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Former Mansfield Bowling Club, Croftdown Road, LB Camden

Written Representations

Iceni Projects Limited on behalf of
Generator Group LLP

June 2016

ICENI PROJECTS LIMITED
ON BEHALF OF
GENERATOR GROUP LLP

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**Former Mansfield Bowling Club,
Croftdown Road, LB Camden**
WRITTEN REPRESENTATIONS

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1. INTRODUCTION

1.1 This Written Statement has been prepared by Icen Projects on behalf of Generator Developments LLP (“the Appellant”) in accordance with the Procedural Guide: Planning Appeals – England (23rd March 2016) and Part 2 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (Statutory Instrument 2009/452) as amended by the Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013 Statutory Instrument 2013/2114.

1.2 The Appeal has been submitted against the decision by London Borough of Camden (“LBC”) on 1st February 2016 to refuse to grant planning permission (LPA Planning Application Reference 2015/1444/P) (“the Planning Application”) on the former Mansfield Bowling Club, Croftdown Road, London, NW5 1EP (“the Appeal Site”). The description of development is as follows:

“Creation of a new publicly accessible open space; enhanced tennis facilities including the reconfiguration and extension of the courts to provide an additional court and increased playing area to accord with LTA requirements; the provision of a new ancillary pavilion (Class D2) to replace existing ancillary buildings and structures providing community and leisure space; a new community garden; and the demolition and replacement of the existing bowling club building with a new part three storey, part two storey building providing 21 residential dwellings (Class C3) with associated access, parking and landscaping” (“the Appeal Scheme”)

1.3 The Planning Application was received by LBC on the 11th March 2015. At a meeting of LBC’s Development Control Committee (“the Committee”) on 14th January 2016, Members resolved to refuse to grant planning permission pursuant to the Planning Application contrary to the LBC Officer’s recommendation.

1.4 The decision notice was issued by LBC on 1st February 2016 (enclosed at Appendix 4).

1.5 This Appeal Statement includes input from advisors on the wider professional team who supported the planning application, Sport Leisure Consultancy (SLC) and Heritage professionals. This has been sought to respond directly to matters raised in the determination of the application. SLC advised the Appellant during the preparation and determination of the planning application, and has prepared a supporting statement that brings together the dialogue with officers during the determination period. Heritage advice is provided in the context of the weight to be accorded to the conclusions of officers, that the proposals would be considered to enhance the character and appearance of the area.

APPENDIX 2: Heritage Supporting Statement

- 1.6 The appeal scheme was submitted following the refusal of a previous application. An application for the refurbishment of the existing clubhouse and 8 residential dwellings on the site of the existing tennis courts (x2) was refused by the Council in July 2013 (2012/6593/P). The application sought to generate the appropriate revenue needed at the time to allow the comprehensive refurbishment of the existing bowling club facilities and ultimately secure the long term security of MBC.
- 1.7 The Appeal Scheme responded directly to Informative 2 of the Decision Notice (LPA Ref: 2012/6593/P), which sought to direct any future application to focus any necessary enabling development on that part of the application site not designated as Open Space. This strategy was advanced as a result of positive dialogue with the Council and local community in the consultation workshop in October 2013, where it was considered the redevelopment of the site provided an opportunity to enhance community provision.

Reasons for Refusal

- 1.8 Despite a positive recommendation for approval by Officer's at LBC, the Planning Application was refused by Members for the following reasons:

- 1. The applicant has failed to demonstrate that the existing leisure facility is no longer required, that there is no demand for an alternative leisure use of the site which would be suitable and that therefore the loss of the facility would not undermine the range of services and facilities needed to support local communities, contrary to policy CS10 (Supporting Community Facilities and Services)) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and Leisure Uses) of the London Borough of Camden Local Development Framework Development Policies.*
- 2. In the absence of a s106 legal agreement to secure a financial contribution towards providing new or improved local sports facilities, the development would fail to mitigate the harm to the range of leisure services and facilities needed to support local communities, contrary to policy CS10 (Supporting Community Facilities and Services) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and Leisure Uses) of the London Borough of Camden Local Development Framework Development Policies.*
- 3. In the absence of a s106 legal agreement to secure the provision of replacement affordable tennis facilities, would fail to ensure that the development would not undermine the provision of existing leisure services and facilities to support local communities, for which there is demonstrable need, contrary to policies CS10 (Supporting Community Facilities and Services) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and Leisure Uses) of the London Borough of Camden Local Development Framework Development Policies.*

4. *The proposed development, in the absence of a legal agreement to secure an Open Space plan, would fail to ensure that the open space is sustainably managed and maintained for the benefit of the public and thereby reduce the pressure and demand on the Borough's existing open space facilities, contrary to policies CS15 (Protecting and improving open spaces & encouraging biodiversity) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP31 (Provision of and improvements to public open space) of the London Borough of Camden Local Development Framework Development Policies.*
5. *The proposed development, in the absence of a legal agreement to secure affordable housing, would fail to provide the maximum reasonable amount of affordable housing, contrary to policies CS6 (Providing quality homes) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP3 (Contributions to the supply of affordable housing) of the London Borough of Camden Local Development Framework Development Policies.*
6. *The proposed development, in the absence of a legal agreement securing it as car capped, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP18 (Parking standards and the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden Local Development Framework Development Policies.*
7. *The proposed development, in the absence of a legal agreement securing a construction management plan and the establishment and operation of a Construction Working Group, would be likely to give rise to conflicts with other road users and would fail to mitigate the impact on the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials), DP21 (Development connecting to highway network) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*
8. *The proposed development, in the absence of a legal agreement securing necessary contributions towards highway works would fail to make provision to restore the pedestrian environment to an acceptable condition, contrary to policies CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP17 (walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.*
9. *The proposed development, in the absence of a legal agreement securing a travel plan and associated monitoring and administrative costs for a period of 5 years, would fail to promote the use of sustainable means of travel, contrary to policies CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP16 (transport implications of development) of the London Borough of Camden Local Development Framework Development Policies.*
10. *The proposed development, in the absence of a local employment and apprenticeships agreement and a local procurement code will be likely to lead to the exacerbation of local skill shortages and a lack of training and opportunities for local residents and businesses,*

and would fail to contribute to the regeneration of the area, contrary to policies CS5 (Managing the impact of growth and development), CS8 (Promoting a successful and inclusive Camden economy) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP13 (Employment sites and premises) of the London Borough of Camden Local Development Framework Development Policies.

