

Application No:	Consultees Name:	Consultees Addr:	Received:	Comment:	Response:
2015/1444/P	Joanna Haward	1c Laurier Road London NW5 1SD	04/05/2015 22:52:27	OBJ	<p>I object to this application for the following reasons:</p> <ol style="list-style-type: none"> 1. the development is greater in extent than is required to pay for new/expanded leisure and community uses. 2. inadequate engagement with the community in relation to the site's status as an Asset of Community Value 3. inadequate justification for alternative leisure uses to bowling: northern part of site 4. poor land use and urban planning <p>1. SIZE OF DEVELOPMENT</p> <p>In his Pre App Advice Letter 17/12/2013 Ref: 2013/6780/PRE, Jonathan Markwell LBC said to Ian Mayhead of Icen Projects:</p> <p>“Minimise the number / footprint / extent of residential units that are required (to facilitate a viable development of the entire site)”</p> <p>In the previous planning application, the officer’s report stated that “the applicant considers that the small scale enabling development has been fully justified in financial terms and has been designed to be the MINIMUM AMOUNT POSSIBLE to secure the long term future of the club and the maximisation of publicly accessible open space and community leisure facilities at the site’.</p> <p>Whilst the future of the Bowling Club is no longer a consideration, the current application also says that it accepts the principle of enabling development (para 2.8 Planning Statement), but then makes no further reference to it, nor provides any evidence that they have minimised the amount of development needed ‘to facilitate a viable development of the entire site’.</p> <p>The previous planning application contained a Viability Appraisal by Jones Lang LaSalle to demonstrate that only the minimum amount of residential development has been proposed. Only a redacted version was available for public scrutiny.</p> <p>No viability assessment has been submitted with the current application, and no information about viability has been shared with the community, as recommended in Informative 3 of the Reasons for Refusal of the previous planning application, and despite a number of written requests to the developer by various community stakeholders.</p> <p>Informative 3 was made in direct response to officer’s recommendations (cf para 6.38 Planning Application Report to Committee) to the developer that their viability appraisal should have been shared prior to the first application being made, which the applicant declined to do.</p> <p>Para 6.37 stated “It is concluded that although the applicant has partly, but not entirely, proven a need for a development to take place, though only having regard to the current use of the site. Given the purpose for identifying the greater part of the land within the site as POS, consideration should instead</p>

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have been given to both the existing site uses, and to such other uses, appropriate for the open, leisure / amenity function of this land, PRIOR to reliance upon the residential ‘enabling’ use now proposed”.

The absence of a viability appraisal, taken with the other matters covered below, viz:

- the lack of proper engagement with the community or the reaching of a consensus about the mix and quantum of community and leisure uses,
- the absence of proposals for future ownership and management, and
- the absence of a firm proposal to designate all the non-residential area as Public Open Space suggests that Council’s policy requirements and expectations, as stated in the Pre-App letter have not yet been satisfied, nor even attempted to be satisfied, and that the ‘reliance upon the residential ‘enabling’ use’ has been the applicant’s default and explicit intent from the outset. At least, the applicants have not provided the Council with any evidence to counter this impression.

Para 6.38 also observed that ‘English Heritage’s guidance on Enabling Development also states that “if applicants are unwilling to supply the very information that is the foundation of their case for overriding normal planning policies, refusal becomes all but inevitable”.’

I agree.

(For information, based on a development appraisal carried out in the planning application scheme, by a local chartered planning and development surveyor:

- Gross Development Value of the proposed project is in excess of £20m, (excluding the affordable housing which is also capable of generating a modest positive GDV, depending on the Council’s position on pricing for intermediate market property).
- Sales values are assumed to approx £1000/sq.ft (data from local estate agent August 2014. They have subsequently risen further.)
- Developer’s profit, net of all costs, at 20% on capital employed, estimated to be £4.5m approx.
- Land Value, net of all costs, estimated to be £7.0m approx.
- Generator is sometimes funded by a Venture Capital fund, for which a higher margin of upto 40% can be required. Profit and Land Value would be adjusted to £9.5m and £2.3m approx. respectively. The latter figure corresponds with the increase of £2.35m in Net Worth of the Bowling Club in its Annual Accounts 2012-13. (Not submitted as part of the application but publicly available information.)
- An independent quantity surveyor’s estimate of the cost of the replacement and new leisure uses) pavilion, gardens, replacement tennis courts and apportioned groundworks are in the order of £1m at the very most).

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2. INADEQUATE ENGAGEMENT WITH THE COMMUNITY in relation to site status as Asset of Community Value

In his Pre App Advice Letter 17/12/2013 Ref: 2013/6780/PRE, Jonathan Markwell LBC said to Ian Mayhead of Icen Projects:

“...it is considered that the engagement of the local community and seeking to gain a consensus (as far as

possible) as to what the local community wish for this (northern) part of the site to be used for is required. To

make any space successful in the long term, there is a need for community ‘buy-in’.

