

PINS Ref: APP/W1905/W/21/3271027

Proof of Evidence of Jennifer Thompson (BSc)(MSc) MRTPI

Submitted on

29th June 2021

On behalf of

Broxbourne Borough Council

Appeal Site:

Cheshunt Football Club

Local Planning Authority Planning Application Reference: 07/18/0514/F

Appeal Reference: AP/W1905/W/21/3271027

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1 Introduction

1.1 The Appeal is against Broxbourne Council's refusal of Planning Permission under 07/18/0514/F. The application site is Cheshunt Football Club, Theobalds Lane, Cheshunt, Herts EN8 9LY. The Planning Application was registered on 24th May 2018 and refused on 23rd November 2020.

1.2 The original reasons for refusal were as follows;

1. In the absence of any inclusion of affordable housing and contributions to community facilities that would mitigate the impacts of the development, the development fails to deliver a balanced package of planning obligations contrary to Policies PO1 and H2 of the Broxbourne Local Plan 2018-2033.
2. Increased levels of motorised traffic associated with the development would exacerbate air quality issues within the A10 air quality management area without adequate mitigation contrary to Policy EQ2 of the Broxbourne Local Plan 2018-2033.
3. The development would have an unacceptable impact on the amenity of the residents in Montayne Road bounding the site by way of overlooking and the perception of being overlooked, contrary to Policy EQ1 of the Broxbourne Local Plan 2018-2033.
4. The design of the development would have an unacceptable impact on the visual amenity and character of the surrounding area, contrary to Policy DSC1 of the Broxbourne Local Plan 2018-2033.

1.3 Reason for refusal 2 is not being defended and, as there are no subsidiary issues like an application for costs arising in respect of it, I do not comment on it further.

2. Witness Details

- 2.1 My name is Jennifer Thompson and I am a Consultant Principal Planning Officer at Broxbourne Borough Council. I have 17 years' experience as a planning professional, working as town planner in a range of sectors including Local Authority Planning, Development Control Departments at Epping Forest District Council and the London Borough of Havering. I was also seconded to the Policy Team for over a year at Epping Forest District Council. I have worked in private practice for a multi-disciplinary consultancy (Bidwells) and in my own practice. These roles often involved dealing with issues related to the integration of new development within sensitive urban and townscape contexts.
- 2.2 I hold a BSc in Environmental Science from the University of Southampton and an MSC in Spatial Planning from the University College London from the Bartlett School of Planning. I have been registered with the RTPI since 2005 and became MRTPI in 2015.
- 2.3 My development control experience includes working for the London Borough of Havering between December 2004 and October 2007 as a Planning Assistant, before moving to Bidwells in October 2007. During my time at Bidwells I worked primarily on large scale majors in various locations including Watford, Harlow, Brentwood, Bury St Edmunds and Canterbury. I then left in December 2008 after securing a position at Epping Forest District Council.
- 2.4 Commencing December 2008 in my role as a Senior Planning Officer at Epping Forest District Council I worked in both the Development Control and Planning Policy Teams. In Development Control my focus was primarily small-scale majors and complex applications and planning appeals. I also registered applications, responded to complaints, trained new staff members, presented applications at Planning Committee and balanced the merits of over 1200 applications during my appointment. In the field of policy-making, I was responsible for the progression of several evidence-base documents underpinning the Draft New Local Plan, including the Strategic Housing Land Availability Assessment, Open Spaces, Sport and Recreation Assessment, The

Heritage Appraisal and the Sustainability Assessment. I was also responsible for the associated consultant tendering processes, interview and appointment of the selected consultancies and managed a small team.

2.5 In 2014, I formed Thompson Planning Limited, becoming incorporated in 2017. My consultancy covers London and the South East and my work includes householder applications and small-scale major applications. My Company has been sub-contracting to Broxbourne Borough Council since June 2020.

2.6 In my capacity as a planner and built environment professional, I have worked for and with various Local Authorities, Developers and Housing Associations. I consider I am able to take a balanced professional view in assessing the impact of a development on the character and appearance of an area.

2.7 The evidence which I have prepared and provide for this appeal (in this Proof of Evidence) is true and I confirm the options expressed are my true and professional opinion.

3 Relevant Legislation

3.1 Relevant legislation and policy is agreed in the Statement of Common Ground.

3.2 In addition to the Broxbourne Local Plan Policies, the associated evidence base documentation is relevant, namely the Broxbourne Leisure Facilities Strategy, Outdoor Sports Facilities, Final Strategy dated December 2013 and the Draft Infrastructure Delivery Plan dated January 2018.

4. Relevant History

4.1 Application 07/16/1369/F sought permission for the following;

Area 1 - new stadium with up to 5,192 seats, 66 no. 1 bedroom apartments, 70 no. 2 bedroom apartments, 22 no. 3 bedroom houses and 28 no. 4 bedroom houses, highway access works, internal roads and supporting infrastructure. Area 2 - northern block - new facilities for cheshunt football club in use classes d1, d2 and sui generis - matters relating to internal layout and appearance reserved. Area 3 - western block - new sports, community, leisure and commercial uses in use classes a1, a3, a4, a5, b1, d1 and d2 - matters relating to internal layout reserved. (refused)

- 4.2 The Inquiry focusses upon the Council determination 07/18/0514/F subject to this refusal. However insomuch as differences between the proposals are discussed, then this refusal and associated application documentation is relevant.

5 Scope of Evidence

- 5.1 My evidence is given on behalf of Broxbourne Borough Council (hereafter referred to as BBC) and concerns the following issues;
- i) the importance of a balanced package of planning gains as part of the redevelopment of this site (Reason 1 on the Council's Decision Notice).
 - ii) impacts on the amenities of residents in Montayne Road (Reason 3 on the Council's Decision Notice).
 - iii) impacts of design on visual amenities and local character (Reason 4 on the Council's Decision Notice) ;
- 5.2 My evidence does not extend to the viability of the proposed development in relation to the package of planning gains offered. This aspect is addressed by Mr. Gerry Wade, Derek Wade Waters who deals fully with viability. Equally my evidence does not extend to the housing supply calculation which is addressed by Mr. Martin Paine, the Council's Principal Planning Officer. I take into account the conclusions of those experts when reaching my views on the proposal.
- 5.3 The focus of my review and basis of evidence is the material provided as part of Application 07/18/0514/F detailed in Appendix 1.

6 Decision-Making Context

- 6.1 I was not involved in the planning determination of the application subject to this Appeal. However, I have reviewed the Officer Report, Committee Webcast and Application Consultation Response. Whilst I have reviewed these for information, I have used my own professional experience and judgement, based on the relevant policies, to support the reasons for refusal herein.
- 6.2 My evidence considers and takes account of the relevant Planning Policy context.
- 6.3 Having considered the reasons for refusal issued, I am satisfied that the concerns raised by Councillors when determining the application result in an overarching harm that outweighs the relative benefits of the proposals whether each reason is considered individually or cumulatively. The reasoning for this opinion will be detailed below.

7 Reason for Refusal 1

- 7.1 The reason for refusal states:

In the absence of any inclusion of affordable housing and contributions to community facilities that would mitigate the impacts of the development, the development fails to deliver a balanced package of planning obligations contrary to Policies PO1 and H2 of the Broxbourne Local Plan 2018-2033.

Policy Context

NPPF

- 7.2 The NPPF states in para 34: 'Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management,

green and digital infrastructure). Such policies should not undermine the deliverability of the plan.’ Policies PO1 and H2 of the Broxbourne Local Plan fulfil this requirement.

- 7.3 Para 57 of the NPPF continues ‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. **The weight to be given to a viability assessment is a matter for the decision maker**, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.’ Bold emphasis provided by the author.

Broxbourne Local Plan

- 7.4 The Broxbourne Local Plan 2018-2033 was adopted on 23rd June 2020. The application site represents land allocation CH7 in the Local Plan and the Appellants were party to the Local Plan Examinations in promoting the site for the development as allocated.

- 7.5 Policy PO1 states:

Planning obligations will be sought by the Council to deliver sustainable development. This may include (but is not limited to) measures to mitigate the impacts of development and to meet the costs of associated infrastructure. It may also include other measures to make a development acceptable in planning terms, where possible, appropriate, and financially viable, in accordance with the Community Infrastructure Levy Regulations.

7.6 Policy H2 States:

I The provision of affordable housing will be required on all new residential developments of more than 10 units, or the site has an area of 0.5 hectares or more.

II. Attempts to circumvent this threshold by fragmentation of a large site, and/or underdevelopment of a site suitable for a higher density will be strongly resisted.

III. 40% of units in the development are required to be affordable.

IV. The affordable housing split will be 65% affordable housing for rent and 35% affordable housing for sale unless identified requirements or market conditions indicate otherwise.

V. Affordable Housing should be provided on site. Every proposal that includes affordable housing should ensure that the market and affordable housing are integrated within the scheme, have the same external appearance and quality; and accord with all other development standards in this plan.

VI. Contributions towards the off-site provision of affordable housing in lieu of on-site provision will be an exception and will only be accepted in relation to developments which the Council considers are unsuitable for the provision of affordable housing. Contributions towards the off-site delivery of affordable housing will be negotiated on a site by site basis, with regard to the Council's Affordable Housing Strategy, and national policy requirements and funding arrangements at the time of the negotiation.

VII. Proposals to provide affordable housing (or financial contributions towards off-site provision) which fall short of the above requirements on ground of viability shall only be acceptable where they are accompanied by a full economic appraisal of the development costs and anticipated values.

7.7 Policy CH7 States: *'Cheshunt Football Club will be developed as a mixed sporting, community, commercial and residential development comprising:*

1.Enhanced facilities and football stadium;

2.A development of approximately 4,000 square metres net floorspace for community, business, leisure and ancillary retail uses;

3. Approximately 165 new homes. The site will be developed in accordance with a comprehensive masterplan. Incremental development of the area will be resisted'.

7.8 No part of the policies above or associated supporting text suggest there would be a waiver of the usual planning obligations or commitments. There is a continuing requirement for site allocations to comply with the other relevant policies of the development plan. No waiver of obligations and affordable housing is implied by policy CH7.

7.9 Policy CH7 seeks to provide for the redevelopment of the existing sports grounds for a mixed sporting, community, commercial and residential development. It is acknowledged in the policy that the residential development will fund the redevelopment. There is no provision made for reduction in the usual planning obligations or affordable housing within the policy. The policy simply seeks 'enhanced facilities and football stadium'. There is no suggestion these enhancements are limitless at the expense of the Affordable Housing Provision or other social infrastructure secured by planning obligations. The policy is not intended to facilitate any amount of football club facilities, at any cost, at the expense of affordable housing and planning obligations. The facilities which can be provided are only those which are proportionate to the club's reasonable needs.