- 11. The proposed development, in the absence of a legal agreement securing a Basement Construction Plan, would fail to ensure that the development would not cause harm to the built and natural environment and local amenity and would not result in potential flooding or ground instability, contrary to policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving heritage) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 (Water) and DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.*
- 12. The proposed development, in the absence of a legal agreement for securing contributions towards pedestrian, cycling and environmental improvements, would fail to contribute to supporting sustainable modes of travel, enhance the public realm or mitigate highways concerns, contrary to policies CS14 (Promoting high quality places and conserving our heritage), CS11 (Promoting sustainable and efficient travel), CS17 (Making Camden a safer place) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design), DP16 (The transport implications of development) and DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.*
- 13. The proposed development, in the absence of a legal agreement securing a sustainability plan, would fail to ensure that the development is designed to take a sustainable and efficient approach to the use of resources, contrary to policies CS13 (tackling climate change) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and DP22 (sustainable design and construction) and DP23 (water) of the London Borough of Camden Local Development Framework Development Policies.*

1.9 Conditions 2-13 inclusive relate to the absence of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). It is significant that the application was reported to 14 January 2016 Planning Committee with a recommendation to grant planning permission subject to the completion of a S106 to cover those matters set out in paragraph 7.2 of the officer report.

1.10 A draft Section 106 Agreement has been prepared by the Appellant and confirms the following Heads of Terms:

- A contribution of £600,000 towards local sports facilities;
- Enhancement of the existing tennis facilities in agreement with Kenlyn Tennis Club;
- Management Plan for the site;

- Provision of 11 affordable units – 6 social rented and 5 Intermediate;
- Sustainability Plan;
- Construction Management Plan;
- Basement Construction Plan;
- Car capping restrictions;
- A contribution of £40,000 towards pedestrian, cycling and environmental improvements;
- Requirement to target 20% local recruitment and advertise all construction vacancies and work placement opportunities exclusively with the Kings Cross Construction Skills Centre for a period of 1 week before marketing more widely;
- Recruitment of 2 construction apprentice per £3 million of build costs;
- Sign up to the Camden Local Procurement Code if the value of the scheme exceeds £1 million
- Local Employment, Skills and Local Supply Plan

1.11 As a consequence, this appeal rests to be determined on the basis of a single substantive reason for refusal, being Reason 1.

1.12 The Council's minutes of the Committee meeting are included at Appendix 6. In addition, a transcript of the meeting itself has been prepared and is included at Appendix 7.

2. FACTUAL BACKGROUND

- 2.1 There is no fundamental disagreement between parties regarding the nature and significance of the site features and that of its context.

Background

- 2.2 Mansfield Bowling Club had been struggling financially for several years due to declining membership and the current two storey building being in a very poor state of repair. In September 2011 the Club was forced to close its outdoor bowling green due to a lack of funds to maintain the green. Furthermore, given the poor state of repair, lack of flexibility of the internal space and unattractive nature of the existing building, the Club struggled to attract potential new users. This further limited its ability to secure additional income. As a result, the Club ceased operations in autumn 2013 and the club officially closed in March 2014. The roof of the Bowling Club building is now leaking and is this is causing further damage internally.
- 2.3 Paragraph 6.22 of the Officer report confirms the site is currently in a state of disrepair and in need of significant investment to bring it back into use. The outdoor bowls green is described as being overgrown and poorly maintained. Paragraph 6.23 goes on to confirm that following a site visit by the officer, the existing tennis courts are in need of resurfacing and it was outlined by the Kenlyn Tennis Club that members are currently unable to play league matches at home due the absence of a third tennis court. Paragraph 6.25 goes on to explain that the SLC Report accompanying the planning application confirmed that the declining demand and local supply exacerbated the poor state of facilities prior to the closure in 2014. This statement was supported by KKP in their independent report who state '*both facilities closed in 2013 and are now in disrepair, redundant and not fit for purpose*'. The photographs at Appendix 3 confirm the decline of the site.

Appendix 3: Photographs of Mansfield Bowling Club

- 2.4 In November 2012, Generator Group submitted a planning application to London Borough of Camden for the redevelopment of the Mansfield Bowling Club site. The proposal focused on maintaining the Bowling Club and the redevelopment of their facility.
- 2.5 Despite a detailed business plan for the Bowling Club being submitted with the planning application, London Borough of Camden and certain community groups had continued concerns about the future sustainability of the Bowling Club. Planning permission for this enabling development scheme was refused on 5 July 2013 despite a strong evidence base to support the proposal (Paragraph 3.10 of the Officer Report outlines the reasons for refusal), and a new proposal was proposed (this appeal scheme) in order to create a deliverable solution that

responded to local views and aspirations, whilst being wholly compliant with the Council's development plan policies.

Site context

- 2.6 The site comprises a number of buildings and structures, comprising a vacant indoor bowling facility which consisted of a six rink indoor bowling green, part 2 / part 3 storey clubhouse with associated changing rooms and function room (Class D2). Two ancillary residential flats are also accommodated in the building. The remainder of the site is made up of associated areas of car parking comprising 68 spaces, servicing and hardstanding for the previous bowling club use, areas of open space, a disused outdoor bowling green, two tennis courts and associated clubhouse, and a small area of caretaker's garden.
- 2.7 The main MBC building on the application site is located within the conservation area, but is not subject to any designations in the Local Plan. Significantly, it is not subject to the private open space designation which covers the remaining parts of the site. Paragraphs 1.1 – 1.10 of the Officer Report provides further details of the context of the site and its surroundings.
- 2.8 The site is in private ownership and is not currently accessible to the public (OR Paragraph 6.14). The only access to the site currently is to a private tennis club which has substandard facilities and to the area of hardstanding on the site used as yard space for Council contractors. There is not currently any community use of the site. Paragraph 6.19 of the OR considers the proposed scheme would deliver better quality open space which is open to the public and allows efficient use of the site.
- 2.9 The site is accessed via Croftdown Road and has a Public Transport Accessibility Level (PTAL) rating of 3 (Moderate), although neighbouring properties have a PTAL rating of 4. The nearest underground station is Tufnell Park, located approximately 750m away. The site is well served by 4 nearby bus routes with bus stops located nearby on Highgate Road, Swain's Lane, and Chester Road.
- 2.10 The site is located within the Dartmouth Park Conservation Area, the Appraisal of which identifies the indoor bowling club building as having, '*a negative impact on the character and appearance of the Conservation Area*'. The Management Plan within the Conservation Area Appraisal specifies that the Council will '*encourage proposals to redevelop buildings considered to have such negative impact the area*'. Furthermore, there are no listed buildings in proximity of the site.

Appeal scheme

- 2.11 As noted earlier, the Appeal scheme was developed to respond to a number of key considerations arising from the determination of the previous planning application and community feedback.

Furthermore, the scheme developed in response to extensive pre-application with Council Officers. The Appellant also consulted individually with ward councillors, local community groups and residents throughout the development of the proposals.

- 2.12 The redevelopment of the existing dilapidated bowling club building to provide 21 residential units that remain broadly within the footprint and massing of the existing building will assist with facilitating this as well as providing an enhanced tennis facility with an additional court. The Appellant has set out the proposals for this to become a community tennis club.

