

Crawley Borough Council

Planning Committee

Supplementary Agenda

Monday, 8 February 2021



Chief Executive

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Attached is an addendum to report PES/359(a).

NOTE: The Chair has agreed that, although this report and information was not available for at least five clear days before the meeting, there are special circumstances justifying its urgent consideration.



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CRAWLEY BOROUGH COUNCIL
PLANNING COMMITTEE - 8 February 2021
REPORT NO: PES/359(a) (ADDENDUM)

REFERENCE NO: CR/2018/0172/FUL

LOCATION: GATWICK SCHOOL, 23 GATWICK ROAD, NORTHGATE,
CRAWLEY
WARD: Three Bridges
PROPOSAL: PERMANENT CHANGE OF USE FROM OFFICES (B1) TO CO-
EDUCATIONAL SCHOOL (D1), INCLUDING NEW EXTERNAL
OVER-CLADDING, NEW WINDOWS AND DOORS, NEW BUILD
SPORTS HALL AND STAIRWAY, REVISED CAR PARKING,
EXTERNAL PLAY AREAS AND LANDSCAPING.

TARGET DECISION DATE: 30 May 2018

CASE OFFICER: Mrs V. Cheesman

APPLICANTS NAME: Education and Skills Funding Agency

AGENTS NAME: JLL

ADDENDUM REPORT

1. A recent Appeal court judgement concerning a school which was subject to aircraft noise, highlights the Council's duty to have regard to the Public Sector Equality Duty (PSED) when carrying out their functions, including planning before, during and after the decision. In that case, the court found that, although there was no specific mention of the duty by the applicant, it clearly had been considered and that was not a ground to overturn the decision.
2. This addendum has been provided in line with good practice recommended in other cases and sets and to clarify what is already in the report.
3. Further details of the guidance as to how to comply with the Public Sector Equality Duty under Section 149 of the Equality Act 2010, includes the following:
 - i) The public authority decision maker must be aware of the duty to have "due regard" to the relevant matters;
 - ii) The duty must be fulfilled before and at the time when a particular policy is being considered;
 - iii) The duty must be "exercised in substance, with rigour, and with an open mind". It is not a question of "ticking boxes"; while there is no duty to make express reference to the regard paid to the relevant duty, reference to it and to the relevant criteria reduces the scope for argument;
 - iv) The duty is non-delegable; and
 - iv) Is a continuing one.
 - v) It is good practice for a decision maker to keep records demonstrating consideration of the duty.

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4. In exercise of its functions, the Council must have due regard to the duty, and the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5. The relevant protected characteristics are—
 - age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.

6. Further guidance in case law also states:

“The impact of the PSED is universal in its application to the functions of public authorities, but its application will differ from case to case, depending upon the function being exercised and the facts of the case”.

7. The current planning application has been the subject of extensive discussion with all parties, and noise reports have been provided by the applicant and assessed by the officers, and the above matters have been considered throughout the process. In accordance with the above guidance it has been considered good practice to record the consideration of the public sector equality duty.

8. Also it should be clarified that whilst the consultation response from the Environmental Health Officer (EHO), included the view that the use of one of the external sports areas can only effectively be used for games until the additional runway is built, the Committee report at para 5.126 states that the latest design standards no longer include a noise standard for outdoor areas and so it is considered that it is not reasonable to impose such a restriction.

9. While the PSED is not specifically mentioned in the Committee report, the consultation response from GAL Planning does include the need to include a set floor layout plan to deal with issues relating to protected characteristics to ensure those areas requiring a lower level of internal noise are clearly addressed and specifically refers to the SEN Room. This will be secured as part of the s106 noise mitigation measures.

10. It is therefore considered that the PSED has been complied with in dealing with this planning application and in the light of recent case law it is **RECOMMENDED** that this addendum report be noted and taken into account in taking the decision on this planning application.