7.10 Whether the development proposed for the facilities and stadium is disproportionate can be established by reference to the underlying need for enhancement, that is, the objective to progress further in the football leagues. League standards and requirements are reflected upon in the evidence by my colleague Mr Gerry Wade, and works that go beyond those league requirements are arguably going beyond what is necessary. Without meaningful justification for the provision of these further facilities and expenditures, it can only be interpreted that the additional funds required for unnecessary facilities is at the direct expense of the community provision for affordable housing and planning obligations for local infrastructure. The importance of the affordable housing provision and planning obligations is

explored in more detail in paragraph 7.16 below and this must be offset against the modest benefits of this disproportionate provision of sporting facilities on site that goes beyond what is reasonably necessary to achieve the club ambitions and to meet policy CH7.

The identified need for contributions

7.11 The Officer's Report was clear that the following would usually be anticipated for a development of 163 new homes;

- affordable housing (40% of the housing units of which 65% should be affordable rent and 35% shared ownership) or £6.5 million as a commuted sum
- HCC sum of £750,000.00 (not inc highway matters)
- A community contribution of at least £1 million
- a Shared cost for strategic infrastructure (road, bus, rail, walking and cycling)

The contributions forming part of the application

7.12 At the point of determination, the Appellant's position was that any contribution beyond £270,000.00 was not viable (para 8.34 of the Officers report where it is suggested this should contribute to highway and traffic improvements on Theobalds Lane/A10). In addition, a number of benefits were put forward and the accompanying documentation suggests these benefits should be weighed against the absence in planning contributions and affordable housing. The suggested benefits are explored in more detail in paragraph 7.19 below.

Summary of the Council's Issues relating to Reason for Refusal 1

7.13 The Council's concerns regarding the provision of obligations and affordable housing for the development are as follows:

- i) The Appellant alleges that the provision of obligations and contributions are unviable. However, review of the development suggests the viability of the scheme is compromised by a disproportionate provision of facilities. The justification for the club enhancements is the requirement to climb the

football league tables. However, the Council has identified that the proposed facilities exceed the minimum standards required for league advancement and that the funds that could be used for planning contributions are being diverted into superfluous facilities. Equally, the Council has identified that the viability information supplied relates to a scheme not presently under consideration and is therefore likely to yield a different GDV. The Council will provide more detailed comments on this matter once the information has been made available by the Appellant. As such, the Council is reducing the weight attributed to the viability assessment when conducting the assessment in accordance with Para 57 of the NPPF.

- ii) The Appellants allege the package of community gains is sufficient to represent 'other measures to make a development acceptable in planning terms' as outlined in policy PO1. The Council contends the benefits identified are not sufficient and will elaborate why in more detail in paragraph 7.22 below.
- iii) There is also a need to consider a mechanism for a 'clawback' of contributions to be agreed subject to gross GDV enabling profit beyond the envisaged 3% that may be provided by way of legal agreement. Similarly annual revenue generated from the development should be considered as a means of recourse for public funds and facilities (Planning Obligations and Affordable Housing), by way of a clawback mechanism also.
- iv) Any legal obligation should also incorporate a comprehensive package of community benefits and clear facilities management plan that is presently lacking.

7.14 However, even should points ii and iii be agreed, it remains that Members concluded at the Council meeting that the obligations package was not acceptable as it proposed facilities which were disproportionate to the reasonable requirements of the club.

7.15 The Officer's Report to committee in respect of the planning determination was clear in paragraph 8.40, that, whilst Officers had considered the planning balance and the advancement of the application without provision of planning obligations, "Members would have to be satisfied that the overall benefits to the community

would justify approval". The Report continues to clarify "Officers are satisfied that the securing of the long term future of a profitable and successful football club and its associated community programmes represents a major community asset to provide that justification. The new stadium, club house and community/commercial block will provide for wider community activities and an overall centre of sporting excellence that would mirror the successful Rosedale Sports Club development. They could also provide for a significant increase in financial returns to the Councils that would provide returns to the Community. Finally, when concluding later the Officers were clear in stating in paragraph 9.6 "In the implementation of the scheme, the detail of the planning obligation and its ability to control and assure correct delivery of the stadium and associated benefits is crucial and Officers would ensure that it is fit for purpose."

The Harm Identified

7.16 The Council's position is that the failure to provide planning obligations and affordable housing due to a disproportionate provision of sporting facilities on site result in a very real harm arising in respect of inadequate infrastructure to service the new development (libraries, youth and childcare facilities, education provision, fire and rescue services as sought by the HCC toolkit), inadequate provision of planned affordable housing within the Borough and inadequate provision of community leisure spaces. This will create a deficit in the Borough of these identified facilities and provisions.

7.17 The Council has concluded that the proposals exceed the requirements of progression to the next league and my colleague Mr Gerry Wade will elaborate on this matter in his evidence. Were such superfluous costs not incorporated, the funds for their provision could be redirected to Planning Obligations and Affordable Housing

7.18 Cheshunt FC was particularly identified in the Council's Leisure Strategy Outdoor Facilities Study for improvements to changing facilities, showers and other essential facilities including ground improvements to allow progression

(page 154). Page 59 indicated that the club were seeking 50/50 match funding from the Football Stadia Fund and County FA to make enhancements. The report concluded with issues to address on page 68 and these include the need for a pitch booking system, strategic approach to pitch provision and management, future maintenance and management of the amount and mix of pitches available. The study also identifies that, on a Borough wide review, there are shortfalls in mini-soccer pitches and pressure on junior pitch availability. The provision of 3G pitches is also of importance. The Appellants have clearly had regard to this document as referenced in paragraphs 5.40 and 5.41 of the Statement of Case, yet there is no clear relationship between the works proposed, the leagues requirements and the requirements of the Councils Leisure Strategy Outdoor Facilities Study provided.

Benefits arising from the proposals

7.19 The following were suggested by the Appellants in section 3 of the SOC as positive benefits arising from the proposals:

- Future viability of the club
- Facilitate future club growth
- Club income generated from the 'northern and western blocks'
- Club growth enabling expansion of community engagement (including engaging young people and encouraging participation in sport)
- Provision of further sports facilities relating to a range of sports not just football (not identified what sports) redressing sporting deficit-Provision of long lease for club allowing future planning (current lease is 20 years).

7.20 When considering the above benefits, further elaboration is provided from paragraph 5.35 of the SOC. These are loosely based around club benefits, provision of facilities, provision for the community, economic benefits and the provision of homes. The secure future of the Club onsite is a material consideration. However following investment from the current Owners, there is nothing to suggest the economic future of the club is presently uncertain. Club

growth is supported by policy CH7 but growth is possible without the provision of unnecessary excess sporting provisions as demonstrated by my colleague Gerry Wade. Club income is a business matter and were it not for the need to ensure fiscal benefit is not drawn at the expense of the public and community purse, this would usually be beyond planning consideration. This also relates to Club viability already discussed. Community engagement is an objective the Council supports, with appropriate mechanisms to ensure it takes place, as supported by Sport England in Appendix 2. The range of further sports encouraged are not identified so no weight can be provided to this comment. The need for a long lease is presumably not directly tied to this planning application.

7.21 The Appellants Statement of Case from paragraph 5.35 to 5.38 relies on the Design and Access Statement and the Chairman’s letter in Appendix 2 of the Statement of Case to outline the community benefits of the scheme.

7.22 The community benefits cited are dealt with below. They do not, alongside the desire to progress through the league, establish that the proposed facilities are reasonable and proportionate when measured against the considerable needs of the borough for affordable housing and other infrastructure requirements that are excluded from the proposals on viability grounds (tabulated for ease):

Community Benefit	Council Response
Need for a community stadium	One presently exists
The ability of a sports village to provide for a viable future for the club (inc a debt free future, increased club attendance, attraction of sponsors and players to facilitate advancement from the National Conference to Football League)	The Council supports these objectives but not the provision of disproportionate facilities beyond what is required for league advancement, at the expense of the provision of affordable housing and planning obligations
Attract more volunteers and employ more persons	Speculative and not to a quantifiable degree
Increase range of sporting and community outreach programmes	No details of specific sports, audience/users, frequency, duration or

	firm commitment to any measurable degree
Income from ancillary development to assist with running costs of club so improved community services can be made available	No detail of what proportion of income would benefit the community
Provision of social identity and community cohesion	Arises from existing FC, a new stadium is not required.
Focal point for civic pride and identity	The existing FC provides this
Ability to extend coaching programme and engage further with local schools, increasing sport participation in young people	No details of frequency, duration, area of involvement, duration of commitment or details of coaching provided
The sports village could provide pay and play partnerships with local schools and sports clubs	Speculative
Could have coaches and sports therapists available	Speculative
Could be a hub of local excellence for facilities and training	Speculative
Could assist in reducing obesity in the Borough and other health conditions that can be improved through participation in sport	Speculative and not measurable
Assist with the Councils Play facilities strategy	As a sporting facility this is achieved with or without development

7.23 None of the above benefits are clearly defined, measurable or result in demonstrable community gain that can be quantified and offered as a meaningful offset against the planning obligations sought. Many of the suggested community enhancements are speculative (could) and make no reference to amount or degree as would be usually expected in the form of a Community Use Agreement. In summary, without a detailed contractual package providing community benefits and enhancement, no clear weight can be attributed to the Appellants aspirations.

- 7.24 Community Use Agreements are common practice and the provision of such is supported by Sport England in this Application (Appendix 2). Furthermore, many of the benefits identified by the appellant do not arise directly from the development itself, but rather exist in relation to a functioning football club. The development is not required to enable CFC to create local community connections.
- 7.25 The Appellant's Statement of Case makes reference in paragraph 5.40 and 5.41 to sporting provision that may be possible on other sites in the surrounding area, namely the Cheshunt Club to the north. This relates to a separate site, in differing ownerships, part of which has been subject to a recently refused application for redevelopment into housing with the relocation of sporting provision off-site. In the absence of control over this land or contractual obligations securing continued use and operation in association with the site currently being considered, all comments in this paragraph are considered speculative. The decision notice and site location plan for application **07/20/0770/F is provided in Appendix 4 for reference.**

Provision of a clawback clause within the S106

- 7.26 The Council acknowledges that the Appellant is waiving the usual business profits associated with new development (15-18%) and instead is accepting a return of only 3%. This is the basis of their submission as determined and subject to this Appeal.
- 7.27 The Chairman's own statement in Appendix 2 of the Appellants Statement of Case states '**The rewards of running/owning a community sports club are not financial. It is certainly not a pastime for those seeking financial gain**'
- 7.28 Accepting the above basis underpinning the submission, the Council is of the view that, should GDV improve, then a clawback mechanism be included by which the waived community contributions can be recovered. Between 3% and

15%, the Local Authority are seeking to share any uplift at 50% and should GDV exceed 15% then 75% in favour of contributions is being sought. The Council is firm in the view that a business should not profit at the expense of community provision.

