



**PLANNING SERVICES**

**TOWN & COUNTRY PLANNING ACT 1990 (as amended)**

# **HEARING STATEMENT OF CASE**

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**APPEAL SITE**

Mansfield Bowling Club, Croftdown Road, London, NW5 1EP

**APPELLANT**

Generator Group LLP

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**SUBJECT OF APPEAL**

Appeal against refusal of planning permission (ref: 2015/1444/P) on 1st of February 2016 for:

“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 2 storey building providing 21 residential dwellings (Class C3) with associated access, parking and landscaping.”

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**COUNCIL REFERENCE:** 2015/1444/P

**PLANNING INSPECTORATE REFERENCE:** APP/X5210/W/16/3153454

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## **1.0 SITE AND SURROUNDINGS**

- 1.1 The appeal site relates to an indoor bowling club facility which is a part single storey (double height), part two (partly double height), part three storey building dating from the 1970s. It has a partial brick, partial metal cladding façade treatment interlinked with glazing at various points. Within the building at ground floor level the space is dominated by the indoor bowling green, together with associated male and female changing facilities, a bar / lounge, toilets, kitchen and club rooms/offices. At first floor level there is an open plan function room, leading into a bar / lounge, Masonic lodge room and one of the two ancillary residential flats within the building. The second ancillary flat is located at second floor level.
- 1.2 To the north of the indoor facility is an outdoor bowling green which has been disused by MBC since September 2011 and two tennis courts, in active use by Kenlyn Lawn Tennis Club. The tennis club has a small clubhouse to the south of the courts, which are shale in type and enclosed by fencing. To the north of the tennis courts are allotments, with the land being used to grow various vegetables. To the north of the allotments, close to the boundary of the site, are associated sheds. To the south and west of the indoor bowling facility are associated hard surfaced car-parking spaces. There are also areas of green open space within the application site, most substantially in the north-east and southern corners and also in the perimeter areas surrounding the indoor bowling facility, outdoor bowling green and tennis courts.
- 1.3 The appeal site is also formally listed by the Council as an 'Asset of Community Value as per the Localism Act 2011 and The Asset of Community Value (England) Regulations 2012. In October 2013 the owner notified the council of their intention to sell, triggering the interim 6 week moratorium. The Council is aware of an offer made to the owner of the site on 28<sup>th</sup> October 2015 to purchase the entire site for £150,000. The Council has not been party to any discussions regarding this offer.
- 1.4 Prior to the indoor facility and Regency Lawn being built the site was more open in nature with bowling and tennis facilities together with a clubhouse positioned where Regency Lawn now exists. MBC has indicated that they have operated from the site since 1891.
- 1.5 The appeal site sits within the Dartmouth Park Conservation Area and the entire site with the exception of the indoor bowling facility building, is designated Open Space / Private Open Space (POS) on the Local Development Framework proposals Map (2010) and Map 7, page 134 of the Core Strategy, respectively.
- 1.6 It is also noted that trees within the site, including those in the western area of the site, are protected by Tree Preservation Orders. More

specifically these comprise 2 x Limes, 1 x Ash & 1 x Mimosa at this point. Furthermore a TPO has been served on a Lime in the area between the indoor bowling green building and the tennis courts, following a 2012 tree application. The south western part of the site is also within an identified hydrogeological constraint area, in respect of surface water flow and flooding matters. The bowling club building is also situated within an identified (map 7 of the LDF) area of public open space deficiency. The site is also within a neighbourhood renewal area (area 8 – Highgate New Town).

- 1.7 The site has a Public Transport Accessibility Level (PTAL) rating of 3 (moderate), although neighbouring properties have a PTAL of 4 (good). The closest underground station is Tufnell Park, located approximately 750 metres away. Meanwhile the site is also equidistant from two overground stations in Gospel Oak and Upper Holloway, approximately 850 metres away. The site is well served by 4 nearby bus routes (C2, C11, 4, 214) with bus stops located nearby on Highgate Road, Swain's Lane, Chester Road, Raydon Street, and Dartmouth Park Hill. The site is also located within the Highgate Controlled Parking Zone (CPZ), CA-U. The Highgate CPZ operates on Monday to Friday between 1000 and 1200noon. The ratio of parking permits to parking spaces in the CPZ is 0.66. This suggests that parking stress does not constitute a significant issue in this part of the Borough. However, officers are mindful that it should not be assumed that parking stress is not an issue in the vicinity of the site.

## **2.0 APPEAL PROPOSAL**

- 2.1 The appeal is against the London Borough of Camden's refusal of an application for planning permission dated 1<sup>st</sup> February 2016.
- 2.2 The application for planning permission (ref: 2015/1444/P) was received by the Council on 11<sup>th</sup> March 2015 and was registered on 8<sup>th</sup> April 2015. The application sought planning permission for the following development:

*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 2 storey building providing 21 residential dwellings (Class C3) with associated access, parking and landscaping.*

- 2.3 A Site notice was displayed on Croftdown Road from 10<sup>th</sup> April – 1<sup>st</sup> May 2015 and a press notice was placed in the Ham and High

newspaper from 16<sup>th</sup> April 2015 – 7<sup>th</sup> May 2015. 93 neighbours were consulted by letter.

2.4 159 letters of objection were received and 47 comments as well as 5 letters of support were received in response to the original planning application. Letters of objection were also received from Sport England, Cllr Gimson, Cllr Berry, Cllr Lewis and the Dartmouth Park Conservation Area Advisory Committee. A copy of all representations received during the course of the application was sent to the Planning Inspectorate with the Questionnaire.

2.5 The application was reported to the Development Control Committee on 14<sup>th</sup> January 2016 with a recommendation that conditional planning permission be granted subject to a S106 legal agreement. A copy of the Officers Committee report is attached as **Appendix One**. The committee did not agree with the recommendation and resolved by majority to refuse planning permission for the reasons set out in the decision notice issued on 1<sup>st</sup> February 2016. Copies of the decision notice and minutes of the meeting are attached as **Appendix Two** and **Three**. The reasons for refusal are as follows:

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.*
- 2.6 An informative on the decision notice stated “In the event of an appeal, the financial contribution required by reason for refusal 2 above, would only provide an acceptable mitigation towards the provision of alternative leisure facilities should an appeal inspector not find in favour of the Council's objection to the development in reason for refusal 1. All other S106 reasons would be withdrawn as part of an appeal process should the appellant conclude a S106 to the satisfaction of the Council.”

### **3.0 RELEVANT PLANNING HISTORY**

#### **3.1 The application site**

20261 - To erect a sports pavilion at the premises, the Mansfield Bowling Club, Croftdown Road, St. Pancras. Granted 04/01/1962. This appears to be the structure associated with Kenlyn Tennis Club.

5557 - Outline application for the erection of 28 flats and garages, a new indoor bowling green and clubhouse, provision of 70 parking spaces and the re-siting of the tennis courts at the site of the Mansfield Bowling Club Sports Ground, Croftdown Road. Granted 05/09/1968. This scheme was not implemented.

D11/3/A/6446 - The redevelopment of the site of the Mansfield Bowling Club, Croftdown Road, Camden, by the erection of an indoor Bowling



Green, with clubhouse, 15 3-storey dwelling houses with integral garages and the provision of parking for 70 cars. Granted 13/03/1969. This scheme was implemented, with the 15 dwelling houses being 1-15 Regency Lawn.