APPENDIX 4: Decision Notice

APPENDIX 5: Officer Report to Committee 14th January 2016

APPENDIX 6: LBC Minutes of Development Control Committee 14th January 2016

APPENDIX 7: Transcript of Development Control Committee 14th January 2016

Pre-application discussions

- 2.13 The application evolved out of extensive pre-application consultation with Council officers. This includes Planning, Heritage and Conservation, Parks and Open Spaces, Housing, Transport and Building Control.
- 2.14 There were five formal pre-application meetings which followed the structure agreed in the Planning Performance Agreement (PPA), agreed on 3 February 2014.
- 2.15 A Development Management (DM) Forum was held on 1 October 2014. This allowed members of the public and any interested parties to learn more of the proposals and to ask questions of the Council and development team.
- 2.16 A Developer Briefing was held on 9 October 2014. Key members of the development team presented the proposals and a discussion was held between members, planning officers and the development team.
- 2.17 Three public exhibitions were held, which provided the public with an opportunity to review the application proposals and ask questions of the consultant team. Over 200 people attend the exhibitions in total and a number of comments were received throughout this pre-application process, which has resulted in a number of revisions being made to the scheme. Further details of these events can be found within the Statement of Community Engagement which accompanied the planning application.

2.18 A consultation website was made available for residents who were not able to attend the exhibition, and for those who wished to view the information again. All the material displayed at the public exhibition was made available to download from the consultation website.

2.19 As a result, the following principles were accepted by the Council, providing it can be demonstrated that there are adequate alternative leisure facilities in the area, no shortfall will be created, and the leisure facility is no longer required.

- Publicly accessible open space;
- Design approach;
- Retention of Kenlyn Lawn Tennis Club;
- Redevelopment on site within footprint of existing building; and
- Affordable housing provision on-site.

Highgate Newtown Community Centre

2.20 Approval of the redevelopment plans for the site of Highgate Newtown Community Centre was requested at LBC's Cabinet meeting on the 24 February 2016. The proposed regeneration strategy and delivery were set out to include, the submission of a full planning application for the site which proposes an estimated 1800sq.m of community centre facilities, including facility for the Fresh Youth Academy and private homes for sale, approximately 2000sq.mm. The Highgate Newtown Community Centre site is situated only 200m away from the MBC site, therefore the proposed improvements to facilities at the old Mansfield Bowling Club will be adjacent to the new community centre.

2.21 Since then, the proposals have been developed in response to community consultation and we understand that an application for the site is currently being prepared.

3. PLANNING POLICY CONTEXT

- 3.1 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan determination must be made in accordance with the plan unless material considerations indicate otherwise.

Development Plan

- 3.2 The single substantive Reason for Refusal (Condition 1) cites the following policies of the Core Strategy and Development Management DPD as justification:

London Borough of Camden Core Strategy Policies

CS10;

CS19;

London Borough of Camden Development Policies DPD

DP15;

Appendix 8: Planning Policy Extracts

- 3.3 It is clear that the Council accepts, by virtue of the absence of any further policies referred to in RFR, that the proposals are compliant with all remaining policies of the Development Plan. For clarity, the Council lists the relevant policies of the Development Plan in paragraph 5.1 of the Officer Report (OR) with which it accepts the proposals comply.
- 3.4 The central policy at issue in relation to Reason for Refusal 1 is DP15, since its purpose is to provide specific criteria by which to deliver on the broad objectives of CS10 and, insofar as is relevant, CS19 see para. 15 of the supporting text to DP15). If there is compliance with DP15, then CS10 and CS19 would also be complied with. The interpretation of DP15 is addressed later in this Written Statement.

London Plan Policies

- 3.5 The London Plan was originally published by the Mayor in 2011. On 11 October 2013 the Mayor published Revised Early Alterations to the London Plan (REMA) both of which form part of the DP. The Mayor published the Further Alterations to the London Plan (FALP), in March 2015 following public consultation and a full Examination in Public.

- London Plan Policy 3.3 (Increasing housing supply) also supports increasing housing supply, and states boroughs should meet and exceed their annual average housing target.

- London Plan Policy 3.4 (Optimising housing potential) states that residential development proposals should take account local context and character, the design principles, and public transport capacity in optimising housing output.
- London Plan Policy 3.5 (quality and design of housing developments) states that housing developments should enhance the quality of local places, taking into account physical context; local character; density; tenure and land use mix; and relationships with, and provision of public, communal open spaces.
- London Plan Policy 3.8 (Housing Choice) requires that new housing developments offer a range of housing choices, in terms of the mix of housing sizes and types.
- London Plan Policy 7.18 (Protecting Local Open Space and Addressing Local Deficiency) states that the loss of local open spaces must be resisted unless equivalent or better quality provision is made in the local catchment area.

Other Material Considerations

NPPF

- 3.6 The NPPF was published in March 2012 and provides an overarching framework for the production and application of policy i.e. plan-making as well as decision-taking. The primary objective of the NPPF is to increase the delivery of sustainable growth and development.
- 3.7 The key theme throughout the NPPF is the presumption in favour of sustainable development. Paragraph 14 of the NPPF states the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking.
- 3.8 This presumption in favour of sustainable development is supported by 12 core planning principles specified at paragraph 17. A number of these core planning principles can be considered applicable to the consideration of this application, most notably:
- Planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
 - Recognise that some open land can perform many functions;
 - Proactively drive and support sustainable economic development to deliver new homes;
 - Deliver a wide choice of high quality homes;
 - Encourage effective re-use of brownfield land;
 - Secure high quality design and a good standard of amenity;

- Contribute to conserving and enhancing the natural environment and reducing pollution; and
 - Manage patterns of growth to make the fullest possible use of public transport.
- 3.9 Paragraph 70 emphasises the need to deliver social, recreational, cultural facilities and services the community needs through ensuring that established facilities and services are able to develop and modernise in a way that is sustainable.
- 3.10 Guidance to LPAs is to approach decision-taking in a positive way (Paragraph 186) and, in doing so, decision-takers at every level should look for solutions rather than problems (Paragraph 187).
- 3.11 Other key themes from the NPPF are set out below:
- Boost significantly the supply of housing [47];
 - Consider housing applications in the context of the presumption in favour of sustainable development [49];
 - Deliver a wide choice of high quality homes [50];
 - Plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups [50];
 - Identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand [50]; and
 - Good design is a key aspect of sustainable development and should contribute positively to making places better for each other [56].

National Planning Practice Guidance

- 3.12 On 6th March 2014 the Department for Communities and Local Government (“DCLG”) launched the Planning Practice Guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when the NPPF was launched.
- 3.13 The PPG contains 41 categories; from ‘Advertisements’ to ‘Water Supply’, with each category containing several sub-topics. Those of particular relevance to the determination of this appeal include housing; travel; and design.
- 3.14 Any relevant local planning policy documents or evidence base which fails to accord with the above matters must only attract limited weight in the determination of the Appeal.