7.29 In addition the Council are seeking a revenue share for obligations from the Club. Initial review suggests ongoing revenue is not included in the GDV but the Council may change position if this can be demonstrated.

Further S106 provisions

7.30 In addition to funding matters, the council is also seeking the following from the S106:

- i) genuine community benefits in the form of community use agreements for the three elements – the stadium, the clubhouse and the commercial block.
- ii) enshrine community benefits from the direct operation of the Club and in particular the retention of a structure of junior teams and training and a programme of community engagement activities.
- iii) a commitment to maintaining the facilities in good order.

Summary of the Council position

7.31 **Cheshunt FC have identified the proposed expenditure in respect of new facilities sought and the revenue required to fund such provisions. The club then go on to conduct a viability exercise to suggest the provision of planning obligations and affordable housing is not possible due to the development costs. The proposal represents a disproportionate scheme since it exceeds what is reasonably necessary to achieve league advancement (the rationale for the development) and any other claimed benefit and will deprive the area of much needed infrastructure and**

affordable housing contributions. Further uncertainty arises from the Cost Appraisal underpinning the Viability appraisal relating to a previous planning application scheme and differing resulting construction costs.

7.32 The Council's position is that it is not reasonable practice to inflate the cost of development either through provision of non-essential facilities or the enhancement of the development beyond what is reasonably necessary so that planning contributions are not viable. That is not the purpose of a viability appraisal process.

7.33 The developers then suggest there is the ability to provide a package of community enhancements and benefits that should be a material consideration but fail to identify clearly the package on offer or attribute any funds towards this. The arguments put forward do not make the proposed facilities proportionate. Further, without details of funding or means of securing provision community provision cannot be based on good faith. Furthermore, this absence of clarity for provision cannot be meaningfully weighed against the absence in provision of planning obligations, where in principle and demonstrable harm is identified in paragraph 7.16 above. This can be resolved with a properly formed Community Use Agreement and Facilities Management Agreement, but the Councils overriding concern regarding the absence of provision for affordable housing and planning obligations remains.

7.34 Finally, the Council is requesting, by way of a S106 agreement, the ability to clawback any waived planning obligations and funds to provide affordable housing elsewhere in the Borough should upon completion the GDV of the site exceed the anticipated 3% as set out in para 7.28 above. Equally in respect of ongoing revenues for the Club, similar clawbacks are proposed to offer the community opportunity to reclaim the foregone contributions before individuals profit.

8 Reason for Refusal 3

8.1 Reason for refusal 3 states:

The development would have an unacceptable impact on the amenity of the residents in Montayne Road bounding the site by way of overlooking and the perception of being overlooked, contrary to Policy EQ1 of the Broxbourne Local Plan 2018-2033.

8.2 The reason for refusal cites residents in Montayne Road only, and the overlooking and perception of overlooking that may arise for them. The extent to which overlooking and perception of overlooking may arise is founded upon two main issues;

- i) the separation distance between the proposed new development and the existing residential properties in Montayne Road, and
- ii) The design and scale of the proposed new properties

**Policy Context
NPPF**

8.3 Paragraph 127 of the NPPF sets out the objectives for development to achieve well designed places, this includes subclause f) ‘*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*’

8.4 Paragraph 130 states ‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.....’

Broxbourne Local Plan

8.5 Policy EQ1: Residential and Environmental Quality states;

I All proposals for development within the urban area must avoid detrimental impacts on the amenities enjoyed by the occupiers of neighbouring properties in terms of daylight, sunlight, outlook and overlooking.

II. Proposals which generate dust, noise and odour must not result in a material harm to the amenity levels currently enjoyed in an area.

III. All development proposals must include provision for the storage of refuse and recycling facilities, and access to them suitable for waste management vehicles, in compliance with the Council's Waste Supplementary Planning Guidance. Borough-Wide Supplementary Planning Guidance Adopted August 2004 (Updated 2013)

8.6 Paragraph 3.2.1 sets out the following:

'In order to ensure reasonable privacy in dwellings it will be expected that:-

Privacy Guidelines

1. In the case of the internal estate environment of new housing the window-to-window minimum distance where it occurs should be 25 metres.

2. In the case of new development adjoining existing development:-

a) For 2-storey dwellings a distance of 25 metres

b) For 3 or more storey development a distance of 30 metres

3. In order to ensure a reasonable outlook from the main windows of a habitable room where a window faces a blank wall of an adjoining property the minimum distance will be 12 metres.

8.7 It is these standards that the Appellant refers to in the Statement of Case and Design and Access Statement.

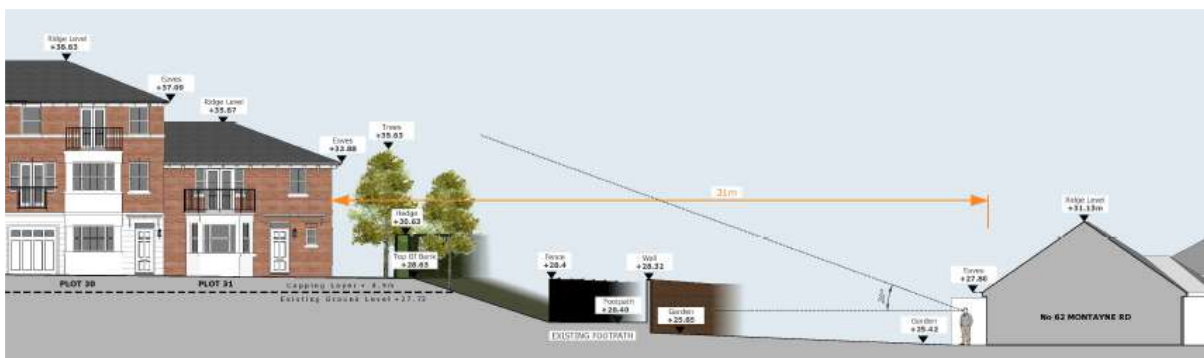
8.8 Of particular importance however is paragraph 3.2.3, of the SPG stating '*When new housing or flats of more than 2 storeys are planned adjacent to existing housing, a higher standard of separation distance is required to preserve the amenity of the existing occupiers where there has hitherto been an expectation of*

privacy and outlook which will become more limited through the proposed development.

Provision of separation made in the submission

8.9 At the narrowest point, the proposed new development is 31m from the existing bungalows in Montayne Road as indicated in the cross section below.

Figure 1: Proposed Cross Section (doesn't include rear extensions to the properties)



8.10 As is clearly demonstrated in the above cross section, the three storey development proposed, reduces to two storeys on the immediate end of the block, before a significant drop in ground level towards the existing bungalows in Montayne Road. The properties in Montayne Road are bungalows in the traditional sense without loft development and the tree screen indicated above is absent from the existing tree survey, therefore alluding to a screen that may become established in the future subject to suitable conditions. The above image also demonstrates that the eaves of the bungalows falls significantly below the slab level for the development.

Figure 2: Tree Survey extract demonstrating the absence of retained tree screen on the cross section

Tree Survey overlaid on Site Plan



Figure 3: Aerial photograph of the rear of Montayne Road demonstrating absence of mature trees and presence of rear extensions not included on the submission documents. It is understood there has been recent replanting, but this will need years to establish.



Figure 4: View towards the development from the Montayne Road direction, albeit at a significantly elevated visual level.



- 8.11 The plans and images provided clearly demonstrate the scale of the proposals and the drop in ground level relative to the existing residential bungalows.

Design and Scale of the proposed new properties

- 8.12 When considering overlooking and the perception of overlooking the scale and design of the new development is a consideration. As demonstrated in figure 1 above, the scale of the development at the higher ground level, would effectively tower over the bungalows. When considered with the flank window illustrated in figure 4 and figure 5, the perception of unacceptable overlooking of users of the rear garden areas and rear facing rooms of the properties in Montayne Road would occur. Similarly, this situation would arise from the front balcony feature, where users would look down into the garden areas of Montayne Road a mere 18m from the side of the balcony. The perception of harm exacerbated by the ground change that results in the accommodation on Montayne Road being provided below ground level of the development proposed. The result is a built form with window and balcony features that are visually dominant and prominent exacerbating the perception of harm from overlooking this directly conflicts with Council policy EQ1.

Figure 5: Plans and elevations of the block visible from 62 Montayne Road at the closest point of 31m.



Summary of the Council's issues relating to Reason for Refusal 3

8.13 Overlooking and the sense of overlooking results in the loss of privacy in the home and loss of enjoyment of the dwellinghouse. This has a clear adverse impact on amenities enjoyed by the occupier.

8.14 The Council seeks to protect neighbouring amenities and loss of enjoyment of the property. This loss of enjoyment can be derived from loss of privacy resulting from overlooking and is prevented by policy EQ1 and the Council's SPG.

- 8.15 The Council's Supplementary Planning Guidance that sets out the usual requirements to prevent overlooking are provided in paragraph 8.6 above. This assumes a relationship between properties of a similar characteristic and a similar ground level. Significant ground level change between properties is not common and as such not explicitly considered within the SPG. The development appears akin to a 3 storey development when viewed from the rear elevations and gardens of the bungalows with a further storey behind forming the main block, visually akin to a fourth storey as illustrated in figure 1.
- 8.16 Notwithstanding the interpretation of the privacy guidelines explored above, paragraph 3.2.3 of the SPG clearly states 'a higher standard of separation distance is required to preserve the amenity of the existing occupiers where there has hitherto been an expectation of privacy and outlook which will become more limited through the proposed development.' The provision of 1m beyond the minimum standard does not represent a higher standard, rather a minor increment. There is a window in this flank elevation and a balcony offset by some 3m from the side wall. [The provision of 1m beyond guidance minimums is not adequate to offset the harm that was envisaged by policy as likely to arise, that is further exacerbated by the ground level changes already discussed. It is noted the assessment is conducted to the side of the development as opposed to the rear, however the adverse impacts arising are commensurate.

