

## MANSFIELD BOWLS CLUB

### COSTS APPLICATION

1. The Council's decision notice contains 13 reasons for refusal. Only the first goes to the principle of whether planning permission should be granted. The others relate to matters which the Council says it would like to see in a s.106 agreement/unilateral undertaking. Accordingly, if Reason for Refusal 1 had not been imposed, there would have been a resolution to grant planning permission subject to satisfactory completion of a s.106 agreement/undertaking. In other words, it is Reason for Refusal 1 which has generated the need for this appeal.
2. Reason for Refusal 1 is substantively unreasonable and justifies an award of costs.
3. This reason stated:

“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. DP15 is the central policy here 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. This appears to be common ground with the Council.
5. DP15 has different 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** “(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”.
6. **It is crucial to note that (e) and (f) are expressed to be alternative criteria - i.e. only one of them needs to be satisfied. They do not both need to be satisfied.**
7. In relation to criterion (e), SLC's report on behalf of the Appellant as well as KKP's reports for the Council supported the conclusion that adequate alternative facilities are already available in the area, and therefore no shortfall in provision will be created by the development (see e.g. the 'Summary' above para. 6.29 of

the Officer's Report at Appeal Bundle Tab 5 p.32 and the comments at para. 6.33 of the Officer's Report at Appeal Bundle Tab 5 p.33). The Officer's Report to Committee at para. 6.44 stated "*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*". That equated to an acceptance that criterion (e) is satisfied.

8. Reason for Refusal 1 does not purport to rebut this conclusion. Its wording is solely focused on criterion (f). The wording of Reason for Refusal 1 is almost identical to criterion (f) and amounts to no more than an assertion that criterion (f) is not satisfied).
9. That is not a valid reason for refusal since even if (which is denied) there were a failure to comply with criterion (f), that does not preclude the grant of permission if criterion (e) is satisfied. The expert evidence before the Council of both SLC and the Council's own advisers KKP was that criterion (e) was satisfied, a conclusion reiterated by para. 6.44 of the Officer's Report and not rebutted by Members. The Reasons for Refusal do not even attempt to grapple with this.
10. Accordingly, even if the assertion contained within Reason for Refusal 1 is accepted, it cannot amount to a valid reason for refusal since it completely fails to address criterion (e).
11. The refusal of permission was therefore manifestly unreasonable and costs should be awarded in full.