10657 - The erection of 10 three-storey terrace houses on the frontage of the Mansfield Bowling Club Site, Croftdown Road, N.W.5. Granted 24/07/1971. It does not appear that this application was implemented.

13959 - Use of the site of the tennis court in Southern corner of the Mansfield Bowling Club, Croftdown Road N.W.5. for car parking purposes. Refused 20/07/1972. Reason for refusal: The use of this part of the site for parking purposes, would cause undue detriment to the amenities of adjoining residents by reason of noise, fumes and vehicular movements associated with a car park.

8903401 - The construction of an additional tennis court and surrounding fence in the southern corner of the site as shown on unnumbered location plan. Granted 23/01/1990. It does not appear that this application was implemented.

9003208 - Erection of a first floor extension on columns to provide additional accommodation with retention of existing car parking beneath. Approved 12/09/1990. It does not appear that this application was implemented.

2010/2039/P - Retention of temporary site in part of the car parking area to the south of the Mansfield Bowling Club building, comprising nine steel containers and associated hoardings for use as offices, storage and associated facilities for a period of 1 year, in connection with on-going external works to nearby residential buildings. Granted 11/10/2010 for a temporary period of 1 year. During site visit on 14/02/2013 it was evident that no element of this application remained at the site.

2012/3851/T: BETWEEN NORTH EAST WALL OF CLUBHOUSE AND TENNIS COURTS: 1 x Lime – Fell: Objection to Works to Trees in a CA 28/08/2012

2012/6593/P - Refurbishment and reconfiguration of existing clubhouse building to provide a new leisure and fitness facility and indoor bowling club (Class D2); enabling development of 8x4 bedroom basement and three-storey self-contained residential units (Class C3) and associated works including new access from Croftdown Road; landscaping works to provide areas of publicly accessible open space and associated alterations following loss of an outdoor bowling green and 2 outdoor clay tennis courts.

2014/6264/T - WITHIN GROUNDS: 2 x Ash - Reduce crown by 15%. No Objection to works to Tree(s) in a CA 19/11/2014

3.2 The scheme was refused on 5 July 2013 on the following grounds:

- Redevelopment would result in a loss of protected land (private open space) which would be detrimental to the open nature of the site and harmful to the character and appearance of the surrounding area and this part of Dartmouth Park Conservation Area. This would lead to the loss of land which provides a valuable contribution in terms of health, sport, recreation and play,
- The scheme did not provide an appropriate contribution towards the supply of affordable housing,
- The proposed residential density would fail to maximise the contribution of the site in to providing additional homes in the borough and the scheme failed to provide a mix of large and small homes and therefore would not contribute to mixed and inclusive communities,
- The applicant failed to submit sufficient information to demonstrate that the basement excavation would not cause harm to the built and natural environment and local amenity and would not result in flooding or ground instability,
- No S106 agreement was in place to secure appropriate planning obligations including incorporation of sustainable measures, car-capped housing, a service management plan, and necessary highways works.

3.3 The following informative was attached to the decision:

*“Without prejudice to any future application or appeal, the applicant is advised that any future proposal to maintain Mansfield Bowling Club at the application site should have regard to focusing any necessary 'enabling' development upon that part of the application site not designated as Open Space, and to the identification of the existing building (not use) as a negative building within the Dartmouth Park Conservation Area Statement.”*

3.4 An appeal against this decision was lodged and subsequently withdrawn by the appellant on 28 February 2014.

3.5 Environmental Impact Assessment (EIA) Screening Opinion application

2013/0374/P - Request for Environmental Impact Assessment (EIA) Screening Opinion for works involving the refurbishment and reconfiguration of existing bowling clubhouse to provide a new leisure and community facility, enabling development of 8 residential dwellings and associated landscaping and publicly accessible open space, following loss of an outdoor bowling green and 2 outdoor clay tennis courts. EIA not required as, though the development is, by definition, Schedule 2 development, it is not considered to be EIA development as defined by Regulation 2(1) of the Town & Country Planning

(Environmental Impact Assessment) Regulations 2011 (SI 2011 no. 1824). Date of decision 04.02.2013.

## **4.0 PLANNING POLICY FRAMEWORK**

### **4.1 National Policy Documents**

On the 27<sup>th</sup> of March 2012 the Government published the National Planning Policy Framework (NPPF). The policies contained in the NPPF are material considerations which should be taken into account in determining planning applications. Paragraphs 7, 14, 17, 66, 69, 70, 74 and 93 are most relevant.

### **4.2 The Planning Practice Guidance (PPG), March 2-14 (as amended).**

### **4.3 Local and Regional Planning Policy Framework**

The Development Plan for the area comprises the London Plan March 2016, and the Local Development Framework, containing the Camden Core Strategy and the Camden Development Policies.

4.4 The London Plan Policies most applicable here include policies 2.18, 3.2, 3.3, 3.19, and 7.18.

### **4.5 Local Development Framework**

Camden's Core Strategy and Development Plan Documents (Local Development Framework) were adopted in November 2010. The 4 Strategic objectives of the LDF are;

- a. A sustainable Camden that adapts to a growing population;
- b. A strong Camden economy that includes everyone;
- c. A connected Camden where people lead healthy active lives;  
and;
- d. A safe Camden that is a vibrant part of our world city.

4.6 The relevant LDF policies as they relate to the reasons for refusal of the application are listed below:

CS1	Distribution of growth
CS4	Areas of more limited change
CS5	Managing the impact of growth and development
CS6	Providing quality homes
CS10	Supporting community facilities and services
CS11	Promoting sustainable and efficient travel
CS13	Tackling climate change through promoting higher environmental standards
CS14	Promoting high quality places and conserving our heritage
CS15	Protecting and improving our parks and open spaces and encouraging biodiversity
CS16	Improving Camden's health and well-being

- CS17 Making Camden a safer place
- CS18 Dealing with our waste and encouraging recycling
- CS19 Delivering and monitoring the Core Strategy
  
- DP2 Making full use of Camden's capacity for housing
- DP3 Contributions to the supply of affordable housing
- DP5 Homes of different sizes
- DP6 Lifetime homes and wheelchair homes
- DP15 Community and leisure uses
- DP16 The transport implications of development
- DP17 Walking, cycling and public transport
- DP18 Parking standards and limiting the availability of car parking
- DP19 Managing the impact of parking
- DP20 Movement of goods and materials
- DP21 Development connecting to the highway network
- DP22 Promoting sustainable design and construction
- DP23 Water
- DP24 Securing high quality design
- DP25 Conserving Camden's heritage
- DP26 Managing the impact of development on occupiers and neighbours
- DP27 Basements and lightwells
- DP28 Noise and vibration
- DP29 Improving access
- DP31 Provision of, and improvements to, open space, sport and Recreation

4.7 The full text of each of the policies has been sent with the questionnaire documents.

Supplementary Guidance (Camden Planning Guidance)

4.8 The Council will also, where appropriate, rely on supplementary planning guidance as set out in the Camden Planning Guidance (CPG) insofar as it is material.

- i. CPG1 Design
- ii. CPG 2 Housing
- iii. CPG3 Sustainability
- iv. CPG4 Basement and Lightwells
- v. CPG6 Amenity
- vi. CPG7 Transport

b. Copies of the above Camden Planning Guidance documents were sent with the Questionnaire.