Harm identified

- 8.17 The provision of two and three storey development with flank windows looking directly onto neighbouring properties and a balcony allowing the same relationship at a proximity of 31m at the narrowest point represents an unacceptable degree and perceived effect of overlooking of properties in Montayne Road, most harmful to number 62, but to a lesser extent to numbers 64, 66 and 68.

Figure 6: Extract of the proposed site plan illustrating the relationship of the terraces to the existing bungalows



8.18 As a result of insufficient separation and the scale of development, that includes flank windows and balconies, there is an unacceptable degree of overlooking to the existing properties. The result is an unacceptable erosion of privacy, actual and perceived in the rear garden environs and when using the rear facing rooms of dwellings particularly bungalows in Montayne Road. Recent Appeal decision APP/W1905/W/20/3265422 within the Borough considered new development at an increased height to that which presently exists and the associated impact of window openings on the amenities of neighbours. The Inspector concluded that even were a window to be obscure glazed, movement would be perceptible within the property, when open noise would be audible and the height of the position for overlooking would allow for views into the rear elevation windows of the neighbouring properties. Such views were frequent as the occupiers go about their everyday activities and the erosion of neighbouring privacy

associated was unacceptable. The removal of permitted development rights allowing further openings to be formed was also considered. But all possible mitigation by condition was not considered sufficient to resolve the perception of overlooking that would remain. The Appeal decision is supplied at Appendix 3.

8.19 In para 5.25 of the Appellant's Statement of Case, the Appellant fails to have regard to the bungalows in Montayne Road in their entirety, focussing instead on the existing houses only. The separation distances are acknowledged from paragraph 8.9 above but the Council does not accept the landscaping provision as it is not established and the suggestion of its provision on the cross section and proposed plans is misleading as it does not exist (Figure 2 and 3 supplied above)].

8.20 In para 5.27 the Appellant's Statement of Case, it discusses the fall back position of use of an increased height pitch by players and observations by spectators and the proximity of this activity to the boundaries in Montayne Road. The existence of the fall back is accepted but should be given limited weight. Sports matches may take place frequently and may involve persons spectating, but they are events of a short-term nature. There is no physical structure associated with the matched and pitches, compared with the proposed development that provides a clear physical presence and unrelenting, unbroken sense of surveillance that would result.

Possible mitigation for overlooking

8.21 As demonstrated in figure 2 above the submitted tree survey identified trees for protection and retention during development. This did not include any specimens along the boundary with Montayne Road. Figure 3 shows no trees to be present. Rather, the trees illustrated in figure 6 appear to be proposed landscaping, despite the height annotations in the cross section in figure 1.

- 8.22 Landscaping as a screen was considered. However, this is not a reasonable mitigation due to the period required to establish a mature tree line as illustrated in the proposals. Equally, landscaping should not be relied upon as a means to create acceptable development, as loss of leaf in winter periods and views possible through the tree coverage would result in the issue of overlooking remaining.
- 8.23 Obscure glazing could be secured by condition for the window on the flank that serves a stairwell, and privacy screens could be considered for the balconies albeit this would have associated impacts to the appearance of the Streetscene. However, this would not remove the perception of overlooking when experienced from a reduced ground level, relative to three storey building heights, where the outlook was previously devoid of development. This would also not satisfy paragraph 3.2.3 of the SPG as it would not increase the separation distance beyond the 31m presently provided.
- 8.24 Finally, obscure glazing was also discounted by the Inspector as a suitable approach in Appeal APP/W1905/W/20/3265422 (appendix 3) in Broxbourne as movement within the room was still perceivable, noise from within would be audible when the window was open and the perceived and actual harm arising from overlooking would remain.

Summary of the Council's Position

- 8.25 **The Appellants have sought to comply with paragraph 3.2.1 of the Councils SPG, by providing a separation between development at the narrowest point of 31m. This overlooks paragraph 3.2.3 of the same guidance whereby a higher standard of separation is required. The standards require 30m under para 3.2.1, the Appellants have provided 31m this is not a higher standard of separation as required by paragraph 3.2.3.**

- 8.26 **The changing ground level is such that the development slab level is above the eaves of the bungalows at 60-68 Montayne Road, resulting in an unacceptable relationship between the existing and proposed dwellings and exacerbating the harm to the neighbouring residents by creating a more prominent, dominant and overbearing viewing platform from which to overlook the properties in Montayne Road.**
- 8.27 **With possible mitigations ruled out, the Council has determined the impact to neighbouring amenities to be unacceptable and harmful contrary to policy EQ1 and the SPG and in accordance with recent case law supplied in Appendix 3.**

9 Reason for Refusal 4

9.1 The reason for refusal is:

The design of the development would have an unacceptable impact on the visual amenity and character of the surrounding area, contrary to Policy DSC1 of the Broxbourne Local Plan 2018-2033.

Policy Context

NPPF

- 9.2 Paragraph 124 of section 12 (Achieving Well Designed Places) of the NPPF states: 'The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'
- 9.3 Paragraph 127 builds on this, requiring that developments 'b) are visually attractive as a result of good architecture, layout and appropriate and effective

landscaping' and 'c) are sympathetic to local character and history, including the surrounding built environment and landscape setting,'.

Broxbourne Local Plan

9.4 Policy DSC1: General Design Principles states:

I. The Council expects a high standard of design for all development. Wherever possible, development proposals must:

(a) enhance local character and distinctiveness, taking into account: existing patterns of development; significant views; urban form; building typology and details; height; roof form; fenestration detail; materials; building lines and other setbacks; trees; landscaping; and features of local and historic significance;

and

(c) increase permeability of the area by providing easy to navigate and safe physical connections with surrounding spaces, streets, paths and neighbouring development;

And

(e) reinforce existing pedestrian connections and create new ones with a clear hierarchy of paths and streets that promote pedestrian friendly environments and active lifestyles;

(f) provide coherent and logical layouts with active frontages and good natural surveillance;

and

(h) increase accessibility to open spaces, sports and play facilities where-ever possible;

Local Character

9.5 The area surrounding the application site is characterised by either open Green Belt or low-density suburban housing at single or two storey. The neighbouring residential development is characterised by semi-detached properties in Montayne Road and Theobalds Lane with short terraces emerging in Raydon Road, before longer, denser terraces emerge over Crossbrook Street towards

Cheshunt. Some 3 storey flatted development exists in Friends Avenue, off The Arches, in a small block, with larger flatted provision in a building off the High Street adjacent to the Vine and off Crossbrook Street.

Figure 7: View from Montayne Rd looking towards the development site, showing two storey and bungalow properties



Figure 8: General local form looking west towards the development site



neighbouring design is not included until page 46 of the Appellant's Statement, in which the development is identified as 'largely visibly separated from nearby housing'. The absence of attention to local character or context in the evolution of the development suggests the design of the development is not derived from the surrounding context, but rather the needs and aspirations of the club...The incorporation of locally derived architectural features such as materials are noted, however these alone do not align the development with the surrounding character.

Summary of the Councils Issues relating to Reason for Refusal 4

- 9.8 The layout (Figure 9 above) is centred around the provision of the club facilities. The appellant addresses concerns around density of development in the Design and Access Statement (page 20) 'it has been necessary to make an efficient use of the site in order to provide sufficient development to fund the new stadium and associated sport and community facilities and provide the club with an income'. This demonstrates the proposals evolved around the provision of the facility desired and the associated enabling development. , Evolution in this manner largely disregards the character of the surrounding area.
- 9.9 Absence of clear connectivity through the site to existing facilities further reinforces the absence of consideration of character locally. The Rifle Club and adjacent pitch provision beyond the application site would now be accessed via the car park area for the football stadium, with central rows of parking visually obscuring the entrance to the Rifle Club and training pitches obscured visually by the stadium when entering the grounds. The result is a layout that services the proposed development with access to surrounding existing development incorporated as a secondary function. This detracts from the presence of these existing facilities and their associated contribution to existing character.
- 9.10 Landscaping provision is used as a means of visual separation and an attempt to soften the appearance of the scheme, as oppose to providing complimentary features.

9.11 The proposal is highly visible in the surrounding streetscape due to the scale of development and elevated ground level,. This visual impact of the development is overbearing and incompatible with the local character when experienced in the surrounding street scenes such as Montayne Road or rear garden areas of residents neighbouring the development as well as for users of Albury Walk the PRoW running the length of the eastern site boundary, contrary to policy DSC1

The Harm identified

9.12 The proposals will dominate the area due to the height and scale of the development, to the detriment of the existing character of the surrounding areas, when viewed over and beyond the existing development, particularly in Montayne Road, but also from the gardens of these neighbouring properties. There will also be a clear contrast in character when experienced kinetically, moving through the area. This contrast will also be evident and harmful when viewed by users of the Albury Walk PRoW.

9.13 The Appellant fails to consider how the development will be experienced locally. Whilst the immediate visual context on entry to the site is isolated (due to the manner and location of the access, the screening proposed and orientation), the destination will be reached after travelling through the Borough and there will be a clear contrast in design, form and scale between the development and the surrounding streets which are passed through in order to reach the destination. Dense development is associated with urban form and the height of development increases in the approach to a destination centre. The proposals take the opposing approach - after travelling from routes which are more dense, like the high street, the more open suburbs would be experienced, before arrival at a destination defined unmistakably by: a) an elongated surrounding form around the stadium; b) with up to 5 storey towers on the corners, c) reducing to 3 storeys generally around the site and d) with only the very end units reducing to 2 storey. The overall resulting character is dominant, dense and, whilst clearly a destination, is one at odds with the existing relatively open and low scale character of the surrounding area.