4. RESPONSE TO REASONS FOR REFUSAL 1

Reason for Refusal 1

4.1 The reason for refusal 1 is copied below for ease of reference:

The applicant has failed to demonstrate that the existing leisure facility is no longer required, that there is no demand for an alternative leisure use of the site which would be suitable and that therefore the loss of the facility would not undermine the range of services and facilities needed to support local communities, contrary to policy CS10 (Supporting Community Facilities and Services)) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and Leisure Uses) of the London Borough of Camden Local Development Framework Development Policies.

4.2 The reason for refusal focuses on the principle of development, with the key policy being DP15 (Community and Leisure Uses) of the Local Development Framework Development Policies DPD. Policy DP15 provides specific criteria depending on the nature of the development proposed. The scheme in the present case is a leisure facility. As to such facilities, DP15 permits their loss if **either**: “(e) adequate alternative facilities are already available in the area, and therefore no shortfall in provision will be created by the loss” **or** (emphasis added) “(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”.

4.3 It is crucial to note that (e) and (f) are alternative criteria – i.e. only one of them needs to be satisfied. They do not both need to be satisfied: However, the Appellant provided strong evidence that the proposal complies with both (e) and (f) as part of the documentation supporting the planning application.

4.4 It is also crucial to know that the issue of potential alternative uses is a feature of criterion (f) only. This is clear from the wording of DP15. It is also consistent with the purpose of the policy. Specifically:

(1) Under criterion (e) the question is whether, by losing the existing facility with its existing use, the consequence would be a shortfall in provision. If not, there would be no planning harm and therefore no further consideration is required.

(2) If the loss of the existing facility with its existing use would result in a shortfall in provision, then criterion (f) comes into play and consideration of whether there is a demand for an alternative use becomes relevant.

4.5 This approach is also consistent with the approach taken by an Inspector to a similar policy in relation to a proposed development at Lambs Squash Club, 1 Lambs Passage, London, EC1Y 8LE APP/V5570/A/05/1195728 (see Appeal Bundle Tab 18, paragraph 10).

4.6 The proper interpretation of development plan policy is a question of law: see **Tesco Stores Ltd v. Dundee City Council** [2012] P.T.S.R. 983. An interpretation of DP15 other than that outlined above would be wrong in law and susceptible to challenge in the High Court.

Policy DP15 criterion (e)

4.7 In addressing both relevant parts of DP15, the Appellant instructed Sport Leisure and Culture Consultancy (SLC) to draw conclusions regarding the need and viability for leisure uses on the site. The scope of the study in terms of sports was determined in pre-application consultation with LB Camden in accordance with guidance as to the breadth of the range of sporting and leisure uses be considered as part of the report. Following the refusal of planning permission, the Appellant instructed SLC to respond in further detail to the reasoning set out in the reason for refusal by outlining key stages of the preparation of evidence which is appended to this report (see Appeal Bundle, Tab 1).

4.8 The original SLC report, which is at Tab 1 of the Appeal Bundle, provided compelling evidence that there are adequate alternative facilities readily available in the area and no shortfalls in provision will be created by the redevelopment of Mansfield Bowling Club, so that criterion (e) is satisfied. The Officer's Report to Committee itself stated (see Appeal Bundle Tab 5, p.32 under the heading 'Summary'):

"The SLC report demonstrates there is no longer sufficient demand for the existing bowls use. Alternative uses listed above have also been discounted given there is low demand and sufficient supply in the vicinity of the site or the location in a residential area is unsuitable in amenity or financial viability terms."

(Strictly speaking the second sentence was not necessary since the question of alternative uses does not arise under criterion (e), for the reasons outline above).

4.9 The findings of the report SLC produced for the applicant at the time were independently verified and corroborated by the specialist leisure consultancy, KKP, who had recently produced the Council's *Indoor Built Facilities Strategy* (paragraph 6.35 OR), and therefore had an in depth understanding of sports provision in Camden. KKP were also involved in the development of Sport England's *Assessing Needs and Opportunities Guidance* (ANOG), which sets out the best practice approach to undertaking needs assessments for sport and leisure facilities in order to demonstrate compliance with paragraphs 73 and 74 of NPPF (confirmed at paragraph 6.30 of the OR). With this

in mind, KKP found that the methodology used by SLC in producing the Sport and Leisure Report was compliant with ANOG and its conclusions reasonable and evidence based.

APPENDIX 10: KKP Independent Review

- 4.10 The Officer's Report described the findings of KKP at para. 6.30 (Appeal Bundle, Tab 5 p.32) in terms that included the following:

"KKP accept that the indoor bowling facility on the site, without significant financial subsidy or facility benefactor, has no likelihood of a sustainable future. Furthermore, the loss of the existing bowls use will not have a detrimental impact on the future of indoor bowls in the wider area."

- 4.11 The same paragraph went on to say that, far from creating any new shortfall in provision, the appeal scheme would meet existing shortfall in that *"the open space and outdoor children's play facilities proposed...would help meet an identified need in the local area which is deficient in local parks, open space and children's play facilities"* (Appeal Bundle Tab 5, pp.32-33). At para. 6.33 it was noted that *"KKP agree that the level and nature of the evidence presented by SLC has been completed with due care and diligence and is reasonable in its conclusions and satisfies the criteria in Policy DP15 and the NPPF"* (Appeal Bundle Tab 5, p.33).

- 4.12 Paragraph 6.44 of the Officer's Report further concluded (Appeal Bundle Tab 5, p.36):

"it has been demonstrated that adequate alternative bowls facilities are available in the area and there will be no shortfall in indoor and outdoor bowls".

- 4.13 This is noted in the letter of 27 October 2015 in which the Assistant Director Regeneration and Planning recognises *'that there has been a significant reduction in demand for the previous bowls use and there are alternative bowls facilities available in the vicinity of the site'*. The Council also recognise that many alternative uses identified by SLC in their Sport and Leisure Reports would not be suitable for this site and that those which are considered suitable may not be financially sustainable as a standalone facility with no enabling development elsewhere on the site.

APPENDIX 9: Letter from LBC dated 27th October 2015

- 4.14 It is therefore abundantly clear that the combined view of SLC, KKP and the Council's Officers was that criterion (e) of Policy DP15 was satisfied.

- 4.15 The Reasons for Refusal do not contradict this conclusion. Reason for Refusal 1 is addressed exclusively at criterion (f) – which does not need to be satisfied if criterion (e) is met. The other reasons for refusal relate to planning obligations and not to the principle of development.
- 4.16 Accordingly, there was, and remains, no basis for holding that the development breaches Policy DP15. Criterion (e) was found to be met, and therefore Criterion (f) did not come into play. Reason for Refusal 1 is therefore fundamentally misconceived.