As such, you are strongly encouraged to undertake further detailed engagement with local groups /residents to

ascertain proposed uses.

This is particular the case owing to the ‘asset of community value’ designation at the site.”

As a local person, I am aware that the only community involvement has been the PreApp Surgery in January 2014, and then via two public presentations, the last one being in July 2014, and the Developers Forum in November 2014.

Given the weight of Council’s expectations (left) I do not regard the sending of unanswered emails to such bodies as Brookfield School as proper community engagement. There are a number of very visible contacts in this part of Dartmouth Park who could have assisted them in making genuine contact with groups and individuals, but their assistance was not sought. It has been a very "hands-off" engagement, and no different in scale or quality to what developers commonly undertake, in situations where there is no extra expectation arising from the Asset of Community Value designation.

The Statement of Community Involvement describes a process which was intended to put the onus on the community to respond to the kind and timing of communication the applicant decided was appropriate. There was no recognition that the requirement to seek a consensus required a proactive programme of engagement from the applicant. I would have reasonably expected the SCI to include a detailed list of responses and position statements from all the stakeholders commonly included in the Council’s formal consultation processes, viz:

- Brookfield Primary School
- William Ellis School/Parliament Hill/La Sainte Union Secondary Schools
- Highgate Newtown Community Centre
- Friends of Highgate Library
- St Mary’s Church & groups using the Hall
- Konstam children’s nursery
- Chester Balmore Group
- Chester Road hostel

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- Origin Housing (with housing stock on York Rise Estate)
- Highgate URC & groups using the Hall
- Kenlyn TC
- Other sports and leisure groups?
- Mansfield Neighbours Group
- DP Conservation Area Advisory Committee
- Transition Dartmouth Park
- DP Neighbourhood Plan Forum
- Croftdown Road Residents Association
- Brookfield Tenants and Leaseholders Association
- Highgate New Town Tenants and Residents Association
- St Alban's Villas, Whittington Estate and Lissenden Gardens Tenants and Residents Associations
- "All the email contacts on the Council's central database for voluntary and community groups in Highgate and DP area"

In his Pre App Advice Letter 17/12/2013 Ref: 2013/6780/PRE, Jonathan Markwell LBC said to Ian Mayhead of Icen Projects:

“...it is considered essential, in line with paragraphs 188-189 of the National Planning Policy Framework, that you

fully engage the local community, both individuals and local groups and organisations, in advance of any

application. It is acknowledged that one such overarching event has already taken place... You are advised that

further focused discussions should be held prior to progressing any scheme further in order to further gauge local aspirations for the site.”

For information, in the course of one morning in September 2014, I was able to contact both the Vicar of St. Mary's and Brookfield Primary School, to discuss possible community and leisure uses of the site. They confirmed their interest in, respectively, the provision of an external area in the SE corner of the site, for an extension of the nursery and play group run in the Church Hall, and a replacement of the food growing areas that school used to have in Waterlow Park. Whilst making and maintaining contact with the school might be difficult, it is clearly not as impossible as the applicant implies. If this is an indication of what just two of the organisations on the above list might want and need, it just highlights the lack of diligence and ambition on the part of the applicant to meet the Council's requirements.

3. INADEQUATE JUSTIFICATION FOR ALTERNATIVE LEISURE USES IN THE NORTHERN PART OF THE SITE

In his Pre App Advice Letter 17/12/2013 Ref: 2013/6780/PRE, Jonathan Markwell LBC said to Ian Mayhead of Icen Projects:

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“In general terms, the use of this part of the site for publicly accessible open space is broadly welcomed. It is likely that officers would seek for the space to become publicly designated open space, and for this to be re-designated accordingly. This would represent a public benefit of the proposal, in comparison with the existing private open space designation.”

The application contains no details about the future ownership and managements of the non-residential parts of the site, beyond saying that they would be ‘owned and maintained by the freeholder.’ It does not say if the freeholder is the current owner, Mansfield Bowling Club, or a new residents’ management company (or maybe even the registered provider) for the new homes, or some other body. The Council’s preference for a Public Open Space at least suggests some kind of public interest ownership vehicle, with appropriate local accountabilities.

Given the age and infirmity of the current directors of the Bowling Club, there must be some questions about their capacity to continue to play an ongoing role in the management of the site. There are no details about how the landowners responsibilities to managing a public open space would be fulfilled in perpetuity, as such a designation implies there ought to be.

Beyond the measures described to isolate the occupiers of the affordable housing from service charges related to the open space and leisure uses, there is no description of how the interaction between the leisure and residential uses would be managed. Would residents have any veto on access or uses of the open space and pavilion? How would disputes and complaints between the uses be dealt with? Who would be accountable to the wider community? And so on.