- 9.14 The proposals also fail to consider how the development will be viewed by members of the public using the PRow along the eastern boundary (Aldbury Walk). The scale of the development proposed at the elevated ground level will appear visually jarring with the existing built form along Montayne Road and proposals will appear all the more imposing due to the close proximity with the PRow.
- 9.15 The Appellant's Statement of Case suggests in paragraphs 5.5-5.9 that the Council has departed from Officer level advice (pertaining to the Officers recommendation to committee) and that the Councils' position has been inconsistent. Reference is made to the previous reasons for refusal (Decision notice supplied in Appendix 5).
- 9.16 The Council has acting in accordance with its constitution and received the advice of Officers before considering the relative merits of the application and determining in accordance with the Council's Adopted Local Plan. The Council's Local Plan was adopted after the determination of the previous application and this has a bearing on the Council's decision as now issued. Accordingly, matters relating to the form of development were no longer expressed as a scale or density concern as the quantum of development is supported by newly adopted policy CH7. The Council has reconsidered the proposals as it is entitled to and identified the harm in reason for refusal 4. The Council and its Members have not behaved in any way that is unreasonable in the determination of the application and Officers and Members both represent the Council, with views that may differ but with the clearly identified and measurable goals set out in the local plan driving all decisions.
- 9.17 Regarding information requested and opinions expressed throughout the evolution of design and consideration of the applications, advice offered is at Officer level only until the determination of the application. Such advice is offered without prejudice on the Council, it is not binding and offered in the spirit of making progress. As plans and details evolve, new matters arise and matters

may assume more or less importance. This does not represent unreasonable behaviour, merely an organic and evolving context and situation.

9.18 In para 5.31 of the statement of case, the Appellants assume the reason for refusal are based upon the housing only, using previous reasons for refusal as justification. Given that the previous decision indicated that the scale and density of development was harmful, it is clear to me that the design of the flats around the football stadium is not acceptable to the Council, and that the previous application was refused due to the design of the houses and the scale and density of the development overall. Furthermore, comparison between the two schemes reveals minimal changes to the flats. Design and form are not set and should reflect local character as identified by the Council in its assessment and determination.

9.19 Regarding para 5.32 of the Statement of Case the Council would agree the proposed housing designs are an improvement upon the previous scheme. However, this is not a sufficient improvement to materially alter the Council's conclusion on the harm created by the scheme.

9.20 Regarding para 5.34 of the Statement of Case, the Council was not prescriptive in the design, scale or form of development that should take place when allocating the site for development. However, the expectation of Policy CH7, as with all the other plan allocations, is that proposals that come forward should meet the remaining policy requirements set out in the local plan.

Summary of the Council's Position

9.21 The Council has previously identified concerns relating to design matters when determining previous application 07/16/1369/F. The concerns in respect of design relative to Reason for refusal 4 extend to the entirety of the development on site, including the flats around the stadium not just the housing.

- 9.22 The existing local character is generally low height at single or two storeys with some small three storey blocks in the wider area. The proposed development provides for up to five storeys around the stadium and elongated blocks of terraces of three storeys reducing to two storeys at the ends. The accommodation provided is all large-scale and at odds with the surrounding character.
- 9.23 Attempts to isolate the site from the surrounding area to permit a contrast in development style are noted. However, the increase in ground level on site renders the site highly visible between properties in the surrounding streets and the development would have a significant impact on the local character by appearing dominant and prominent beyond the existing streets. When viewed from the rear gardens of the properties backing onto the site and the PRow Albury Walk, the visual impacts would be exacerbated by the absence of any meaningful intervening structures and the scheme's close proximity. The result would be a development which stands in an imposing manner over the rear garden areas of adjacent properties.
- 9.24 Consequently, the Council has concluded that the development as proposed would have an unacceptable impact on the character and visual amenities of the surrounding area, contrary to paragraph 124 and 127 of the NPPF and policy DSC1 of the Adopted Local Plan.

10 5 year housing land supply

- 10.1 I am aware of the Council's position in respect of the Housing Delivery Test over the previous 3 years. I note that delivery is only marginally below the 75%. None the less the presumption in favour of development from paragraph 11 (d) of the NPPF is engaged.
- 10.2 I rely on the evidence of Mr Martin Paine in regards to the detail surrounding future Housing Supply but understand from Mr Paine's conclusions, there is

minimal shortfall in 5 year housing land supply, anticipated to be rectified within delivery in the next 1-2 years.

- 10.2 Therefore, It is necessary to consider the weight to be placed on housing need.. With regard to the 5 year supply, Mr Paine shows that this can be met by the allocations within the Local Plan and I agree with that assessment. As a result, I give the housing shortfall limited weight

11 Benefits arising from the proposed development

- 11.1 The proposed development would result in a number of benefits as put forward by the Appellants in paragraph 7.19 to 7.25 above. However, in addition to the community and economic provisions arising from the scheme, the housing provision must also be considered.
- 11.2 The housing provision on site forms part of the Councils planned delivery for housing over the plan period, and some weight is attributed to this. Regarding the housing shortfall in the Borough, as will be demonstrated by my Colleague Mr Martin Paine, this will be corrected in the foreseeable future, meaning I give minimal weight to the shortfall identified.

12 The planning balance and section 38(6), including the engagement of the presumption in para. 11 NPPF.

- 12.1 The Development Plan is the starting point for determination, including the Broxbourne Local Plan. The proposal is not in accordance with the adopted Local Plan, in particular, policies PO1, H2, DSC1 and EQ1. As a result, the proposals should be refused unless material considerations indicate otherwise. The material considerations include the application of the presumption in para. 11 of the NPPF.
- 12.2 The failure to meet the housing delivery test results in the engagement of paragraph 11. d) of the NPPF.
- 12.3 Paragraph 11d states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 12.4 The accompanying footnotes clarify that with the failure of the Housing Delivery Test results in the Local Plan Policies being considered out -of-date. When considering the tilted balance, it remains to be considered what weight should be attributed to the Local Plan Policies upon which the decision is based.
- 12.5 The Council has relied upon policies PO1, H2, EQ1 and DSC1 in determining this application and I comment on them below.
- 12.6 PO1 (text supplied in para 7.5). The requirement to secure infrastructure and affordable housing in association with new development does not become invalid in the event of an under-delivery of housing. It is reasonable to consider that housing delivery is a priority. However, failure to secure adequate infrastructure to support new development provided under the tilted balance would result in poor quality developments. Delivery of housing without associated obligations undermines the provision of education, healthcare and child and library services for occupants of the new development, to the detriment of these occupiers. This policy is clearly theoretically out of date due to the housing delivery test. However, the weight to be attributed to the policy remains significant.
- 12.7 Policy H2 (text supplied in para 7.6) requires the provision of affordable housing. Housing need falls across all areas, not just market housing and there is no suggestion that market delivery should be progressed at the expense of social housing. This principle is supported by the NPPF and, whilst the policy is deemed out of date, the weight attributed to the policy objectives should remain significant.
- 12.8 Policy EQ1 (text supplied in para 8.5) seeks to protect residential amenities. The objectives of this policy remain valid. The importance of affording suitable

protection to residents within the Borough remains and the policy may be deemed out of date, but the weight attributed to the policy should remain significant.

- 12.9 Policy DSC1 (text supplied in para 9.4) seeks to ensure the good design of new development. The NPPF devotes section 12 to this objective. The importance of good design remains even with an emphasis on housing provision, therefore whilst deemed out of date, this policy still retains significant weight.
- 12.10 As a result of the above, while the policies contained within the Local Plan are deemed out of date, they should still be attributed significant weight in the assessment under paragraph 11d).
- 12.11 Taking into account the harm arising from the scheme and its benefits as discussed above, I have concluded in accordance with limb ii) of paragraph 11d), that the adverse impacts arising from the proposed development significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the framework.
- 12.12 As per s.38(6) the determination must be made in accordance with the development plan unless material considerations indicate otherwise. In this instance the material considerations have been balanced and determined not sufficient to justify a departure to the development plan.

Appendix 1: List of plans and documents upon which the Council determined the application

1. Application Forms and Certificates.
 2. Covering Letter.
 3. Cheshunt Planning DAS.
 4. Transport Assessment.
 5. Framework Residential Travel Plan.
 6. Framework Workplace Travel Plan Revised July 2018.
 7. Stadium Event Management Plan.
 8. Air Quality Assessment.
 9. Archaeological DBA.
 10. Drainage Strategy.
 11. Ecological Appraisal
 12. Flood Risk Assessment.
 13. Phase I and II Geo-Environmental Assessment.
 14. Supplementary Gas Monitoring Report.
 15. Noise Assessment.
 16. Tree Survey Part 1.
 16. Tree Survey Part 2.
-
- 15_238_PL01_1 Site Location Plan.
 - 15_238_PL02_1_Application Areas.
 - 15_238_PL02A_Block Plan.
 - 15_238_PL03A_Ground Floor Plan.
 - 15_238_PL04A_First Floor.
 - 15_238_PL05A_Second Floor.

15_238_PL06A_Third Floor.
15_238_PL07A_Fourth Floor.
15_238_PL09A_Roof Plan.
15_238_PL10A Commercial Floor Plan.
15_238_PL11A Football Club Floor Plan.
15_238_PL12A Refuse Plan.
15_238_PL13A Amenity Plan.
15_238_PL14A Floodlight Plan.
15_238_PL15A Parking_Cycle Plan.
15_238_PL16A Long Elevations.
15_238_PL17A FC Elevations.
15_238_PL18_1 Site Section.
15_238_PL18A House Elevations.
15_238_PL19A_GA SECTIONS.
15_238_PL20_1_HOUSE TYPE A1.
15_238_PL20_2_House Type C.
15_238_PL20A_HOUSE TYPE A2.
15_238_PL21A_House type B.
15_238_PL22A Flat Type.
15_238_PL22A-PL23 1 Flat Type.
15_238_PL23A Flat Type.
15_238_PL24 Flat Type.
15_238_PL25A Flat Type.
15_238_PL26A Flat Type.

15_238_PL27 Flat Type.

15_238_PL28 Flat Type.

15_238_PL29A Flat Type.

15_238_PL30A.

15_238_PL31A.

15_238_PL32A.

15_238_PL33A.

15_238_PL34A.

15_238_PL35A.

15_238_PL36A.

15_238_PL37A.

15_238_PL38A.

15_238_PL39A.

15_238_PL40A.

15_238_PL42.

15_238_PL43.

15_238_PL44.

15_238_PL45.

5. Framework Residential Travel Plan Rev 1.

6. Framework Workplace Travel Plan Rev 1 July 2018, part 2.

6. Framework Workplace Travel Plan Revised July 2018, Part 1.

18. Letters of Support Waller Planning 18th July 2018.

19. Reply to Sport England Queries 18th July 2018.
20. Financial Viability Appraisal.
21. Management Plan to Enhance and restore Water Course.
22. 19827 – ATR-08 P02 Vehicle Tracking.
23. S106 HOT.
24. E-mail correspondence re viability.
25. Biodiversity net gain calculation.
26. Letter re use classes order.
27. Thrings letter, letters of support and petition, Part 1.
27. Thrings letter, letters of support and petition, Part 2.
27. Thrings letter, letters of support and petition, Part 3.
27. Thrings letter, letters of support and petition, Part 4.
28. Transport Technical Note.

