**COHO PRE-APP DATED 14.06.15**

**QUESTIONS/ADVICE REQUIRED IN LBC’s PRE-APP RESPONSE**

**Issues arising from the Committee Report and Reasons for Refusal on Planning Application - 2015/1444/P**

1. **REASON FOR REFUSAL**From 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.

In our Pre-App meeting on 15.07.15, we discussed at some length the potential for sporting uses on the site, and a meeting with an officer from the Council’s sports service was proposed. We were given the very clear impression that we needed to place more emphasis on sporting activities, rather than other leisure or community uses (we proposed community gardens, orchard and public open space). However, the principal reason for refusal, apart from the reasons necessary to cover matters normally covered by the s.106 agreement etc, refers to only ‘leisure use’ and ‘leisure facility’.

Q. Can you please clarify the definitions you have been using in relation to leisure, community and sporting uses, and to which of these we need to give priority consideration in developing our proposals further?

1. **ENABLING DEVELOPMENT/CHANGE OF USE**

From the Jan 14th Committee Report

6.38 The neighbours also state that the provision of 21 residential dwellings cannot be considered ‘enabling development’. The Council and the applicant agree that the residential element of the scheme is not to enable the enhancement of the community facilities as was the case in the previous application. This application differs in that the applicant has sought to demonstrate that the loss of the existing sports/leisure (for bowls) use is acceptable given a decline in demand for that specific use, and that alternative uses have been explored and are either unsuitable or unviable. Therefore the applicant asserts that the change of use to residential use is acceptable as part of a wider scheme which delivers other benefits for the local community.

CoHo’s proposal was designed to meet the Council’s criteria for an enabling development, and we submitted a development viability appraisal to demonstrate how we intend to meet those criteria. We were aware that the applicant was attempting to demonstrate the justification for a change of use, rather than follow the ‘enabling development’ approach. However, our understanding of the Council’s Policy DP 15, in relation to a change of use, was that *“the Council will protect existing community facilities by resisting their loss unless:…c) a replacement facility… is provided; or, d) the specific community facility is no longer required…etc Where this is successfully demonstrated, the Council’s preferred new use will be affordable housing.”* We are not aware of any consideration of this option during the public consultation, the Developer’s Forum or the committee report.

Q. If we were to consider making a similar case to the one made by the applicant, it would be helpful if you could:

* Clarify the Council’s position on the ‘Council’s preferred new use’ and the relevant policy to be applied
* Confirm that, notwithstanding the recent refusal, an application for an enabling development is still viable in policy terms, and, if yes, what policy criteria would need to be satisfied and whether the arguments used by Committee Members to reject the MBC application would have equal weight in relation to an enabling development.

**3. ANCILLARY/ENABLING DEVELOPMENT/CHANGE OF USE**From the Jan 14th Committee Report

6.45 It is acknowledged that the applicant, to the Council’s knowledge, has not explored the possibility of the provision of a mixed use building with sports facilities at ground or basement and enabling residential accommodation above.

We assume that this paragraph is the one referred to in the Committee meeting, by the presenting officer, in answer to a Councillor’s question about the possibility of any residential development being permissible on the site.

Q. Can you clarify whether this type of residential accommodation:

* falls within the definition of enabling development as discussed with us in July, and
* is now the only form of enabling development that you might consider, or
* would be considered to be ancillary development to the leisure uses to be retained/provided on the site, and if so, what offsite contribution, if any, would be required to meet any other local leisure needs, and what kind and quantum of housing would be permissible?