Policy DP15 criterion (f)

- 4.17 The consideration of alternative leisure uses pursuant to criterion (f) involves asking the following questions:-
- 1) Is there a demand for an alternative leisure use?
 - 2) Would the alternative leisure use(s) for which there is a demand be “suitable”? Giving this word its ordinary meaning, to be “suitable” the alternative use must be one which is both acceptable in planning terms and commercially viable.
- 4.18 If the answer to either of these questions is “no” then criterion (f) is met.
- 4.19 The SLC report concludes that the site is unsuitable for a number of other potential leisure uses, and there is no demand for any sustainable alternative leisure uses of the site, with exception of enhanced tennis provision, in the form of a community tennis club (which is part of the proposal). This is acknowledged by paragraphs 6.28-6.33 and 6.44 of the Officer’s Report (Appeal Bundle, Tab 5, pages 32-33 and 36).
- 4.20 In arriving at this conclusion, the SLC assessment looked into the suitability of the site for a wide range of potential alternative leisure uses, uses that were found to be potentially suitable were assessed from a supply and demand perspective in order to determine if there is demand for any suitable alternative leisure use, in accordance with Policy DP15 f. A similar approach was used to identify complimentary uses for the site which could coexist with leisure provision and provide additional community benefits.
- 4.21 The analysis contained within the report on each of the potential uses is consistent with that found in LB Camden’s Open Space, Sport and Recreation Study (June 2014), Camden’s Indoor Sports and Leisure Facilities Assessment Report (January 2015) and a recent Sport England Facilities Planning Model (FPM) run. The evidence produced in the Sport and Leisure Report and summarised here, demonstrates the following:

- The indoor bowls facilities are no longer required due to a lack of demand and adequate alternative supply in the catchment area;
- The tennis facilities are still required and there is evidence of demand for additional tennis facilities on site;
- The site is in a deficiency area for both open space and children's play according to the Council's Open Space, Sport and Recreation Study (June 2014); and
- There is no demand for an alternative leisure use that would be suitable for the site.

4.22 The KKP Report for the Council (February 2015, Appeal Bundle Tab 10 agreed with the SLC report. It further concluded:

- The approach taken and the needs analysis prepared by SLC on behalf of Generator Group is in accordance with Sport England advice, and to the best of our knowledge, industry best custom and practice;
- The evidence presented by SLC makes a justifiable case for adding a third court and improving the ancillary club room facilities at Kenlyn Tennis Club. The club model appears to be appropriate and compatible with the restrictions of the site and will help to meet local latent demand for high quality, non-tarmac courts. The proposed development of facilities at MBC is supported by British Tennis and the LTA Regional Participation Manager, Jemima Lee;
- The immediate area around the MBC site is deficient in local parks, open space and children's play facilities. Provision of these types of facilities within the re-development would help to meet an identified need in the local area.

4.23 The updated SLC report (Appeal Bundle, Tab 1) as noted at paragraph 1.6 was prepared in order to further expand on the examination of the suitability of the site for alternative uses regarding viability, addressing the possibility of a mixed use development, and to include additional information of relevance taken from the LBC *Indoor Sport and Leisure Facilities Assessment Report* (January 2015). These changes are predominantly made in Section 6 of the report, which confirms, '*the possibility of a mixed-use development including either a sports hall or swimming pool provision with residential housing would not be suitable from a sustainability perspective and would most likely not be suitable from a spatial perspective if the planning authority were to maintain its commitment to the preservation of open space as demonstrated through the refusal of the first planning application 2012/6593/P*' (paragraph 6.17.7).

4.24 Overall, the findings of the updated report confirm that criterion (f) is met.

Sport England

4.25 Sport England's initial response to the Council's consultation was 'no comment' dated 14 April 2015, in light of its position as a non-statutory consultee (due to the site not being considered to form part of, or constitute a playing field). Sport England then objected on the 12th May 2015 based on need for '*further certainty that the planning authority is comfortable that the existing requirements for sporting provision are being met and positively planned for, with the result that the*

partial loss of D2 land on the Mansfield Bowling Club (MBC) site will not result in a shortage of D2 land / facilities within the borough'.

APPENDIX 11: Sport England Consultation Response 14 April 2015

APPENDIX 12: Sport England Consultation Response 12 May 2015

- 4.26 Sport England confirmed the reasoning for the change in response that following the submission of the organisation's "no comment" response for application, the application had been brought to the organisation's attention by residents and colleagues.
- 4.27 The response raised a query regarding the marketing of the site, despite this not being a policy requirement and whether Council, community group and other e.g. educational providers etc. had been given the opportunity to consider the acquisition of the site at a fair market value for D2 use.
- 4.28 The Appellant's response to the objection indicated that the site had been marketed by virtue of the Asset of Community Value (ACV) process. The ACV process elicited an expression of interest, but no actual offer. Notice was served on the Council setting out the intention to sell the land on the 15th October 2013. At this point no eligible community interest group came forward within the initial 6 week moratorium period and therefore the further 6 month moratorium was not triggered.
- 4.29 In seeking to overcome Sport England's concerns, the Appellant corresponded with the Council's Head of Sport and Leisure, Nigel Robinson, during the consultation period.

Appendix 13: SLC response to Sport England objection

APPENDIX 14: Correspondence with LBC Head of Sport and Leisure

APPENDIX 15: KKP response to Sport England objection

- 4.30 Mr Robinson confirmed the position adopted by the Council on the evening of the planning committee meeting where this application was determined. The transcript of the meeting [Appendix 7] confirms Nigel Robinson's position as a consultee for the project, his strategic priorities for Camden and whether the opportunity exists within the Council's investments priorities for sport and to accommodate an alternative sport or leisure use on the site:
- The priority will be to ensure that the existing portfolio of indoor leisure facilities are sustainable going forward in the long term and that means continual re-investment in the assets in order for them to continue to be viable and meet the need which they do significantly in the Borough;

- The second priority will be to deliver on existing commitments, capital projects that have already been approved, such as a new sports hall at Kings Cross which is an area in significant sporting need;
- Any new investment or requiring my strategic support for investment outside of Camden will need to meet significant tests and those tests include a facility where the located need is greatest, that will tackle inactivity; and
- Aside of investments or buildings or assets that require no subsidy, that are self-sustaining and where the impact is greatest on inactivity, and by that I mean pound for pound is proportional to the investment.

