6.7.2 London Plan Policy G6 provides the most up-to-date policy position regarding biodiversity and states that following

- A) *Sites of nature Conservation Importance should be protected.*
- C) *Where harm to a SINC is unavoidable, and where the benefits of the development proposal clearly outweigh the impacts on biodiversity, the following mitigation hierarchy should be applied to minimise development impacts:*
- 1) *avoid damaging the significant ecological features of the site*
 - 2) *minimise the overall spatial impact and mitigate it by improving the quality or management of the rest of the site*
 - 3) *deliver off-site compensation of better biodiversity value.*

6.7.3 New Southwark Plan policy has been drafted to be in general accordance with the London Plan (Policy G6) and states that, (1) Development must contribute to net gains in biodiversity through:

- Enhancing the nature conservation value of Sites of Importance for Nature Conservation (SINCs), Local Nature Reserves (LNRs), designated ancient woodland, populations of protected species and priority habitats/species identified in the United Kingdom, London or adopted Southwark Biodiversity Action Plan; and
- Protecting and avoiding damage to SINCs, LNRs, populations of protected species and priority habitats/species; and
- Including features such as green and brown roofs, green walls, soft landscaping, nest boxes, habitat restoration and expansion, improved green links and buffering of existing habitats.

6.7.4 (2) Any shortfall in net gains in biodiversity must be secured off site through planning obligations or as a financial contribution.

6.7.5 The Site forms part of a Site of Importance for Nature Conservation ('SINC'), so the Ecology Partnership were commissioned to undertake a Preliminary Ecological Appraisal (PEA) of the Site. The key objectives of the PEA are to; identify the likely ecological constraints associated with a project; any mitigation measures likely to be required; any additional surveys that may be required to inform an Ecological Impact Assessment; and the opportunities offered by a project to deliver ecological enhancement.

6.7.6 The PEA should be read in full; however, a summary of the key conclusions and recommendations is provided below.

- The site does not fall within 2km of any national or international designation. There are no internationally designated sites within 10km of the site. The site does however fall within the Herne Hill Velodrome SINC non-statutory designation (7.1)
- The site comprised of a cyclo-cross track with patches of scrub, tall ruderals, and semi-improved grassland between the cycle paths. Other features included bare earth with temporary structures for a forest school, a

brick storage building, hardstanding, scattered trees and a woodland with a sub-optimal understory. The majority of habitat on site was considered to be common and widespread throughout the UK, however, are uncommon locally in such an urban environment. As such, any habitats cleared for development will need to be compensated for.

- The trees and single building on site all showed 'negligible' potential for roosting bats. In addition, the proposals appear to show retention of all trees and therefore further survey is not recommended.
- Although features, such as trees, the woodland edge and to a lesser extent scrub patches were considered to have potential for foraging and commuting bats, these features are largely to be retained throughout development of the site. It is recommended that these features be considered when designing the lighting scheme. No further activity surveys for bats have been recommended based on proposed works.
- The grasslands as well as the edge habitats along the woodland and scrub provided some suitable reptile habitat. A sensitive clearance and habitat manipulation approach has been recommended within this report with regards to reptiles. This should be undertaken when reptile species are active (between March to September).
- Birds may use the trees, woodland and scrub on site for nesting during the breeding season. Any works affecting these areas should therefore avoid the bird nesting season (March – September inclusive) or a nesting bird check by a qualified ecologist will be required.
- Owing to a lack of suitable habitat and/or connectivity, the site is not considered to be constrained by other protected/notable species such as badgers, GCNs, dormice, otters or water voles.

6.7.7 Recommendations for enhancements are outlined in the report, which are aimed at improving the ecological value of the site post development. The creation of new habitats such as scrub and urban meadow as well as the restoration of the existing semi-improved grassland and woodland would lead to a significant ecological enhancement.

6.7.8 Subject to recommended mitigation and enhancement measures being implemented, it is concluded that the scheme complies with the Core Strategy (Strategic Policy 11), the saved Southwark Plan (Policy 3.28), the New Southwark Plan (Policy P59), the London Plan (Policy G6) and the NPPF.

7.0 Conclusion

- 7.1.1 This Planning Statement is prepared on behalf of the Herne Hill Velodrome Trust in support of a part retrospective planning application relating to Land at the Herne Hill Velodrome, 104 Burbage Road, London, SE24 9HE
- 7.1.2 Full planning permission is sought for use of the Application Site as an outdoor nursery, temporary use as a holiday club, and the stationing of associated temporary structures and facilities.
- 7.1.3 This submission follows correspondence with the London Borough of Southwark's planning enforcement team, who requested that an application be submitted to regularise an alleged breach of planning control, with the alleged breach being the unauthorised change of use of land from a recreational use (falling within Use Class F2(c)) to an outdoor nursery and holiday camp (falling within Use Class E(f)).
- 7.1.4 The Application Site is surplus to the operational requirements of the HHV and for the last 20 months (since January 2020) has been operated by School Outdoors Dulwich ('SOD') as an outdoor nursery and summer holiday camp. SOD has become an important facility for the local community, providing essential early years education year-round, and day care for parents in the borough over the school summer holidays.
- 7.1.5 The Application Site is an appropriate location for a nursery based on its good level of public transport accessibility and makes effective use of surplus recreational land to provide benefits to the local community. The facility clearly fulfils an unmet need for alternative early years education provision, given the ongoing attendance of children since it opened in January 2020.
- 7.1.6 The Application Site is designated as MOL; however, the proposed nursery is an appropriate form of development on the basis that the activities are akin to a recreational use and the associated temporary structures preserve the openness of MOL. The nursery uses land surplus to the HHV requirements and is highly compatible with the existing as the focus of activities are recreational, albeit in an early year's educational setting with the wider benefits this delivers.
- 7.1.7 In respect of wider matters, through the submission of supplementary documentation it has been demonstrated that the proposals are acceptable in terms of residential amenity impacts (including noise), transport and ecology.
- 7.1.8 This Planning Statement has demonstrated that the use of the Application Site as an outdoor nursery and temporary holiday camp aligns with the provisions of national, regional and local policies. The planning application should therefore be approved.

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