15_238_PL02E Proposed Block Plan.

15_238_PL10B Community Block Layout.

15_238_PL10C Community Block Layout.

15_238_PL31 Section Drawing.

15_238_PL41 Football Pitch Layout 2013.

15_238_PL42 Football Pitch Layout 2016-17.

15_238_PL43 Final Football Pitch Layout.

15_238_PL44A Service Charge & Management Plan.

15_238_PL46A_Football Club Plans.

15_238_PL50 Proposed Pedestrian and Cycle Plan.

Appendix 2: Sport England comment

[REDACTED]

Sent: 30 July 2018 09:40

To: Planning Mailbox

[REDACTED]

Subject: App Ref: 07/18/0514/F - Cheshunt Football Club, Theobalds Lane, Cheshunt, Hertfordshire, EN8 8RU (Sport England Ref: PA/18/E/BRX/49152)

For the attention of Peter Quaile

Dear Mr. Quaile

App Ref: 07/18/0514/F - Cheshunt Football Club, Theobalds Lane, Cheshunt, Hertfordshire, EN8 8RU (Sport England Ref: PA/18/E/BRX/49152)

Thank you for consulting Sport England on the above application.

Summary: Sport England raises **no objection** to this application as a statutory consultee which is considered to meet exception E4 of our adopted Playing Fields Policy and paragraph 97 of the NPPF. This position is subject to the phasing and delivery of the facilities in the Sports Village being secured through a section 106 agreement and five planning conditions being imposed relating to the:

1. Design and layout of the proposed North and West blocks;
2. Artificial grass pitch design specification details;
3. Artificial grass pitch certification details;
4. Sports village community use agreement;
5. Ball strike protection details;

The principle of the 'Sports Village' element of the application is **supported** as a non-statutory consultee.

Sport England - Statutory Role and Policy

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (in particular Para. 97), and against its own playing fields policy, which states:

'Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.'

Sport England's Playing Fields Policy and Guidance document can be viewed via the below link:
www.sportengland.org/playingfieldspolicy

The Proposal and Impact on Playing Field

In summary, the Cheshunt Sports Village proposal is a major project focused around Cheshunt Football Club's existing facilities that would involve several inter-related elements. First, the main element would include a new stadium for Cheshunt FC with a 2,000 spectator capacity on the site of the existing stadium. As well as new supporting facilities being provided for Cheshunt FC in the proposed North Stand, there would be a range of community facilities in the proposed West Stand including indoor sports facilities. Commercial facilities would also be provided in the West Stand to help sustain the operation of the club while residential would be incorporated into the proposed East and South stands to help provide the funding to deliver the stadium. The current grass stadium pitch would be converted to a 3G artificial grass pitch suitable for both club and community use. Second, further enabling residential development would be provided on part of the club's playing field to the south east of the club's site. Third, playing field mitigation would be provided in the form of the recently completed phase 1 grass football pitch improvements and the new 3G artificial grass pitch (AGP) to the north of the club's site, and through the completion of phase 2 of the grass football pitch improvements to the east of the site. The proposal represents a revised proposal following the refusal of a previous application (07/16/1369/F) in 2017 for a similar scheme. The key differences between the 2017 and the current application are that the current scheme has scaled down the number of dwellings and density of the residential element and the scale of the commercial and club facilities in the West and North stands has also been reduced.

Assessment against Sport England Policy

I consider that the most applicable exception to the proposal would be E4 of the above policy, which states:

- E4 – The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development

I have therefore assessed the existing and proposed playing fields against the above policy to determine whether the proposals meet exception E4.

The part of the playing field that would be lost to the residential development that is proposed to help fund the stadium development is an area of 1.51 hectares that is currently used as a mini football pitch and for training. This area is an uncapped landfill site which has poor surface conditions and uneven levels. These constraints have resulted in drainage problems which restrict the carrying capacity of the pitches, which in turn limits their use and affects the quality of matches/training that can be played. The proposed package to mitigate the loss of this area comprises the following measures

- The delivery of phase 1 of the pitch improvement works permitted by planning permission 07/13/0574/F plus a 0.38 hectare extension to the playing fields in the north west corner of the site created through the reclamation of a strip of adjoining land that was previously leased to a sea cadet group which did not form part of the planning permission. The phase 1 improvements were undertaken in 2015 and the pitches came into use at the start of the 2016/17 football season. As well as providing for an increase in the total playing field area, the re-grading and re-profiling of the area has created a much higher quality surface that has improved carrying capacity, drainage and safety through the importing of suitable soil to re-profile the surfaces and the installation of a pitch drainage system;
- The delivery of part of phase 2 of the pitch improvement works permitted by planning permission 07/13/0574/F. The unimproved area to the east of the stadium which is not required for residential development will be improved as originally proposed in the planning permission. This will offer the same benefits as the phase 1 works and works are due to be completed in March 2019 with a view to being completed and available for community use by the start of the 2019/20 football season. Collectively, the implementation of phases 1 (including the extension) and 2 will result in around 3.91 ha of grass playing fields being substantially improved in terms of quality which will significantly improve capacity and performance quality. Even though the net area of grass playing field provision would be reduced by around 1.13 ha, the amount of use by the club and the community that the improved pitches will be able to accommodate compared to the position before the improvement

works will be much higher. In terms of pitches, while the number and types of football pitches to be laid out when the works are completed will differ to the original provision (reduction in adult pitches but increase in youth, 9v9 and 5v5 pitches), the improved pitches will be able to meet all of the club's current grass pitch needs and there would be no displacement of current or previous football use of the playing field;

- The delivery of the AGP to the north west of the club site through the conversion of the former copse. The AGP was completed in 2015 and has been operational since October 2015. As well as increasing the playing field area at the club by 1.06 ha, the AGP has already delivered significant benefits as it has helped address the capacity restrictions associated with the grass pitches and has allowed intensive use by both the club and the community for training and matches. The facility is at capacity at peak periods and has already contributed towards addressing community football pitch deficiencies in the Cheshunt area. While not strictly a like for like replacement for the area of grass playing fields that would be lost, it is considered to be superior in terms of its flexibility, carrying capacity and surface quality. As the AGP has pitch markings for adult, youth, 9v9 and mini football it also offers the flexibility of use that a grass pitch is unable to offer as an area equivalent in area to a senior pitch has 9 different pitches marked out on it, several of which can be used at the same time.
- The proposed conversion of the 3G AGP as part of the proposed stadium redevelopment. The provision of a second AGP on the site will have similar benefits to the existing one. Artificial grass surfaces (subject to appropriate certification through suitable design and maintenance) are now sanctioned for competitive match use up to National League level of the non-league football pyramid so as well as being suitable for meeting the club's first team match requirements, a 3G surface on the stadium pitch would allow intensive use by the club and the community. The existing grass pitch is restricted to first and reserve team match use in order to preserve its quality which restricts any wider use of it by the club and the community. As set out above, the recently built AGP is already used to capacity at peak times and Broxbourne Borough Council's Leisure Strategy has identified a need for up to two further 3G AGPs in the Borough for meeting community football and rugby needs. The provision of two 3G AGPs on the same site together with the grass pitches would also offer the potential for a strategic community football hub to be created on the site which is a concept that the Football Association are encouraging on suitable sites such as this in order to maximise community football development benefits.

When the proposed mitigation package is considered against the criteria in exception E4 it is considered that the replacement proposals would clearly meet or exceed the majority of the criteria. The quality of the replacement proposals (grass and artificial) would clearly be superior to the qualitatively deficient area that would be lost while the location and management arrangements would meet the exception as the replacement facilities would be provided on the club's existing site and be managed on a similar basis. In terms of phasing, part of the package has already been implemented, the phase 2 pitch works are due to start shortly and there is potential for the stadium 3G AGP to be implemented as part of an early phase of the sports village development. I am therefore satisfied in principle that the phasing will ensure continuity of provision of pitch facilities for the club.

In terms of the quantity of replacement playing field provision, the proposals would result in a small net loss of around 0.07 ha. While this would not strictly accord with the quantity criterion, in the context of a 5 hectare site (original playing field area) this small loss is considered to be clearly offset by the benefits summarised above associated with the qualitative improvements to the retained grass playing field area, the AGP and the proposal to convert the stadium pitch to an AGP.

In addition to the mitigation associated with grass and artificial pitches, the delivery of the Sports Village project would offer a range of sport related benefits which need to be considered when assessing the proposals. These can be summarised as:

- *Cheshunt FC:* The new club facilities proposed in the North Stand together with the new spectator stands around the stadium would address the deficiencies associated with the existing facilities (that have been set out in detail in the design and access statement) and would deliver modern fit for purpose facilities that will meet the needs of the football club and offer revenue generating facilities to support the sustainability of the club and the wider sports village. Many of the facilities proposed such as the changing and education facilities do not exist at present while facilities that would be replaced such as the club's social facilities would be superior in size and quality. Collectively, the facilities would help the club progress up the up the football league pyramid, provide suitable ancillary facilities

to support the club's development, offer superior facilities for spectators, provide facilities for community users of the site and help sustain the club and wider sports village;

- *Community Sports Facilities:* New indoor sports facilities are proposed in the West Stand which are intended to be responsive to identified local needs. While the facility mix, potential users and floor plans are not confirmed at this stage, potential would exist to provide a fitness gym, dance studios and indoor sports space. While occupiers have not been confirmed, interest has been expressed in relocating to the stadium by Valle Dance Academy and potential may exist to accommodate users such as Turnford Gymnastics Club and Broxbourne Table Tennis Academy. The provision of such facilities would offer the potential to address specific needs identified in Broxbourne Borough Council's Leisure Facilities Strategy.
- *Sports Village:* The club, community and commercial facilities would collectively offer the potential to deliver a Sports Village concept that would offer mutual benefits for the occupiers and users. As well as each individual facility meeting a need and offering their own benefits, the combined benefits of the facilities being co-located in the stadium could be significant especially in terms of attracting and sustaining participation in sport and in terms of the sustainability of the sports facilities and the football club.