There is one reference to a ‘specific leisure operator’ to manage the site, but no further explanation of who that would be, how and by whom they would be selected, to whom they would be accountable, how they would be paid, and what interest (if any) they would have in the land.

There are some proposals for security and access to the leisure areas, locking up at night etc, and one references to a ‘management group’, presumably a voluntary group. Again, is there no information on who would form the group, how and by whom they be selected etc as above for the ‘operator’?

The lack of clarity on all these matters suggests that the applicants have not fully thought through how the site will work in the future and have simply failed to address at all the Council’s proposal to ensure the designation of all the community and leisure uses as permanently accessible Public Open Space.

In his Pre App Advice Letter 17/12/2013 Ref: 2013/6780/PRE, Jonathan Markwell LBC said to Ian Mayhead of Icen Projects:

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“At the present time there are however unanswered questions concerning the management of the tennis courts and, in particular, how publicly accessible they will be? Such matters will need to be addressed in full at the time of any future application. Are they proposed to be run by Kenlyn Tennis Club, with public hire facilities at certain times? Or would it be publicly managed, with Kenlyn Tennis Club having a regular slot?”

The precise arrangements in this regard would need to be addressed prior to submission to help demonstrate the case for this use at the site.”

The application talks in general terms about the tennis courts being used by a Community tennis Club ‘available to all’. It implies that Kenlyn Tennis Club could be transformed into the Community Tennis Club, but there is no indication that KTC have agreed to this.

There are also suggestions that there would be different access arrangements for the general public and then for KTC and schools for playing competitions.

There are no proposals for the governance of the improved tennis facilities, for charging, maintenance, or coordinating and regulating uses amongst different user interests.

There is no express commitment to ensuring that KTC form the basis of the new Community Tennis Club.

It would be fair to say that the applicant has failed to describe the ‘precise arrangements’ requested by the Council.

In his Pre App Advice Letter 17/12/2013 Ref: 2013/6780/PRE, Jonathan Markwell LBC said to Ian Mayhead of Icen Projects:

“...to justify such a loss (of an existing leisure facility) in policy terms, it is considered that the proposals would need to comply with both policies DP15e and DP15f of the LDF. The need to provide commentary /evidence in respect of both parts of the policy is partly owing to the asset of community value designation on the site. It is recommended that the commentary /evidence will need to be robust in these regards. The level of detail required should not be underestimated on your part.”

In the previous planning application, the accounts of the Bowling Club from 2008-12 were submitted as evidence of why the Club needed the capital from the enabling development. The same accounts

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have been submitted with the current application, even though two further sets of annual accounts have been lodged at Companies House. These both show, inter alia, an increase in the Net Worth of the Club of £2.35m

The covering letter to the application says: "The scheme proposes the loss of a leisure facility that is no longer required, as demonstrated by its closure, and there is no demand for alternative leisure uses of the site that would be suitable (or viable) in accordance with Policy DP15. The scheme is therefore considered to be policy compliant."

Policy DP15 actually says:

The Council will protect existing leisure facilities by resisting their loss unless: e) Adequate alternative facilities are already available in the area, and therefore no shortfall in provision will be created by the loss; or f) The leisure facility is no longer required and it can be demonstrated that there is no demand for an alternative leisure use of the site that would be suitable.

i.e. the policy does not have a viability test for leisure use. The applicant (or the community who oppose the current proposal) is therefore strictly only required to show there is no demand, or demand, for an alternative use that is 'suitable'. The application does examine the suitability of some possible alternative sporting uses.

However, the applicant's statement is confusing, as a substantial part of the application is devoted to claiming the viability as well as the suitability of the tennis use. Also, viability is clearly an important practical consideration, even if not an adopted policy requirement. By usefully highlighting the viability issue in the covering letter, and thus accepting a higher test than Policy DP 15 actually requires, it would then have been logical for the applicant to have supported their claim by providing a viability appraisal as evidence.

As noted above, they have chosen not to. This also protects the applicant against any Freedom of Information Act request for disclosure. In my view, therefore, the application appears to be seriously defective and incomplete without any evidence of the viability of the leisure and community uses, and thus also the need for and viability of the enabling residential development. The Council have been put in an especially difficult position by not being provided with the necessary information; at least not provided in the body of the application upon which their decision must solely rely.

4. POOR LAND USE AND URBAN PLANNING

The applicant has sited the proposed development on the footprint of the existing club house. This appears to be mainly an effort to appease those neighbours who look out onto the development, but which I think is detrimental to the amenity of Dartmouth Park as a whole. This was recognised by the Council in its Pre-App letter. The clubhouse was erected with no reference to the urban grain, and this development simply exacerbates that failure. If this extraordinarily valuable (to the community) site is to be reinvigorated, it would make more sense for a small enabling development to be situated on the site in such a way that it responds to the local context and frees up as much useful land as possible for its designated use, leisure. As it is, the proposed development shows only just over a third of the site