4.31 Furthermore, KKP's response to Sport England's objection is confirmed at paragraph 6.32 of the OR, in relation to alternative facilities being accommodated on the site that:

- There is no prospect of MBC returning to the site and there is no evidence to suggest that demand for bowls will increase to a level of need to reinstate the facility;
- The improvements to the tennis club will enable membership to grow and the club to have a long term sustainable future;
- The proposal is in accordance with NPPF guidance;
- The objection from Sport England is not substantiated with evidence;
- To comply with Sport England requirements a new sports hall must be 34.5m x 20m (1468m²);
- To ensure sustainability most sports halls offer health and fitness facilities e.g. weight and cardio rooms, spin and exercise studios;
- There is an existing supply of fitness facilities in this area;
- Without this revenue stream it is unlikely that a stand-alone community sports hall can be cost neutral;
- KKP agree with the conclusion of SLC that the site is unsuitable to accommodate a community sports hall regardless of availability of capital funding.

4.32 On analysis, Sport England's response does not provide an evidential basis for concluding that the proposed development fails to satisfy either criterion (e) or criterion (f) of Policy DP15 – and as noted above, only one of these criteria needs to be satisfied.

Other material considerations

4.33 Reason for Refusal 1 does not rely on any other material considerations. It hinges exclusively on DP15 (as noted above, the other policies referred to do not add anything to DP15 in the circumstances of this case).

- 4.34 Notwithstanding the conclusions of SLC, KKP and the Officer's Report in relation to compliance with DP15 criterion (e), the Appellant was advised by the Council in a letter dated 27 October 2015 that a further contribution would be required in order to mitigate the loss of leisure on the site and for the planning application to be heard at planning committee. The letter expressed, that while the Council recognised the application met the majority of the Local Plan policies; that there were alternative bowls facilities nearby; and that many alternative uses would not suited on the site, Sport England's response held weight in that it indicated a significant level of demand for indoor sports provision in the area. A contribution of £600,000 which could be applied to the provision or improvement of indoor sports facilities for local residents in the area was requested to satisfy the requirements of Policy DP15 criterion (f) – without any explanation as to why this was necessary given the conclusions as to compliance with criterion (e).
- 4.35 In response to the Council's request, the Appellant confirmed that the Appellant was prepared in principle to be persuaded by officers that there is a case to justify a conclusion by the Council that a contribution of £600,000 is necessary either to secure compliance with the development plan or to secure the provision of material considerations which indicate that permission should be granted notwithstanding any non-compliance with the development plan. The Appellant stated that it was open to officers to make the case for that conclusion in the report to committee, and if members agreed, it would be open to them to resolve to grant planning permission subject to the completion of an appropriately worded s.106 obligation.

Appendix 16: Email from Appellant dated 19 November

- 4.36 Paragraph 6.46 of the Officer Report sought to justify this request for the members of planning committee, establishing that as a result of the consultation responses received which indicated a significant demand for additional and improved sports facilities, there is a justification to be had for the Council to seek a financial contribution in lieu of £600,000 towards an extension or enhancement of a local sports facility.
- 4.37 The extent of the contribution sought by the Council is, in theory, capable of being viewed as a material consideration justifying the grant of permission if (which is strongly denied for the reasons given above) the Inspector were to conclude that the proposals do not comply with DP15. Nigel Robinson confirmed at the committee meeting that a contribution of £600,000 would be spent on improvements which would enable the usage of Talacre Sports Centre to be increased by 250,000 visits, i.e. between 5 -7,000 people a year (and possibly up to 10,000) (see Appeal Bundle Tab 7, para 1.181, p.27). This is a public benefit capable of outweighing a breach of DP15 (either on its own or in conjunction with the other benefits of the development described in Section 6 below).
- 4.38 If, however, the Inspector concludes that the proposals comply with DP15, the contribution is not necessary to make the development acceptable and therefore should not be imposed. It is

significant in this context that the Council's S106 Register for applications seeking contributions outlines that no such contribution has been requested in the past 3 years in relation to the loss of such a facility, nor has the request towards funding for existing projects been accepted from all other developments.

- 4.39 The s.106 obligation will be drafted in such a way as to give effect to the Inspector's conclusions in this regard.

5. RESPONSE TO REASONS FOR REFUSAL 2-13

Reason for Refusal 2 – 13

5.1 Reason for refusals 2-13 are in response to the absence of a legal agreement covering the following matters:

- Secure the provision of replacement affordable tennis facilities;
- Secure an Open Space plan;
- Secure the provision of affordable housing;
- Ensure the development would be car-capped;
- Secure a construction management plan and the establishment and operation of a Construction Working Group;
- Secure necessary contributions towards highway works to restore the pedestrian environment to an acceptable condition;
- Secure a travel plan and associated monitoring and administrative costs for a period of 5 years to ensure sustainable travel;
- Provision of a local employment and apprenticeships agreement and a local procurement code to ensure there will be no exacerbation of local skill shortages and a lack of training and opportunities for local residents and businesses;
- Secure a Basement Construction Plan;
- Secure contributions towards pedestrian, cycling and environmental improvements; and
- Secure a sustainability plan, to ensure that the development ensures efficient use of resources.

APPENDIX 17: Email correspondence re S106

5.2 The Unilateral Undertaking submitted as part of this appeal addresses these issues.

6. OTHER MATERIAL MATTERS

6.1 The extent of compliance of the proposals, with the Development Plan, has been confirmed with reference to the operative policy of the single in-principle reason for refusal. The appeal proposal accords with all other Development Plan policies. In particular those policies of the Development Plan and the NPPF which seek to:

- Provide a range and choice of housing
- Provide affordable housing
- Enhance the historic environment
- Enhance leisure, sport and community facilities
- Increase access to publicly accessible open space
- Improving design and townscape

6.2 The appeal proposal provides a number of significant benefits arising from the above.

Provision of a range and choice of housing

6.3 The appeal scheme has been designed to maximise the efficiency of the site to provide a range of housing and sport and leisure facilities. It has focused the proposed residential uses within the area occupied by the former MBC bowling club building. In doing so, it has sought to respond positively to the informative placed on the previous decision by Camden and the feedback from community consultation.

6.4 The provision of a range and choice of housing at the appeal site would contribute to meeting the aim and purpose of paragraphs 47 and 49 of the NPPF and CS6 and DP2 of the Development Plan.

6.5 Paragraphs 47 and 49 of the NPPF seek to boost significantly the delivery of housing and applications for housing should be considered in the context of the presumption in favour of sustainable development. This requires the approval of development proposals that accord with the development plan without delay [NPPF 14].