It is acknowledged that parts of the above mitigation package (the Phase 1 works and the AGP) have already been completed. I would not consider these elements of the mitigation package to represent retrospective mitigation because Sport England was advised of the Sports Village proposals and the associated enabling development on the playing fields before construction started on these elements of the package and the club communicated the evolution of different phases of the project to Sport England throughout the process. While planning permission 07/13/0574/F proposed that the area of playing field (where the residential is proposed) would be retained and enhanced, this was before the stadium proposals evolved as the next phase of regeneration of the club's site. The plans for the club's site were subsequently reviewed following this planning permission and the proposals which already had planning permission were put forward as part of the mitigation package for the current proposal. Sport England is therefore satisfied that these elements of the package represent genuine mitigation proposals that are directly related to, and an integral part of, the sports village concept rather than an attempt to use unrelated existing facilities as a retrospective mitigation proposal.

Conclusion

In conclusion, based on the above assessment, the proposal is considered to broadly meet exception E4 of our policy for the reasons set out above and would offer significant additional sport related benefits in terms of the stadium proposals that would clearly offset a small net loss in playing field provision.

I can therefore confirm that Sport England makes **no objection** to the planning application as a statutory consultee. However, this position is **strictly subject** to a range of matters set out below being addressed through a section 106 agreement and planning conditions if planning permission is forthcoming:

Section 106 Agreement: Sports Village Phasing & Delivery

A section 106 agreement which makes provision for the sport and community facilities proposed in the Sports Village to be delivered within an agreed timescale linked to the enabling residential development. As the justification for the residential development and the associated loss of playing fields is based around the need to provide enabling funding for delivering the sports village, the agreement should safeguard against a scenario where the residential development is implemented but the Sports Village is not. While at present it is considered unlikely that this scenario would arise in practice due to the club's current commitment to the project, it is essential that the agreement makes provision for linking the delivery of the sport and community facilities in the development to the phasing of the residential development to address this potential scenario. The proposed phasing of the development set out in the 'Replies to Sport England' (Updated July 2018) document is considered to be broadly satisfactory as it is understood that the sports village related proposals cannot commence until sufficient capital receipts have been received from the residential development. The confirmed phasing should be included in the section 106 agreement. However, as the club, commercial and stadium elements are in the final phases, securing their delivery through a section 106 agreement would provide more certainty of their delivery in practice. It is also considered that securing delivery would be justified to support making an exception to Green Belt

policy as the benefits of the Sports Village constitute a substantial part of the very special circumstances to justify inappropriate development.

Sport England would not wish to be overly prescriptive on trigger points for delivery but would expect them to be along the following lines:

- Phase 2 of the Playing Pitch Improvement Works (in the area shown on Drawing No: 15_238_PL42 (2016/17 pitch layout)) should be completed and operational as proposed at an early stage of the development as this forms a key part of the mitigation for the loss of the playing field. The delivery should be linked to the occupancy of phase 1 of the residential development (currently proposed as NE Corner Block, East Block and SE Corner Block). For example, the improved playing field area should be completed and operational before first occupancy of any dwelling in this phase. As the pitch works are due to be completed and the pitches ready for use by the 2019/20 football season this should be achievable in practice. In the event that the works are completed and the pitches are operational before a section 106 agreement is finalised it will not be necessary to secure delivery of this element of the proposals;
- The North Block (Area 2) containing Cheshunt FC's new facilities which is proposed for phase 4 should be delivered in advance of the West Block (Area 3) in order to maintain the club's existing ancillary facilities until the new facilities are available. Furthermore, the delivery of this phase should be linked to the occupancy of dwellings in phase 3 of the residential development (currently proposed as the residential development to the east of the site on the existing playing field);
- The West Block (Area 3) containing the commercial and community facilities which is proposed for phase 5 should be delivered after the North Block and its delivery should be linked to the occupancy of dwellings in phases 3 or 4;
- The new stadium (principally the spectator stands) should be completed in terms of providing 1,330 seats and its delivery linked to the occupancy of dwellings in phases 3 or 4 although as indicated by the applicant some of the seating may be completed earlier if required;
- The timing of the delivery of the stadium 3G artificial grass pitch should be agreed before a section 106 agreement is prepared. It has been indicated that this could either be at an early stage of the programme or at the end in phase 5. Sport England would prefer this to be during an earlier phase so that one of the principal community sport related benefits of the Sports Village is realised at an early stage given that the majority of the club and community facilities will not be delivered until the end of the construction programme due to the need for the enabling development. Furthermore, as the club's existing 3G pitch is fully booked during peak periods and there is a shortfall of local provision, its early delivery would be more responsive to current local needs. However, the issue associated with potential contamination of the pitch surface during construction around the stadium is acknowledged. Consequently, the timing of the delivery should be agreed once further consideration of this issue has been given and discussions have taken place with Sport England. The agreed delivery timescales can then be confirmed to the Council for inclusion in the section 106 agreement.

Planning Conditions

1. *North Block and West Block Design & Layout*

A condition (or separate conditions applying to each block) requiring details of the design and layout of the north block and west blocks to be submitted and approved (as part of reserved matters) and for the approved details to be implemented. The Council would be expected to seek such a condition anyway as the application for these elements is in outline and no details of the building layouts have been provided at this stage. The condition is required to ensure that the design and layout is acceptable in planning terms and from Sport England's perspective to ensure that the new sports and ancillary stadium facilities are fit for purpose and deliver the sports related benefits set out above. In this regard, it is requested that the following informative be added to such a condition(s):

Informative: The applicant is advised that the design and layout of sports and ancillary stadium facilities should comply with the relevant industry Technical Design Guidance, including guidance published by Sport England and National Governing Bodies for Sport.

The applicant is recommended to consult Sport England and the Football Foundation (on behalf of the FA and Herts County FA) on the design and layout of the north and west blocks in advance of submitting any future reserved matters planning application to ensure that our comments can be considered before the design is finalised.

2. Stadium Artificial Grass Pitch Design Specifications

As full design specifications for the stadium 3G AGP are not available at this stage, details will need to be submitted prior to commencement of construction of the pitch to demonstrate that the detailed design is fit for purpose and meets the Football Association's design guidance. The design specifications should include details of the specification of at least the 3G surface, construction cross-section and line markings. This is justified to ensure that the design of the facility is fit for purpose in practice and does deliver the benefits to sport identified above which mitigate the impact on the playing field. Furthermore, the Football Foundation has requested that such detail be secured to ensure that the detailed design of the pitch will be acceptable. The applicant is requested to discuss the design specifications with the Football Foundation before submitting details to discharge this condition. It is requested that the following condition and informative be imposed on any planning permission to address this matter (which is based condition 9 of our model conditions schedule <https://www.sportengland.org/facilities-planning/planning-for-sport/planning-applications/>):

"No development of the stadium artificial grass pitch shall commence until details of the design and layout of the artificial grass pitch including the surface specification, construction cross-section, and line markings have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The artificial grass pitch shall not be constructed other than in accordance with the approved details.

*Reason: To ensure the development is fit for purpose and sustainable and to accord with Development Plan Policy **.*

Informative: The applicant is advised that the design and layout of the artificial grass pitch should comply with the relevant industry Technical Design Guidance, including guidance published by Sport England, National Governing Bodies for Sport. Particular attention is drawn to the Football Association's Guide to 3G Football Turf Pitches Design Principles and Layouts

3. Stadium Artificial Grass Pitch Certification

A condition requiring the submission and approval by the local planning authority (in consultation with Sport England) of certification that the artificial grass pitch has met the FIFA Quality or FIFA Quality Pro standard or equivalent International Artificial Turf Standard (IATS). This is justified because AGPs can only be sanctioned for FA affiliated community football match use where the pitch has been tested to meet FIFA's recommended FIFA Quality performance quality accreditation (for community and recreational football), further details of which are on FIFA's website <http://football-technology.fifa.com/en/media-tiles/fifa-quality-programme-for-football-turf/>. Without this, the AGP could not be used for most community football matches which would result in it not being fit for purpose and would diminish the benefits offered to the resident football clubs and wider community by the proposal. The applicant has confirmed that the facility will be designed and maintained to meet these technical requirements but this cannot be confirmed in practice unless appropriate testing takes place which certifies this. As a pitch can only be tested for certification when it is completed so it would not be possible to request the information to be provided at planning application or pre-commencement stages. Following meeting the test, the facility will need to be registered on the FA's Register of Football Turf Pitches <http://3g.thefa.me.uk/> to enable it to be sanctioned for FA affiliated community football match use. The Football Foundation/Herts County FA can provide further advice to the applicant upon request. It is requested that the following condition and informative be imposed to address this matter (which is based on condition 9b of our model conditions schedule):

"Use of the stadium artificial grass pitch shall not commence until:

(a) certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality or FIFA Quality Pro accreditation or equivalent International Artificial Turf Standard (IATS); and

(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches;

have been submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy **.*

4. Sports Village Community Use Agreement

A condition (or a section 106 agreement requirement) requiring a community use agreement for the sports and community facilities in the Sports Village (the sports and community facilities in the West Block, the club facilities in North Block and the stadium artificial grass pitch) to be submitted and approved prior to first use of the West Block (or an alternative timescale to be agreed with the Council). The agreement would provide details of how wider community access to the facilities at the Sports Village that are suitable for community use will be formalised over a long term period in order to ensure that the proposed sport related benefits to the wider community (beyond Cheshunt FC) are secured in practice. A community use agreement sets out a club's policy and arrangements for wider community use of its facilities and covers matters such as hours of use, pricing policy, marketing, types of bookings accepted, restrictions on community use, facility management arrangements etc. The agreement is usually between a sports club and the relevant local authority (i.e. Broxbourne Borough Council) but may involve additional bodies (e.g. Herts County FA). Sport England regularly secures the completion of such agreements through planning conditions on planning permissions relating to major new or enhanced sports facilities. A community use agreement would help ensure that wider community access to the proposed facilities takes place following the implementation of the proposed development and ensure that the community use arrangements are safe and well managed.

The suggested timing of submission/approval of the agreement is proposed in relation to the use of the West Block as this is where the majority of the community facilities will be located and this is expected to be the last phase of the development but I would be willing to consider an alternative timescale. Community use agreement templates, examples of completed agreements and further advice can be provided upon request. The following planning condition should be imposed to address this matter:

"Use of the West Block hereby permitted (or an alternative timescale agreed in writing with the local planning authority), shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the facilities in the West Block, North Block and stadium that the local planning authority considers suitable for community use and include details of pricing policy, hours of use, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority in consultation with Sport England considers necessary in order to secure the effective community use of the facilities. The development shall not be used at any time other than in strict compliance with the approved agreement."