 **4. TENNIS**From the Jan 14th Committee Report

6.26 The report assesses the existing tennis facilities on the site; two outdoor shale courts with no cover or floodlighting which are used seasonally. The facilities are operated by Kenlyn Tennis Club which has a stable membership base and is highly valued by local residents. The report includes evidence that tennis is recognised as an important sport locally with above average participation rates. The report recognises that a three court club with enhanced facilities an improved access would benefit the local community. The provision of an additional court would enable the club to accommodate more hours of play and competitive matches without impinging on the amenity of neighbouring residents. It is anticipated that there could be a 50% increase in membership and the facilities would be available for coaching and for casual use on a pay and play basis. The facilities would also be available for use by local schools. The provision of one additional court is in line with the aim for the provision of four additional courts and the retention and upgrading of existing tennis courts across the borough as outlined in Camden’s Open Space, Sport and Recreation Study (June 2014).

6.35 Tennis has emerged as a priority sport for the borough in the needs assessments and according to research carried out by Pro-active Camden there is evidence of unmet demand for good quality and affordable tennis facilities.

We cannot find any specific area-related evidence from the applicant or the Council or its advisers to say whether the demand for tennis locally requires the retention of the 2 existing courts and/or the provision of a further court.

There are over 25 public outdoor courts within a reasonable distance of Croftdown Road, including 4 at La Sainte Union (said by local residents to need additional sports facilities), 10 at Parliament Hill Fields, 6 at Waterlow Park, 3 at Cantelowes Gardens, and 2 at Tufnell Park.

There are also 18 other private courts within a reasonable distance of Croftdown Road, including 2 at High Point, 4 at Channing’s School, and 14 at Highgate School.

This point is material as the Council’s reasons for refusal of the earlier application suggested that the balance of leisure uses on the site should be the subject of local consultation and ideally a consensus view, as any decision to adopt a viable tennis option would have a significant limiting effect on other possible leisure uses on the site, due to the land take required for the tennis courts and any ancillary facilities and access requirements.

Evidence of unmet demand for tennis and actual local views about a range of leisure uses would appear to be material considerations in any further consideration of the site.

Q. Is that correct?

**5. LOCAL PLAY**From the Jan 14th Committee Report

6.27 The report also considers the complementary uses proposed i.e. the public open space and children’s play space. Camden’s Play Strategy for 2007-2012 seeks to improve children’s and young people’s opportunities and recognises there is a need for more play space and informal recreation particularly for teenagers. The strategy also recognises that the needs of the children in the immediate vicinity of the site should be considered as a priority.

Camden’s Open Space, Sport and Recreation Study (2014) states that ‘all residents within the Borough should have access to formal children’s play provision within 400m from home.’ The application site lies within a children’s play space deficiency area.

This suggests that CoHo’s proposal to offer land to the nursery/play group at St. Mary’s Church Hall would meet some of this need and fit with the policy.
Q. Please advise on any further requirements needed that might fit with other Council plans.

**6. ASSET OF COMMUNITY VALUE**From the Jan 14th Committee Report

6.39 For the Council to accept the loss of the existing leisure use the applicant must demonstrate that the facility is no longer required and that there is no demand for an alternative suitable sports/leisure use. The consultation responses have demonstrated that there is significant demand for sports facilities in this location among the local community. It is also noted that the clubhouse (Class D2) use is valued by the local community hence its designation as an Asset of Community Value in 2013. It is also noted that community groups have expressed interest in purchasing the site to retain the D2 use including a recent offer made in October 2015. However as discussed in paragraph 1.11, the period for which the local community can raise the money to purchase the site has expired. It is not considered that the designation of the site as an ACV would in itself justify the refusal of the application however it is apparent that the premises are valued by the local community.

We believe that MBC may have already entered into an agreement for sale to Generator, subject to planning, before the expiry of the six month period for the community to make an offer and maybe even before the ACV application was made. This brings into question the validity of the application made, the efficacy of the application and registration process without full disclosure by the site owner, and thus any weight to be attached to community aspirations, at least until a valid application has been registered. We shall be endeavouring to find out further information in developing our proposals, and may raise the possibility of making a further valid application for registration of the whole site as an ACV.

Q. Could you please confirm the circumstances in which you would be prepared to receive a new ACV application?