Emerging Planning Policy - Draft Camden Local Plan 2016

4.9 The emerging Camden Local Plan Submission Draft, 2016 and the accompanying evidence contained in the Camden Strategic Housing Market Assessment 2016 (the basis for the figures in the submission

draft and referred to below) is also a material consideration. The Council has just completed an 8 week consultation period (this expired on 4th April 2016) on the submission draft. These documents are material considerations in this appeal and are attached as **Appendix Four**.

#### Evidence and Supporting Documents

4.10 In the process of preparing the Council's core strategy and development policies as well as the Draft Local Plan, a wide range of information was collected and a number of studies were commissioned (also known as the 'evidence base' by the Council. A selection of related evidence and supporting documents are referred to throughout this statement and can be found in **Appendix Nine**.

### **5.0 ADDITIONAL CORRESPONDENCE FROM THIRD PARTIES**

5.1 Since the appeal was submitted, a further 24 objections have been received directly by the Council from local residents and 1 letter from Cllr Sally Gimson. It is confirmed that these objections have been forwarded on to the Inspector.

5.2 Principally, the objections relate to the indication of need for leisure facilities in the area as well as to the loss of the community D2 use in this location. In instances, where new evidence of need has been provided, these indications have been followed up by the Council's consultant Nortoft Planning and are included within the table which can be found in **Appendix Six**. Copies of these additional objections can be found in **Appendix Five**.

5.3 Predominantly, the objections echo those which were made when the planning application was assessed. These comments have been addressed within Section 6.0 of this statement. Such objections are summarised below:

- The site is intend for leisure use for the community;
- There is a lack of open space in the Dartmouth Park area;
- Camden's core strategy is to retain leisure use where possible;
- There is a lack of evidence against certain community groups, including schools from using the site;
- MBC have not done enough research into viable sporting alternatives for the site;
- Further evidence conducted by the local community shows that there is a huge demand for indoor leisure facilities;
- No local consultation took place which considered a scenario where the whole site would be used for leisure facilities;
- If there really were adequate sporting facilities why would the developers agree to give £600,000 to sporting facilities;
- There is no confidence that the public open space nor the tennis facilities would be open to the public in the long term and it would

- very soon be gated off for the benefit of the residents in the luxury housing;
- No building commitments have been made in relation to the Kenlyn tennis club;
  - The main aim of this application is to establish the principle that this land, designated for leisure use, can be built on with impunity and that further applications on the site for more residential development will be impossible to oppose in the future so any leisure use at all will be lost for ever;
  - No effort has been made over the last four or five years to encourage the public to use this site (apart from the tennis courts) and the bowling has been allowed to be overgrown and neglected;
  - This is plain profiteering on the part of the developers;
  - The developers are seeking to change the planning use to residential, then sell the site onto the next developer who will carry no responsibility to uphold Generator's/MBC promises;
  - Once this piece of land is lost to housing, it is gone for good;
  - It is quite wrong for a site that was given as open space for the community by Baroness Burdett-Coutts to be developed for private profit;
  - Once lost it is lost forever;
  - Given the increasing pressures on such spaces in London, it is vital that the site is not lost;
  - While there is an acknowledged need for more housing in Camden, as in all inner London boroughs, these proposals for high density, luxury dwellings do nothing to meet such a need and do not in any way contribute to the neighbourhood;
  - The housing development proposed is far too dense and extensive for this site;
  - It appears aimed at monetary gain for the club directors rather than any desire to offer community benefit or maximise the retention of open space;
  - This site is a valuable resource at the centre of a residential area which needs to retain this facility;
  - There have been several good suggestions made as to how Mansfield could take on new challenges - such as a trampolining centre, and other indoor pursuits for which this site is admirably suited;
  - The local community has been very clear in the past that they take seriously the designation of this site as for leisure use;
  - It was gifted to the area, not to Mansfield Bowling club who have failed to develop it in a responsible way;
  - This is not an enabling development, it is a 'get rich quick' scheme;
  - MBC have failed to ensure that the open space is sustainably managed and maintained for the future for the benefit of the public, which means that in a few years time they could come back with a demand to build more houses on whatever open space is left;
  - Camden has a commitment to protect sport for future generations;
  - You cannot put a price on sport and green areas;

5.4 It has also been brought to the Council's attention that site notices which were erected by the residents notifying the community of the appeal were removed.

## 6.0 SUBMISSIONS

- 6.1 This section sets out the Council's Case in respect of reasons for refusal (RFR) 1 to 13 and comments, in part on the appellants Written Representations Statement.

### Reason 1

- 6.2 *"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."*

### Policy Context

- 6.3 Core Strategy CS10(f) states that the Council will:

*"support the retention and enhancement of existing community, leisure and cultural facilities"*.

- 6.4 The supporting text to CS10 (at paragraph 10.19) sets out the relevant background:

*"We recognise that increasing the number of community, and some leisure, facilities in Camden will be difficult due to competition from other, higher value land uses and due to the pressure on existing facilities to be redeveloped for more profitable uses. Therefore we will seek to protect existing community facilities where they are necessary to support the local population. Please see policy DP15 in Camden Development Policies for our detailed approach to protecting community and leisure facilities"*.

- 6.5 The policy background to DP15 therefore includes reference to and emphasises the difficulty of finding alternative sites for leisure and community facilities, and the need to protect the sites that do have such use.

- 6.6 In the explanatory text to DP15, para 15.9 it states that:

*"The Council is opposed to any reduction in the provision of leisure facilities because of their contribution to our quality of life and to Camden's cultural character. Where a replacement leisure facility is to be provided, the applicant should demonstrate to the*



*Council's satisfaction that the replacement facilities are at the same standard or better than those lost, and that the new location will be easily reached by the users of the facility. Proposals involving the loss of a leisure facility should demonstrate that adequate alternative facilities are already available in the area, and therefore that no shortfall in provision will be created by the loss. They should also show that the site cannot be used for an alternative leisure use, either because there is no demand, or because the location is no longer suitable for leisure uses"*

6.7 DP15 itself states that:

*"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.*

6.8 Given the wording of DP15 paragraph 15.9 it is arguable that the tests set out in DP15 (e) and (f) are cumulative and both have to be satisfied (i.e. paragraph 15.9 states that '*they should **also** show*'). However, it is accepted that the most comfortable objective reading of policy DP15 (e) and (f) is that they are alternatives and an applicant need satisfy only one in order to satisfy the policy.

6.9 In this case neither criteria (e) nor (f) were satisfied.

6.10 Criteria (e) is not satisfied because adequate leisure 'facilities' (i.e. land and/or buildings) are not already available in the area. The evidence shows that there are not adequate leisure facilities in the area and if the appeal site is redeveloped there will be a shortfall in the provision of leisure facilities by its loss. The Appellant is offering replacement facilities (including public open space and enhanced and extended tennis facilities). These are not of the same standard as the indoor facilities being lost and will not satisfy the shortfall in provision created by their loss.