6.6 The policies of the Development Plan:

- Identify housing as the priority land use of the Development Plan, to be given top priority when considering the future of unused or underused land and buildings [CS6 and para 2.8 of CDP];
 - Aim to make full use of Camden's capacity for housing by maximising the supply of additional housing to meet or exceed Camden's target of 5,950 homes from 2007-2017 [CS6];
 - Seek to maximise the supply of additional homes [DP2];
 - Expect the maximum appropriate contribution to the supply of housing on sites that are underused or vacant [DP2]; and
 - Seek to resist alternative development of sites considered suitable for housing [DP2].
- 6.7 Paragraph 6.50 of the OR confirms that the area surrounding the site is predominantly residential in character and the provision of additional housing outside the open space designation is appropriate. It also confirms that the site accommodates two residential dwellings within the MBC bowling club building.
- 6.8 The appeal proposals accord with the aims of national and local policies that seek to prioritise and maximise the provision of residential development. The provision of housing at the appeal site would contribute to the economic and social elements of sustainable development.
- 6.9 The Council's recent consultation for the new Local Plan outlined the future housing requirement of 16,800 units during the plan period, a figure which was derived at through a joint SHMA undertaken with London Borough of Islington and represents the objectively assessed housing need for the Borough.
- 6.10 The Council's AMR sufficiently identifies enough deliverable sites to exceed the housing target in the early years of the plan (approx. 6,500 in years 2015/16 to 2019/20), but not in the later years. It therefore stands to reason that, in line with the NPPF the Inspector should identify the site as being entirely consistent with core planning principles set out in the NPPF paragraph 17 which encourages 'the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value'.
- 6.11 It is also significant that the Appeal site is deliverable in that it is available now, offers a suitable site for development now, and is achievable with a realistic prospect of housing being delivered on the Appeal Site within five years. Furthermore, the development of the Appeal Site is viable.
- 6.12 Housing delivery benefits were considered to justify a breach of development plan policy relating to sports and open space in a recent appeal relating to Land at and to the rear of 132 and 134 Avery Hill Road, New Eltham, London SE9 2EY APP/E5330/W/15/3129768 (Appeal Bundle Tab 20, paragraphs 97-112).

- 6.13 The weight that should be afforded to the provision of residential development at the site is significant and in accordance with paragraph 14 of the NPPF the appeal proposals should be approved without delay.

Provision of affordable housing

- 6.14 The appeal scheme proposes the delivery of a high proportion of affordable housing. Paragraph 6.53 of the OR confirms that the scheme proposes 11 affordable dwellings which represents 52% of the total number of units, or 35% of the total floor space.
- 6.15 As a proportion of the net increase in residential development at the site (19 net additional dwellings) it is even greater, representing 58% of the number of net additional dwellings.
- 6.16 The proposed tenure would provide 36% intermediate and 64% social rent on site, representing a good mix of housing tenures for the site and meeting or exceeding all policy targets of the Development Plan.
- 6.17 Policies CS6 and DP2 confirm that the Council aims to secure 50% affordable housing across all new residential development and give priority to households unable to access market housing. Policy DP3 sets the approach to achieving this ambitious level of affordable housing, through the application of a sliding scale approach.
- 6.18 The provision of policy compliant level of affordable housing within the development would accord with the aims of the Development Plan and would contribute to the economic and social elements of sustainable development.

Enhance the historic environment

- 6.19 The site is located within the Dartmouth Park Conservation Area.
- 6.20 The MBC bowling club building is identified within the Conservation Area Appraisal and Management Statement (CAAMS) as being a negative building which detracts from the character and appearance of the Conservation Area. The CAAMS confirms that the Council will “particularly encourage proposals which seek to redevelop those buildings and spaces which are considered to have a negative impact on the special character or the appearance of the conservation area”. [OR 1.6]
- 6.21 The appeal proposal responds directly to the aims of the CAAMS. The appeal proposals would replace a building that has been identified as a negative contributor to the Conservation Area with a high quality development that responds positively to the positive characteristics and attributes of the housing stock in the area [OR 6.65-6.66]

- 6.22 Paragraph 6.68 of the OR confirms that the appeal proposals would significantly improve the appearance of the site whilst maintaining open space, thereby preserving and enhance the Conservation Area.
- 6.23 The appellant has prepared a supplementary report on heritage matters which confirms that great weight should be afforded to the role of the appeal proposals in preserving and enhancing the Conservation Area.
- 6.24 The appeal proposals would provide a thoughtful and interesting mix of units and a design that is considered to enhance the character and appearance of the area (OR paragraph 6.66). The extent of the benefit arising from the appeal proposals is significant and should be afforded weight in determination of the appeal.
- 6.25 The redevelopment of the appeal site for a form of development that would enhance and preserve the Conservation Area would contribute to the social and environmental elements of sustainable development.

Enhancing leisure, sports and community facilities

- 6.26 The appeal proposals would deliver a significant increase in the quantum of open space. The respective quantum are identified in the table at paragraph 6.10 of the OR which confirms that the appeal scheme would increase the amount of public open space available to the community from zero to 2,918sq.m. The appeal proposals would increase the amount of tennis court space by more than 40%.
- 6.27 The appeal proposals comply with the aims of Policy DP31 which seeks to bring private open space into public use to provide new community uses. [OR 6.14]
- 6.28 The extent of the benefits of the appeal scheme to the provision of leisure, sports and community facilities in the area are considered in detail within the SLC documents submitted with the application (as updated per Appendix TBC), the Council's independent review of the documents, other Council evidence documents. The preceding section of this appeal statement considers these matters with reference to the relevant Development Plan policies.
- 6.29 For clarity, not only would the appeal proposals not offend those policies of the Development Plan which seek to protect community and leisure facilities, the appeal proposals would significantly enhance the quality of sport, leisure and community space at the site. It would achieve this through the provision of the following on site:

- Extension of the area of the site used for tennis to increase the number of tennis courts from 2 courts to 3 courts, allowing the tennis club greater scope to compete in various events;
- The creation of a community tennis club to increase access to, and participation in, tennis for the wider area, including local schools and community groups;
- The provision of a new pavilion to meet the needs of the proposed community tennis club providing WCs, a kitchenette, indoor space for meetings, storage space and a sheltered terrace;
- Landscaped gardens offering a choice of spaces to congregate and relax;
- Children's play equipment and areas for natural play and informal play;
- A community garden to include fruit trees and raised planting beds; and
- Picnic benches.

6.30 The extent of the benefits arising from the appeal scheme is significant. They extend to cover benefits to sport, leisure and community space. Paragraph 6.13 of the OR confirms that the significant public benefits of the proposals would be delivered in an area of deficiency in open space.

6.31 As such, the value of these significant benefits to the local community is enhanced due to the existing deficit in the local area. This confirms that the appeal site would contribute to meeting the environmental, economic and social elements of sustainable development.

6.32 The £600,000 financial contribution is capable of being a further material consideration in this context if (but only) it is concluded that there is, or would otherwise be, a breach of Policy DP15 (which is denied for the reasons given above).

Increasing access to publicly accessible open space

6.33 The MBC bowling club building lies outside the designated Open Space/Private Open Space as identified within the LDF Proposals Map 2010 that covers the remainder of the site. [OR 1.7]

6.34 The wider area is identified as having a deficiency in publicly accessible open space. [OR 6.1, 6.13 and map 7 of the LDF].