6.11 The adopted Minutes of the Development Control Committee (14/01/16) meeting state:

*"That planning permission be refused for the following reason:- 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”.*

- 6.12 The Committee Minutes and the reason for refusal includes reference to the fact that the applicant has failed to demonstrate that the existing leisure facility is no longer required in the context of DP15, and as such it is implicit that it fails both limbs of the DP15 test including DP15(e). The references that have been made to the officer’s report go no further than confirming that the bowling use of the facility has ceased and bowling facilities are no longer required. The statements cannot fairly be construed as a concession by the Council that DP15(e) has been satisfied as the Appellant suggests at paragraph 4.10 to 4.14 of their Hearing Statement.
- 6.13 The development site is already a multi- purpose leisure and community site, with indoor bowling, tennis, community meeting rooms and large social areas. The Appellant’s argument that because one ‘use’ of multi-purpose centre is no longer required does not mean that the ‘facility’ is no longer required. As seen below (para 6.25) and in **Appendix Six** to this Hearing Statement the current facility is capable of hosting a variety of leisure and community needs for which there is a clear demand and for which there is no available supply.
- 6.14 As to criteria DP15 (f), this is also not satisfied because while the bowling facility may no longer be required, the Appellants have not demonstrated that there is no demand for an alternative leisure use of the site that would be suitable. As is also set out below, the evidence clearly shows that, in fact, there is significant demand for an alternative (suitable) leisure use of the site.

*Later and emerging local policy*

- 6.15 Further, in the Submission Version of the new Local Plan, which will have some weight in decision making, Policy C2 states under “Community Facilities” that:

*“The Council will work with its partners to ensure that community facilities and services are developed and modernised to meet the changing needs of our community and reflect new approaches to the delivery of services. The Council will:*

...

- (g) *ensure existing community facilities are retained recognising their benefit to the community, including*

*protected groups, unless one of the following tests is met:*

- i. a replacement facility of a similar nature is provided that meets the needs of the local population;*
- ii. the existing premises are no longer required or viable in their existing use and there is no alternative community use capable of meeting the needs of the local area. Where it has been demonstrated to the Council's satisfaction there is no reasonable prospect of a community use, then our preferred alternative will be the maximum viable amount of affordable housing".*

6.16 It is clear that the appellants do not propose a replacement of a similar nature, and that an alternative community use does reasonably exist (detailed below), and so the application fails on both these tests in the emerging new Local Plan.

6.17 Policy C3 "Cultural and Leisure facilities" in the Submission Version of the Local Plan (2016) states;

*"The Council will protect cultural and leisure facilities valued by the community, including protected groups and which are an important identity of the Borough or local area, cultural variety and richness, health and wellbeing, townscape, heritage and the economy....*

*Where there is a proposal involving the loss of a cultural or leisure facility, it must be demonstrated to the Council's satisfaction there is no longer a demand. When assessing such planning applications, we will take the following into account:*

- a. whether the premises are able to support alternative cultural and leisure uses which would make a positive contribution to the range of cultural and leisure facilities in the borough;*
- b. the size, layout and design of the existing facility;*
- c. proposals for re-provision elsewhere;*
- d. the impact of the proposal on the range of cultural and leisure facilities; and*
- e. the mix of uses in the area".*

6.18 The application would fail Policy C3 on account of there being alternative uses; that the size layout and design of the current facility could support alternative uses, the lack of opportunity for re-provision of such a indoor facility elsewhere, and the high level of impact that the community indicate (and that is supported by the latest strategic assessments) would have if the facility was lost.

6.19 It is also noted that the site is clearly a valued local community location given that it has been given the status of an "Asset of Community

Value”, and this should be given some weight in decision making. This is confirmed by the extensive consultation responses as to the value, and need, of retaining this site. This is re-enforced in the context of new Local Plan Policy C3.

### The NPPF

- 6.20 In addition, the Council notes that Policy DP15 was adopted in 2010 before the NPPF was introduced, and, to the extent that Policy DP15 is said to be inconsistent with the NPPF (and in particular paragraph 74), the Council is entitled to give less weight to policy DP15 and prefer the NPPF tests.
- 6.21 The Appellant, with their statement, dated June 2016 refers to NPPF paragraph 17 core principles but misses out the key relevant bullet point:
- *take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.*
- 6.22 The Appellant also refers to NPPF Paragraph 70 but fails to refer to the key bullet points of importance in relation to the Appeal which include:
- *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments”;*
  - *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;*
  - *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services*
- 6.23 The Appellant fails to refer to two key paragraphs of the NPPF which include paragraphs 73 and 74:

*73. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.*

74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

6.24 The appeal proposal is considered to fail all three tests of paragraph 74. The latest assessments (please refer to **Appendix Six** and below i.e. at paragraph 6.34) show that there is a demand for other uses at the site and there is still a clear need for indoor sport (as well as open space, playing fields and youth sport/play) across Camden.

Evidence as to adequate alternative facilities in the area and demand for alternative (suitable) leisure use of the site

6.25 This is a clear and strategically important indoor sports facility, for which there is an indisputable alternative leisure and community need, and which is proposed to be lost, and for which there is no reasonable likelihood of being provided at another location. This facility will be critical to supporting the health and well being of the community and supporting the characteristics of the local area and its community. When this is set against the provision of 21 residential units, it is suggested that the Inspector may consider that this application falls well short of satisfying the policy tests.

6.26 The Appellants Written Representations statement refer to the National Planning Guidance (NPG), yet fail to refer to NPG 002 and 003 where Sport England's methodology and also their guidance is advised where there is a proposed loss of sports facilities. The Council is aware that Sport England has reinforced their objection to the scheme (please refer to **Appendix Five**). Work by Nortoft Planning has proved that the concerns of Sport England, that the applicant was asked to address but did not, remain justified.

6.27 It is noted within the Appellants Written Representations statement in paragraph 2.3 that within the KKP independent report that "*both facilities closed in 2013 and are now in disrepair, redundant and not fit for purpose*". This is not the case. As a clarification point, the Council is aware and have been informed that the Kenlyn Tennis Club is still operational on the site and members of the club regularly play tennis on the two existing courts. The main social building with changing rooms has a caretaker's flat which is still being lived in. The car park is functioning as car park for a motor coachworks company.

- 6.28 Paragraph 2.21 states that they ‘*understand that an application for the site [Highgate Newtown Community Centre] is currently being prepared.*’ The Council, as Landowner is currently looking at the options of the site, however, pre-application discussions have not commenced at this time nor has a planning application been submitted.
- 6.29 The Appellant’s Statement (4.31) referencing KKP’s response to Sport England state amongst other things that: “*to comply with Sport England guidance a new sports hall must be 34.5m x 20m*” The Council consider this to be incorrect in that the NPPF and Sport England effectively require like for like or better and the retention of the current facility in terms of the size issue raised would be acceptable in this instance.
- 6.30 The Appellant’s Representations refer to the SLC report (and KKP analysis of that on behalf of LBC) that many alternative uses would not be suitable or not financially sustainable without enabling development. In light of the appeal, the Council has instructed a further consultant to review all the information submitted as part of the appeal process. The Appellant’s representations are not considered to be correct and the SLC and KKP reports are neither comprehensive nor robust on this matter. Therefore, it is considered that neither criteria DP15 (e) nor (f) have been satisfied.
- 6.31 The current facility comprises of an indoor sports hall, large areas for community social activities and meetings, outdoor sports areas for bowls and tennis, open space, as well as ancillary areas such as space for parking over 60 cars. Alternative uses have been researched by the Council’s consultant, Nortoft Planning and are detailed in **Appendix Six** to this statement. It is considered that through the further research that has been undertaken there are many alternative uses that would be able to use the current facility if it were renovated, that have not been considered within the Appellants Case.
- 6.32 These alternative uses are based on known, researched demand for which there is no supply or an inadequate supply and for which the Council has identified a strategic need. The alternative uses may well be viable both in terms of capital and revenue funding.
- 6.33 Whilst it is accepted that it is not likely that there is a continued need for indoor bowls use, there is a clear need for both the whole multi-use sports and leisure site, and especially for the current indoor hall space in this location.
- 6.34 There is a current borough wide deficit in multi-use sports halls across Camden. The Open Space, Sport and Recreation Study (please refer to **Appendix Nine**) identifies that as a consequence of housing growth there will be a deficit by 2025 of 21 sports courts and by 2031 some 23

courts (about six 4-court halls)<sup>1</sup>. At present there is an agreement to deliver only one 4-court hall within the Borough. Whilst there is not a strategic commitment or funding available at present by the Council to finance new halls<sup>2</sup>, there are other opportunities for funding that can reasonably be considered. These include operator funding, school funding, grant funding, lottery funding and loans.

- 6.35 There are also known deficits in provision of specific sports/leisure uses. Alternative uses of the indoor sports space at the appeal site that have been researched and that can reasonably be expected may offer a viable alternative include: gymnastics<sup>3</sup>, fencing<sup>4</sup>, indoor athletics<sup>5</sup>, as well as likely needs for soft play<sup>6</sup>, trampolining<sup>7</sup>, and Futsal. There is evidence that a multi-use hall (specifically such as the current facility with its indoor hall and also a large community activity space) could also be financially viable and attractive to a major national community sports charity. Both SLC and KKP dismiss any need as not being viable, however leisure operator GLL (one of the largest national leisure providers who currently run leisure centres in Camden) who know the site well have stated:

*“GLL’s analysis is that there is more than enough latent demand for a variety of indoor sports and leisure activities in the area that would be able to be serviced by the current building (once renovated) or a new replacement leisure building on site, and certainly have the potential to be viable. Activities that have a market include dance, other health and fitness studio based activities, a gym, Futsal, other sports and use of the facility by schools. If there was an available market for recreational gymnastics and fencing then these might also be reasonably considered. Caveats would include type of tenure, unknown on-site abnormal costs, the state of the building and cost of renovation/replacement and a deliverable business plan. However in my opinion there is likely to be a reasonable chance of delivering a viable long-term leisure based operation on this site, including appropriate capital and revenue costs” (Aug 2016).*

- 6.36 Direct discussions with other potential sports users including gymnastics, fencing and athletics clubs suggests confidence in the potential to make the facility at least revenue neutral. Such evidence is included within **Appendix Six**.

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<sup>1</sup> LBC Infrastructure Update 2015 and Indoor Sports and Leisure Assessment Report Jan 2015

<sup>2</sup> LBC Infrastructure Study 2015

<sup>3</sup> London Gymnastics and Camden Gymnastics Clubs (Aug 2016).

<sup>4</sup> British Fencing/ Camden Fencing Club (Aug 2016)

<sup>5</sup> Local Athletics Club identified needs (Aug 16)

<sup>6</sup> Correspondence with operators

<sup>7</sup> Correspondence with operators

- 6.37 Serious interest has also been shown by schools (please refer to **Appendix Six**), including nearby La Sainte Union, who may also have capital funding available. The interest of this and other schools was not properly considered by the Appellant or its advisors.
- 6.38 Commercial D2 leisure use by others such as trampolining centres has been considered at the site and is considered to be potentially viable (please refer to **Appendix Five and Six**).
- 6.39 The Camden Open Space, Sport and Recreation Study 2014 identifies a range of sports and leisure deficiencies and needs. This includes a shortage of District Park access within West Hampstead, Highgate, Gospel Oak area and one additional pocket park in the area was proposed. The external space at the appeal site could function as a pocket park, and include tennis, youth leisure and other activities complimentary to the indoor sport use.
- 6.40 The need for sports and leisure is backed by other LBC strategic documents including the Indoor Sports and Leisure Facilities Assessment 2015, as well as the LBC Infrastructure Study Update (2015) (please refer to **Appendix Nine**).
- 6.41 The appeal site is an Asset of Community Value in relation to its sports, leisure and community use. The Local Plan (Submission Version) identifies that:
- “The Council, when determining planning applications involving loss of community facilities, will treat the listing of an Asset of Community Value as an indicator of local support and evidence that it furthers the social wellbeing and interests of residents”.*
- 6.42 The Appeal site is an important indoor sports facility, for which there are indisputable alternative leisure uses and community needs, that is proposed to be lost (forever), and for which there is no reasonable likelihood of being provided at another location, due to the urban nature and high land values within Camden. A reduction in need of one of the uses of a multi-sport facility does not mean the facility itself is not needed. This facility will be critical to supporting the health and wellbeing of the residents of Camden and supporting the characteristics of the local area and its community. The onus is on the Appellant to provide sufficient, robust evidence to justify the loss of the D2 use. Such evidence is not considered to have been provided to satisfy the Council that a loss of D2 uses in this area is acceptable in this instance.
- 6.43 The appeal proposal is not consistent with the Core Strategy, the Development Policies, the Local Plan (Submission Version), the latest LBC strategic leisure assessments, and it is not consistent with the NPPF.



- 6.44 When this is set against the provision of 21 residential units, it is suggested that the Inspector respectively considers that this application falls well short of achieving the planning balance described in national and local policy, and not been a sustainable development in terms of national and local policies.

### **S106 reasons for refusal 2-13**

- 6.45 If Reason for Refusal 1 is upheld then Reasons for Refusal 2-13 do not fall to be considered. However, if the appeal for Reason for Refusal 1 succeeds then Reason for Refusal 2 -13 must be considered.
- 6.46 Reasons for refusal (RfR) 2-13 could be addressed by an appropriate S106 planning obligation. The Council is working with the appellant to prepare a legal agreement which addresses RfR 2-13 in respect of the planning appeal. However, in the event that some/all matters cannot be agreed in this way then the Council will provide evidence to demonstrate that the requirements are justified against relevant planning policy and meet the tests laid out in the Community Infrastructure Levy (CIL) Regulations 2010 in particular Regulation 122(2) which require that for a planning obligation to constitute a reason for granting planning permission it must be (a) necessary to make the development acceptable in planning terms, (b) directly related to the development, and (c) fairly and reasonably related in scale and kind to the development, and the National Planning Policy Framework (particularly paragraphs 203-206).
- 6.47 Given this context, at the time of writing the Council has not received a fully signed final legal agreement document and therefore the Council reserves the right to comment further upon its contents at a later stage of the appeal proceedings.

### Reason 2

- 6.48 *“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.”*
- 6.49 CS10 states that the Council will “support the retention and enhancement of existing community, leisure and cultural facilities”. Camden’s population is expected to continue to grow which will increase the demand for community uses in the future. The supporting text also comments that “we will seek to protect existing community facilities where they are necessary to support the local population”.

CS19 states that the Council will “work with relevant providers to ensure that necessary infrastructure is secured to support Camden’s growth and provide the facilities needed for the Borough’s facilities.” The policy also goes on to state that the Council will “b) use planning obligations, and other suitable mechanisms, where appropriate....”.