6.35 The provision of publicly accessible open space in place of private open space accords with the aims of the Council as identified in the Camden Open Space, Sport and Recreation Study 2008

[OR 6.3, 6.4 and 6.9] Paragraph 6.13 of the OR confirms that the appeal proposals would result in public benefits arising from the provision of publicly accessible open space.

- 6.36 The redevelopment of the appeal site for a form of development that would fundamentally provide publicly accessible open space for the first time would contribute to the social and environmental elements of sustainable development.

Improving design and townscape

- 6.37 The appeal proposes a form of development that meets and exceeds all relevant standards for provision.
- 6.38 Paragraphs 6.56 – 6.63 of the OR confirm that the appeal proposals include generously sized residential dwellings for private and affordable tenures that meet all of the Lifetime Homes criteria. In meeting and exceeding the relevant design standards, the appeal proposals would contribute to the good standard of development proposed. When combined with the setting of the proposed residential dwellings, as described in paragraph 6.62, the appeal proposals would provide an exceptional quality development within this part of the Borough.
- 6.39 Paragraph 1.9 of the OR outlines that four of the trees on the site are protected by Tree Preservation Orders. The layout of the appeal scheme will not have any material effect or adverse impact on the site's public amenity value or its contribution to the landscape. Paragraph 6.76 confirms the Council's tree officer concluded that the removal of existing trees is acceptable subject to replacement and that the removal of the three trees is not considered to have a detrimental impact on the appearance of the site or the conservation area.
- 6.40 The Design and Access Statement sets out the design rationale for the scheme. The scheme has been subject to detailed discussions with planning and design officers and the comments received from officers were incorporated into the scheme. The design proposals have evolved following extensive engagement with the local community and key issues brought to light by members of the public have been incorporated in the design of the proposed development.
- 6.41 All residential units have been designed to meet the Mayor's minimum internal space standards set out in Table 3.3 of the London Plan. Camden's CPG2 provide good practice standards for room dimensions/ areas in respect of main sitting areas, double/ twin bedrooms, single bedrooms and living/ kitchen/ dining areas. The development complies with these policies. The layout and internal configuration of all the proposed dwellings have been designed to ensure that future occupants benefit from appropriate levels of privacy, daylight and sunlight.

- 6.42 All residential units would also benefit from private amenity spaces, meeting the London Plan standards. Materials have been selected to reflect the characteristics of the Conservation Area, whilst avoiding pastiche architecture.
- 6.43 The redevelopment of the appeal site for a form of development that would improve the outlook of the site for the benefit of the wider conservation area would contribute to the social and environmental elements of sustainable development.

Parking

- 6.44 The proposed levels of parking to serve the site were the subject of negotiation during the determination period. The planning application as submitted proposed incorporated 20 car parking spaces, of which 19 were to be provided for the residential element and 1 space available for the Tennis Club use. This was compliant with both Camden's adopted policy and the parking requirements contained within the London Plan at that time. It was concluded that the proposed level of provisions should satisfactorily accommodate the demands of the proposed development, and no off-site demands for parking should exist. It attracted no objections from the Council's Transport/ Highways team. Furthermore, the Members, in determining the application did not propose to refuse the application on parking related issues.
- 6.45 Following submission of the application the Council proposed that in order to decrease the likelihood that Members would consider refusing the application on grounds of development on designated open space, the overall provision of car parking for the residential element be removed. The Appellant agreed at this stage that the scheme would be car-free with the exception of two disabled bays and one bay for use by the Tennis Club.
- 6.46 The Appellant and Council entered into further negotiations following the submission of the application. Following further discussions with officers, it was agreed to revise the scheme to include provision for 7 car parking spaces - 3 disabled parking spaces (2 for the flats, and 1 for the open space/tennis club) and 4 car parking spaces to serve the private residential units.
- 6.47 It is therefore available for the Inspector to determine which level of parking provision should be considered as part of the Appeal scheme. All three schemes are set out in drawings Rev B/ Rev E & Rev F of 2130 AA4437 Proposed Roof Level Masterplan. It is the Appellant's preference for the original parking scheme to be considered by the Inspector.

Appendix 19: 2130 AA4437 Proposed Roof Level Masterplan Rev B, Rev E & Rev F

7. SUMMARY

7.1 There is no debate that the scheme brings significant benefits as outlined throughout the Officer Report and supporting documents of this appeal. This is summarised at paragraph 7.1 of the OR for the reason being that:

- The loss is simply a crumbling dilapidating bowls club;
- There would be no loss of open space;
- The massing would provide an enhancement to the character and appearance of the conservation area;
- Enhanced public facilities will be made available;
- The scheme provides children's play space in an area which is deficient;

7.2 In considering the planning balance, the officer concludes at paragraph 7.1 '*On balance, it is considered that the overall scheme including the payment in lieu addresses the requirements Policy CS10, CS15 and DP15 that seek alternative leisure provision.*' In fact, for the reasons given above, that is the appropriate conclusion even without regard to the £600k contribution (which is therefore not necessary to make the development acceptable).

7.3 The recent appeal at Avery Hill Road, New Eltham confirms a common sense approach to relevant to this appeal insofar as the proposals sought permission to develop an underutilised sports facility designated as Community Open Space for much needed housing and public open space, therefore enabling a wider public benefit. The decision confirms that:

- Taken as a whole, the scheme would be in conflict with those policies of the development plan which protect Community Open Space and land last used a playing field, albeit the latter is subject to assessment of need. The development would provide secured benefits compliant with the aims of the development plan to increase and enhance sports and park provision [paragraph 58]
- Compliance of a proposal with the development plan overall cannot be intended to be measured simplistically by a mechanistic review of those policies that the development would not offend, any more than the concept of localism is intended to allow development to be impeded simply of a number of objectors, as opposed to a judgement on the weight of planning evidence [paragraph 104];
- Properly based on the true planning evidence, and taking account of every matter raised in connection with the appeal, there would be no adverse impact of the development that could not be addressed by way of planning conditions of the submitted UU [paragraph 94];
- On an overall balance of planning judgement, whilst the loss of the larger part of the appeal site as COS would militate materially against the proposal, this adverse impact would not be so

great as significantly and demonstrably to outweigh the very considerable benefits of the development in providing much needed homes in the face of the significant 5YHLS shortfall [paragraph 108].

Appendix 20: Appeal Decision – Land at Avery Hill Road, New Eltham

- 7.4 Overall, the Appeal Scheme is in accordance with the Development Plan and ought to be determined as such, in addition, it accords with the NPPF. For these reasons, the Inspector will be respectfully requested to allow the Appeal and grant planning permission to enable this beneficial and sustainable development to proceed without further delay.