- 6.50 Due to the proposal, the redevelopment of the site would result in the demolition of the existing bowls clubhouse which is in class D2 use. The replacement building would provide residential accommodation in the form of dwelling houses and flats, with 11 units being Affordable tenure. Therefore, the leisure use of this part of the site would be lost forever. Throughout the process of the application, the Council sought a financial contribution from the Appellants to provide some mitigation against the loss of the D2 use and in acknowledgment of the fact that the application is not in line with Planning Policy, especially DP15.
- 6.51 A contribution of £600,000 was sought and considered appropriate after an assessment of what such a financial figure could be used on in terms of Council leisure development and facilities in the local area. During the application process it was considered that the loss of the existing use could be offset, by making a s106 contribution which could be used to mitigate the effect of the loss, by being applied towards the provision of alternative facilities in the borough. The calculation was based on a contribution to Talacre Sports Centre to increase capacity within the existing site. Whilst it is appreciated that the contribution would not be sufficient to provide an adequate alternative facility, it is considered that the Council took a balanced view based on the evidence presented alongside the competing policy considerations that the appeal scheme proposes. Such a view was considered appropriate given that the scheme proposed a policy compliant affordable housing offer, involved the re-provision and redevelopment on the site of a three court tennis facility, and included the formation of a community garden on existing private open space.
- 6.52 Should the Inspector be minded to agree with the Council and dismiss the appeal on reason for refusal 1 such a financial contribution would not be required. However, should the Inspector be minded to allow the appeal, such a contribution should be sought in order to provide some mitigation against the loss of the facility at this site and in order to contribute to the future provision of and retention of existing leisure sites in the borough.

#### CIL Compliance

- 6.53 The securing of financial contribution by S106 agreement is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to secure a key priority of the LDF. It is directly related to the development and is fairly and reasonably related in scale and kind.

### Reason 3

- 6.54 *“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.”*
- 6.55 The appeal scheme includes repaving the existing two tennis courts as well as the provision of an additional third court. The existing club house would be also demolished and replaced with a new pavilion for the tennis club. The pavilion would accommodate WCs, a kitchenette, indoor space for meetings and storage facilities for tennis equipment. There would also be a sheltered terrace. The redevelopment of this existing facility is considered to be in line with DP15 through protecting and providing the community facilities that meet the needs of Camden’s growing population as well as CS10 in addition to national planning policy.
- 6.56 Concern was raised through the process of the application that the courts would and could be sold off to a new operating body thereby ceasing the use of the facilities by the established Kenlyn Tennis Club or that the rent on the facilities would be too expensive for the Kenlyn Tennis Club to accommodate and would therefore have an impact on membership prices and/or the future of the club. As such, it is considered appropriate that a head of term is included within a S106 agreement to ensure there would be an agreement that the existing and well established tennis club would be able to afford the renovated and re-provided tennis facilities in terms of rent, lease agreements and access arrangements etc. Such agreement would also be necessary to ensure the continuation of support for the club from the local community.

### CIL Compliance

- 6.57 The securing of affordable tennis facilities by S106 agreement is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to secure a key priority of the LDF. It is directly related to the development and is fairly and reasonably related in scale and kind.

### Reason 4

- 6.58 *“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.”*

- 6.59 The appeal site, with the exception of the indoor bowling facility building, is designated Private Open Space (POS) as per map 7 of the LDF. CS15 seeks to protect and improve our parks and open spaces. It also refers to the importance of the space in terms of “health, sport, recreation and play, the economy, culture, biodiversity, providing a pleasant outlook and providing breaks in the built up area” (page 133). Paragraph 15.14 of CS15 states that the Council will seek to secure public use of open spaces on appropriate sites, for example by providing public access arrangements. Para 15.15 states that the Council seek to provide additional formal and informal play spaces in areas of deficiency. The supporting text in paragraph 15.9 of CS15 recognises that a large proportion of the borough’s residents do not have reasonable access to small and local parks and open spaces.
- 6.60 The appeal scheme proposes to deliver publically accessible open space in the form of a large lawn area with seating areas (approximately 789 m<sup>2</sup>), with the northern lawn area being provided as space for informal children’s play. There would be fixed play equipment and natural play elements along the east of the lawn. The proposed community garden (approximately 250m<sup>2</sup>) would be provided between the tennis courts and the residential development and would also be available to use by the public. The community garden would comprise a central lawn area and two areas of raised planting beds. A shed and compost area would be provided to the east of the gardens and benches and a picnic area are also proposed. In the interest of securing public open space to address local deficiencies and ensure benefit both new and existing communities, an open space Management plan is considered essential.
- 6.61 As the proposed public open space would remain in private ownership, appropriate measures to ensure it remains both accessible and in an appropriate condition for public enjoyment and benefit for perpetuity are considered to be of considerable importance in this case. Such a management plan would confirm details such as when and how the space would be locked and unlocked, the specification details for routine maintenance tasks necessary to keep it in good condition and any management arrangements deemed necessary to secure public benefit (such as limiting use for private events) etc. In this instance, the inclusion of a community garden area necessitates additional management details to confirm how this space would be managed to ensure it provides the intended community benefits as part of the public open space provision.

- 6.62 Without such an agreement there is no assurance that the public open space secured would remain accessible to the public and of a quality/condition appropriate for achieving community benefit. Therefore, this obligation is considered to be directly related to the development and fairly and reasonably related in scale and kind.

#### CIL Compliance

- 6.63 The securing of a management plan by S106 agreement is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to secure a key priority of the LDF. It is directly related to the development and is fairly and reasonably related in scale and kind.

#### Reason 5

- 6.64 *“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.”*
- 6.65 Policy CS6 advises that “the Council will aim to secure high quality affordable housing available for Camden households that are unable to access market housing by seeking to ensure that 50% of the borough-wide target for additional self-contained homes is provided as affordable housing” (Criteria f).
- 6.66 Policy CS19 further states that the Council will “use planning obligations, and other suitable mechanisms, where appropriate, to support sustainable development; secure any necessary and related infrastructure; and facilities and services to meet needs generated by development and mitigate the impact of development” (Criteria b).
- 6.67 Policy DP3 also expects all developments with a capacity to provide 10 units or more to make a contribution to affordable housing. DP3 introduces a sliding scale for developments between 10 units and 50 units. The 50% target operates on a sliding scale for housing developments, subject to the financial viability of the development, with a norm of 10% for 1,000sqm of additional housing and 50% for 5,000sqm of additional housing, considered to be sites with capacity of 10 dwellings and 50 dwellings respectively. Policy DP3 and CPG2 - Housing (paragraph 2.33), state that affordable housing should be calculated using Gross External Area (GEA).
- 6.68 The sliding scale does not apply to all mixed use developments. For example the sliding scale does not apply if the development includes an addition of non-residential floorspace of 1,000sqm or more. In such

cases there is significant potential for the non-residential element to enhance the viability of the development, and therefore the Council would seek 50% of residential floorspace as affordable housing (subject to DP3 criteria).

- 6.69 The appeal proposes a total GEA of new residential floorspace of 3438m<sup>2</sup> which would require 35% of the proposed floorspace as affordable housing. The appeal scheme would provide 11 affordable units which is a policy compliant quantum of affordable housing (35%). It also represents 52% of the total units as affordable. The proposed tenure split is 64% social rent and 36% intermediate.
- 6.70 In terms of the affordable housing provision the Council would welcome this policy compliant scheme which would provide an appropriate number of units and tenure split. The scheme would deliver good quality housing accessible for different groups. The scheme complies with Policy CS 6 and DP2 and is acceptable in land use terms.

#### CIL Compliance

- 6.71 The securing of affordable housing by S106 agreement is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to secure a key priority of the LDF. The level of provision to be secured takes into account the particular characteristics of the development. It is directly related to the development and is fairly and reasonably related in scale and kind. This supports key principle 6 of the NPPF: Delivering a choice of high quality homes.

#### Reason 6

- 6.72 *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.*
- 6.73 Policy DP18 states that the Council will seek to ensure that development provides the minimum necessary car parking provision. The Council will expect Development to be car free in town centres, Controlled Parking Zones and areas which are well served by public transport.
- 6.74 The appeal site is located in the Highgate controlled parking zone (CA-U) which operates between 1000 and 1200 hours on Monday to Friday. The site is easily accessible by public transport with bus stops located nearby. However the site has a PTAL rating of 3 which means the Council cannot insist on a car free development.

- 6.75 The appeal scheme includes 6 parking spaces on the site. Due to the perceived pressure the development could have on the Controlled Parking Zone (CA-U) the scheme should be 'Car-capped' through a S106 agreement if the appeal were allowed. The reasons for securing a 'car capped' development are to facilitate sustainability and to help promote alternative, more sustainable methods of transport. Through the consultation process it was also clear that local residents had concerns regarding a potential increase in traffic accessing the site.
- 6.76 This is in accordance with key principle 4 of the NPPF, promoting sustainable transport, and policies CS11, CS19, DP18 and DP19 of the LDF.
- 6.77 A planning obligation is considered the most appropriate mechanism for securing the development as 'car capped' as it relates to controls that are outside of the development site and the on-going requirement of the development to remain 'car capped'. The level of control is considered to go beyond the remit of a planning condition.
- 6.78 Furthermore, the S106 agreement is the mechanism used by the Council to signal that a property is to be designated as 'car capped'.
- 6.79 The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ('TMO'), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO.
- 6.80 The Council could not practically pursue an amendment to the TMO in connection with every application where the additional dwelling (or dwellings) ought properly to be designated as car capped. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its 'car capped' status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a 'car capped' S106 Obligation.
- 6.81 The TMO sets out that it is the Council's policy not to give on street parking permits to people who live in premises designated as 'car capped', and the S106 agreement is the mechanism used by the Council to signal that a property is to be designated as 'car capped'.
- 6.82 Furthermore, the use of a S106 Agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as 'car capped' and that they will not be able to obtain a on street parking permit. This part of the legal agreement stays on the

local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for on street parking permits.

#### CIL Compliance

- 6.83 The 'car capped' requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the NPPF: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

#### Reason 7

- 6.84 *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.*
- 6.85 Policy DP20 seeks to protect the safety and operation of the highway network. For some development this may require control over how the development is implemented (including demolition and construction) through a Construction Management Plan (CMP).
- 6.86 Section 8.8 of CPG6 also states that a CMP is usually required for sites that create 10 or more dwellings or 1,000sqm or more of floor space. The proposed development exceeds these thresholds. The development would involve significant demolition, basement excavation and construction work. This would require a large number of construction vehicle trips associated with the removal and delivery of materials and equipment. The appeal scheme is therefore likely to have a significant impact on the local highway network (traffic congestion and road safety issues) and amenity (noise, vibration, air quality).
- 6.87 The constrained nature of the site and other developments in the area mean a CMP is considered necessary in accordance with policies CS5, CS11, CS19, DP20, and DP26 specifically paragraph 26.10, and CPG7.



- 6.88 A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users or be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.
- 6.89 Under the Planning Act, conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on-site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and/or highway safety on the nearby roads hence, using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.
- 6.90 Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to offsite requirements, particularly public highway (which is not land within the developers' control). As such, a S106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with PPG which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability. (PPG, Use of Conditions paragraph 9).

#### CIL Compliance

- 6.91 The CMP requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from construction at the site.

#### Reason 8

- 6.92 *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.*

- 6.93 Policy DP21 states that the Council will expect development connecting to the highway to repair any construction damage to the transport infrastructure or landscaping and reinstate all affected transport network links, road and footway surfaces following development. In order to cover the Council's cost to repair any highway damage as a result of construction and to tie the development into the surrounding urban environment, a financial contribution should be required to repave the footway adjacent to the site in accordance with policies DP16 and DP21.
- 6.94 A financial contribution towards public highway works would be required towards the footway and vehicular crossover directly adjacent to the site access on Croftdown Road would be damaged as a direct result of the proposed works. This is acknowledged by the Appellant in their Transport Statement. This will ensuring that any damage caused during construction is repaired.
- 6.95 The estimate for this work, prepared by the Borough Engineer, is £16,629. It is considered that this amount is justified given the size and scale of the development. A copy of the estimate with an accompanying plan is attached as **Appendix Seven**.
- 6.96 The Council maintains that a payment for highways work should be secured through a S106 agreement, which will also combine as an agreement under S278 of the Highways Act 1980. CPG8 states that public highways works on Borough Roads are to be undertaken through a S106 agreement or S278 obligation. The guidance also states that the Council will secure payment for required works by preparing an estimate (including fees) for the scheme that the developer will be required to pay before commencing development (paragraph 5.14).
- 6.97 The most effective way of both securing sufficient payment and ensuring the works are carried out to the Council's procedures and standards is for a financial contribution to be paid by the developer on commencement of the development and secured by an obligation under S106 agreement. It is not possible to secure a financial contribution for highway works by condition as it relates to land outside the application site and is not under the control of the applicant. The PPG advises that financial contributions cannot be secured by condition (PPG, Using Planning Conditions, paragraph 5).

#### CIL compliance

- 6.98 The public highway works contribution identified is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

### Reason 9

6.99 *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.*

6.100 Policies CS11, CS19, DP16 and DP17 seek to promote sustainable development and ensure that development is properly integrated with the transport network and supported by adequate walking, cycling and public transport links with appropriate mitigation measures in place.

6.101 The Planning Inspector is respectfully requested to consider the following references from Camden's LDF already provided when assessing the need for the planning obligation requested:

- Policy CS11 specifically the summary page (page 100) and paragraphs 11.8 to 11.16;
- Policy CS19 specifically paragraphs 19.14 to 19.19;
- Policy DP16 specifically paragraphs 16.18 and 16.19;
- CPG7 specifically section 3 (Travel plans); and
- CPG8 specifically paragraphs 2.19 (Costs and fees), 2.22 to 2.24 (Expenditure of funds) and 10.4 (Travel Plans).

6.102 A planning obligation is considered the most appropriate mechanism for securing the Travel Plan as it relates to controls that are outside of the development site and the ongoing requirement of monitoring. The associated monitoring and administration contribution is set at £3,001. The level of control is considered to go beyond the remit of a planning condition.

6.103 The appellant is willing to sign a S106 agreement in respect of the travel plan and

### CIL Compliance

6.104 The securing of a Travel Plan and associated monitoring/administration contribution by S106 agreement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the NPPF: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the impact on the surrounding highway network.

### Reason 10

- 6.105 *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.*
- 6.106 The proposed development is large enough to generate significant local economic benefits. Policy CS19 and Camden Planning Guidance state that in the case of such developments the Council will seek to secure employment and training opportunities for local residents and opportunities for businesses based in the Borough to secure contracts to provide goods and services.
- 6.107 CPG8 sets out in section 8 that the Council may require developers to assist with training and employment initiatives via the S106 Agreement where the development impacts on the availability of jobs for Camden residents. Included in the list is when the development is a major infrastructure or development projects involving significant construction contracts (e.g. over £3 million), which would apply to this scheme. This achieves the strategic requirements of policy CS8.
- 6.108 In line with CPG8, a range of training and employment benefits are required to be secured in order to provide opportunities during and after the construction phase for local residents and businesses. This package of recruitment, apprenticeship and procurement measures were agreed with the appellant at the time of the application and would be secured via a S106 agreement.
- 6.109 There is an identified skills gap between Camden residents and the jobs on offer in the Borough. Currently, only 23% of the workforce in Camden is resident in the Borough. Local employment and training initiatives can open up job opportunities for people from many sectors of the community, who may otherwise find it difficult to access employment offered by existing and new businesses, helping to bridge the identified skills gap. Such benefits can help to alleviate the recognised impacts that major development and construction works can bring.

### CIL Compliance

- 6.110 The securing of the above training and employment benefits would comply with the CIL Regulations as it ensures that the development is acceptable in planning terms to facilitate the inclusion of local training opportunities during the construction of the development. The creation

of local employment and business opportunities will reinforce neighbourhood renewal objectives and improve the sustainability of the local economy. This supports key principle 1 of the NPPF: Building a strong competitive economy.

#### Reason 11

- 6.111 *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.*
- 6.112 Policies DP27 and CPG4 state that developers will be required to demonstrate with methodologies appropriate to the site that schemes for basements the structural stability of the building and neighbouring properties; avoid adversely affecting drainage and run-off or cause other damage to the water environment; and avoid cumulative impact upon structural stability or water environment in the local area.
- 6.113 The scheme involves excavation of a basement level under part of the residential development to provide basement levels for four of the dwellinghouses. The applicant submitted a Basement Impact Assessment (BIA) in accordance with policy DP27 and the guidance set out in CPG4.
- 6.114 A Basement Construction Plan should be submitted, should the Inspector be mindful to approve the appeal to include the additional information required as a requirement for trial excavations, monitoring of the works and also to ensure that the developers use reasonable endeavours to reduce the impact of the basement development.

#### CIL compliance

- 6.115 This obligation complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to facilitate sustainable development. This supports the NPPF key principle to achieve sustainable development. It is also directly related to the development and fairly and reasonably related in scale and kind as it ensures that the development itself is sustainable.

#### Reason 12

- 6.116 *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.*

- 6.117 Policy DP17 states that development should make suitable provisions for pedestrians, cyclists, public transport and wider environmental improvements.
- 6.118 The development would introduce new residents to the area and the Council aims to encourage walking and cycling as the primary mode of transport for short journeys. The Council is committed to improving cycling and pedestrian routes in the area.
- 6.119 Given the scale of the proposed development and in order to ensure it makes suitable provision to address the significant increase in trip rates generated by the occupiers of the development, which would have an impact on the surrounding footways and public transport facilities, a financial contribution of £40,000 is required towards Pedestrian, Cycling and Environmental Improvements in the local area. The Council would utilise this to make modest improvements to the 'Quietway' (or Greenway) cycle route adjacent to the site (i.e. York Rise, Croftdown Road and Brookfield Park). This would include measures to make cycling safer and more comfortable on these roads (e.g. traffic calming/management measures, particularly at junctions). This would be used to help to mitigate against such impacts while also helping to encourage sustainable transport choices. The transport statement acknowledges that Brookfield Park, Croftdown Road and York Rise form part of the proposed London Greenway cycle network. These roads are in close proximity to the site.

#### CIL compliant

- 6.120 The Pedestrian, Cycling and Environmental works contribution identified is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

#### Reason 13

- 6.121 *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.*

- 6.122 Paragraph 93 of the NPPF states that planning plays a key role in reducing greenhouse gas emissions, minimising vulnerability, providing resilience to the impacts of climate change and supporting the delivery of renewable and low carbon energy.
- 6.123 Policy CS13 seeks to minimise the effects of climate change and ensure that development is designed to adapt to the effects of climate change. This includes securing higher environmental standards in design and construction through the use of planning obligations, and other suitable mechanisms, where appropriate. All developments are expected to reduce their carbon dioxide emissions by following the steps in the energy hierarchy (be lean, be clean and be green) to reduce energy consumption.
- 6.124 The Energy Strategy submitted by the appellant demonstrates that the proposal, in accordance with the GLA's energy hierarchy, will achieve a total CO<sub>2</sub> emissions reduction of 26.15% below the Target Emission rate in accordance with Building Regulations Part L 2013. This falls short of the London Plan requirement (policy 5.2) for 35% reduction but complies with Camden's policy requirement of 20%. In order to address this, the appellant proposes an additional 35m<sup>2</sup> of solar photovoltaic panels are proposed on the roof which would achieve the 35% reduction. A further sustainability plan is required to be secured via s106 agreement to detail further proposals to meet the London Plan 35% reduction target.
- 6.125 The Sustainability Plan would reflect the detailed design of the development and would be an accurate reflection of the proposals and how far the scheme goes to meeting the policy targets. If the appeal were to be allowed the Council would require a S106 agreement to secure the ongoing maintenance and retention of the sustainability measures. This would involve ongoing maintenance of a range of measures which may be updated or varied as agreed with the Council from time to time. This would not only be the responsibility of the developer, but that of subsequent owners and occupiers.
- 6.126 The Council consider a planning obligation would be the most appropriate tool to ensure on-going compliance with the above sustainability policy requirements identified. In addition, the Council's standard procedure is to not permit occupation of the development until a satisfactory post-construction review has been provided and any issues identified in that review have been satisfactorily addressed.

6.127 Given the complexity of the requirement a S106 rather than a condition is considered the most appropriate measure to secure this.

CIL compliance

6.128 This obligation complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to facilitate sustainable development. This supports the NPPF key principle to achieve sustainable development. It is also directly related to the development and fairly and reasonably related in scale and kind as it ensures that the development itself is sustainable.

**6.129 Other Material Matters**

The Appellant refers to the extent of compliance of the appeal proposals with the Council's Development Plan within their statement. The Council considers that the other planning considerations and aspects of the Appeal Proposal are documented within the Officers Report which can be found in **Appendix One**.

6.130 Without prejudicing the outcome of the appeal, should the Inspector be minded to approve the appeal, the Council has prepared Conditions we consider to be appropriate. Such conditions can be found in **Appendix Eight**.

**7.0 CONCLUSION**

7.1 The Council has set out above the reasons why planning permission was refused and why it upholds the reasons for refusal on the grounds that 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.

7.2 The Inspector is therefore respectfully requested to dismiss the appeal against the refusal of planning permission 2015/1444/P.



## **8.0 LIST OF APPENDICES**

Appendix 1 – Officer Committee Report for 2015/1444/P

Appendix 2 – Decision Notice for 2015/1444/P

Appendix 3 – Copy of the Committee meeting minutes

Appendix 4 – Relevant policy sections of the Draft Camden Local Plan

Appendix 5 - Submissions from Interested Parties received since appeal was submitted

Appendix 6 - Leisure and Community Need Prepared by Nortoft Planning

Appendix 7 – Copy of Highways estimates with accompanying plan

Appendix 8 – Suggested conditions for 2015/1444/P

Appendix 9 – Supporting Documents

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