*Reason: To secure well managed safe community access to the sports/community facilities, to ensure sufficient benefit to the development of sport and to accord with Development Plan Policy **.*

5. Residential Development: Ball Strike Protection

As the new housing (plots 1-10 as shown on the Block Plan) adjoining the remainder of Cheshunt FC's playing field would back directly onto the improved football pitches, potential exists for there to be an impact on the residential development i.e. balls leaving the playing field and entering the closest dwellings especially behind the goals i.e. entering the gardens or hitting the windows/doors of the properties. Sport England would wish to avoid a scenario where future residents of the proposed development make complaints to Cheshunt FC or the Council about the impact of balls entering their properties as such impacts should be considered and minimised at the planning stage. Retrospective mitigation measures are likely to be more difficult to implement and fund and the range of options available will be reduced.

Appropriate measures are therefore requested as part of the development to ensure that the use of the playing field does not have an adverse impact on the proposed development in terms of residential amenity and to help ensure that the club or the Council does not come under pressure from residents at a later date to implement such measures. There are a number of potential measures which could be considered which include boundary treatments such as portable ball stopping netting, tree planting, and suitable fencing as well as ball resistant material choices for windows and roofs. The applicant should undertake a risk assessment and seek professional advice if appropriate before developing any mitigation proposals.

To address this concern, a planning condition should be imposed to ensure that details of such mitigation measures for the relevant dwellings, are submitted to and approved in writing by the Council in consultation with Sport England before commencement of the development. A suggested condition is as follows:

Prior to commencement of development of plots 1-10 (as shown on Drawing 15_238_PL02 – Block Plan) of the residential development hereby approved, details of ball stop protection measures shall; (a) be submitted to and; (b) approved in writing by the Local Planning Authority, [after consultation with Sport England]. The approved details shall be installed in full before the development is first occupied and thereafter be managed and maintained in accordance with the approved details.

*Reason: To provide protection for the occupants of the development and their property from potential ball strike from the adjacent playing field or sports facility, to reduce conflict between neighbours and therefore safeguard sporting use of the adjacent sports facilities and to accord with policy ****

If you wish to amend the wording of the conditions or use another mechanism in lieu of the conditions, please discuss the details with the undersigned. Sport England does not object to amendments to conditions, provided they achieve the same outcome and we are involved in any amendments. If the application is permitted, it is requested that Sport England be consulted on drafts of the relevant parts of the section 106 agreement.

If your Authority decides not to attach the above conditions and section 106 agreement requirements, Sport England would wish to lodge a statutory objection to this application. Should your Authority be minded to approve this application without the above conditions and section 106 agreement provisions, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the National Planning Casework Unit.

COMMENTS MADE AS A NON-STATUTORY CONSULTEE

As a non-statutory consultee, without prejudice to our position as a statutory consultee set out above, Sport England would wish to make comments on the following issues:

Proposed Sports Village: Principle of the Development

Sport England has assessed the application in the light of its Planning for Sport Aims and Objectives Guide (2013) www.sportengland.org/facilities-planning/planning-for-sport/aims-and-objectives/ which is consistent with the NPPF. Objective 3 of this guide relates to ensuring that the provision of facilities and opportunities for sport and recreation meets the needs of the local community which includes new facilities and the enhancement of existing facilities.

The proposed development would provide a significant new sports facility that would offer potential to make a major contribution towards meeting identified community sports needs in the Cheshunt area as well as substantially enhancing facilities for Cheshunt FC for the reasons set out above. The proposals are considered in principle to meet the above planning policy objective therefore. Sport England would therefore wish to confirm its **support** for the principle of the proposed sports village as a non-statutory consultee. The Football Foundation have advised that they are also supportive of the principle of the proposed sports village.

As set out above, it is requested that Sport England be engaged by the applicant on the detailed design and layout of the community and football club facilities before reserved matters planning applications are submitted.

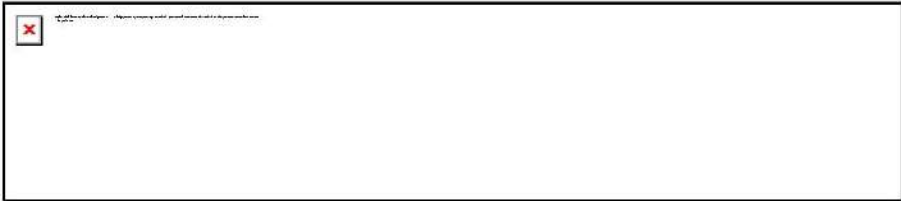
Sport England would also like to be notified of the outcome of the application through the receipt of a copy of the decision notice.

The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

If you would like any further information or advice, please contact me at the address below.

Yours sincerely,

Roy Warren
Planning Manager



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Appendix 3: Appeal decision APP/W1905/W/20/3265422



Appeal Decision

Site visit made on 18 May 2021

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 15 June 2021

Appeal Ref: APP/W1950/W/20/3265422

91 Bury Green Road, Cheshunt EN7 5AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R. Berisha against the decision of Broxbourne Borough Council.
 - The application Ref: 07/20/0727/F, dated 21 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is the demolition of garage and single-storey side extension to existing property and erection two-storey detached dwelling with associated landscaping and provision of off-street parking.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development upon the living conditions of the occupiers of neighbouring properties, with reference to outlook and privacy; and
 - the effect of the development upon the character and appearance of the surrounding area.

Reasons

Living conditions

3. The appeal site is located at the end of a two-storey terrace. The rear garden of the property is an irregular shape. The proposed dwelling is also of two storeys and located to the side of the existing dwelling and close to the boundaries of the two-storey properties at the nearby 1a-1c Hargreaves Road.
4. The pattern of the existing development means that the proposed dwelling would be close to the rear gardens of the neighbouring dwellings. On account of the height and positioning of the proposed development, the new dwelling would have a significant enclosing effect upon the neighbouring gardens.
5. This is a concern given that the rear gardens of the properties at Nos. 1a-1c represent the only areas where residents of the neighbouring dwellings might undertake private recreation. In result, the enclosing and overbearing effect of the development, and resultant loss of outlook, would result in an erosion of the living conditions of the occupiers of the neighbouring properties.

6. In addition, the building at Nos. 1b-1c features a single-storey ground floor projection. This projection features some windows that would face the site of the proposed dwelling. By reason of the greater height of the proposed development, the outlook from these windows would also be substantially reduced. These effects would occur irrespective of boundary treatments.
7. Due to the height of the proposed development, there would be windows located on the first floor of the rear elevation. This would allow for views to be made from the windows of the proposed development into the rear elevation windows of the neighbouring properties at Nos. 1a-1c and their associated gardens. This means that the development would erode the level of privacy experienced by occupiers of the neighbouring dwellings. The proposed development would also be sited closer to existing dwellings than the minimum distances specified in the Council's Borough-Wide Supplementary Planning Guidance (2004, updated 2013) (the SPG)
8. Whilst some of these views would be at an oblique angle, the proximity of the appeal proposal to the neighbouring properties, combined with the absence of physical features or significant landscaping in the proposed dwelling's garden, that might diffuse such views and owing to the height of the boundary treatments, there would be a demonstrable loss of privacy for the occupiers of the neighbouring properties. Such views would also occur on a frequent basis as residents go about their everyday activities. These effects would occur irrespective of whether a condition could be imposed that would remove permitted development rights for the installation of new windows.
9. I acknowledge that one of the proposed first-floor windows would serve a bathroom and might therefore be fitted with obscure glazing. However, despite this, movement would still be perceptible and when the window is open noise could still be audible. Therefore, from the neighbouring properties, the perception of being overlooked would remain.
10. Furthermore, the evidence before me is indicative that the other rear window would be fitted with clear glazing as it would serve a bedroom. Therefore, the type of glazing would not overcome my previous concerns.
11. Whilst the development would be in an urban area, where land could be used more efficiently and the development would not affect light levels, the adverse effects on living conditions as identified would create significant harm.
12. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of the neighbouring properties. The development, in this regard, would conflict with Policies EQ1 and NEB4 of the Adopted Local Plan 2018-2033 (2020) (the Local Plan) and the SPG. Amongst other matters, these seek to ensure that new developments must avoid detrimental impacts upon the living conditions of the occupiers of neighbouring properties; and that new landscaping must take into consideration the outlook of existing residents.

Character and appearance

13. The proposed development would have a different ridge and eaves height when compared to the existing dwelling at 91 Bury Green Road and the rest of the terrace in which the existing dwelling is sited.

14. Whilst the proposed development would have a different form to the existing dwelling, it would be viewed in the context of a variety of dwellings in Bury Green Road and in the wider area. This variety includes several different terraced, detached and semi-detached dwellings that are constructed to contrasting designs.
15. Furthermore, the surrounding area features a combination of both single-storey and two-storey dwellings. Therefore, the environs of the appeal site can be characterised as featuring dwellings constructed to several different heights.
16. Therefore, within this varied context the proposed development would not appear incongruous. In addition, the development would be screened, to a significant degree, by the existing dwellings within the terrace at 85-91 Bury Green Road as well as nearby mature trees. Therefore, the proposed development would not be readily visible from the surrounding area. In result, the proposed development would not be overly prominent, which further reduces its effects.
17. In addition, had I been minded to allow this appeal, I could have imposed a planning condition that would have controlled the materials from which the proposed dwelling would be constructed. This would further reduce the overall effects of the development.
18. By reason of this varied context, there are several differently sized gaps between buildings. In result, whilst the proposed development would reduce the amount of space between the existing dwelling and No. 1a, this would not appear unduly incongruous.
19. In addition, the alterations to the existing building would maintain the general character of the dwelling and would not appear to be overly strident or incongruous.
20. I therefore conclude that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would comply with Policies DCS1 and DCS2 of the Local Plan, and the SPG. Amongst other matters, these seek to ensure that new developments where possible enhance local distinctiveness and respect the character and design of the existing building.

Other Matters

21. The proposal would add to the local housing supply, and residents of the development would support local businesses. However, the overall benefits of this would be reduced by reason of the overall scale of the proposal.
22. My attention has been drawn to Policy TM6 of the Local Plan. This pertains to vehicular accesses. I have no reason to believe that the proposal would result in an adverse effect on highway safety, which reduces the weight that I can attribute to this policy. However, these points do not outweigh the adverse effects as previously identified.

Planning Balance and Conclusion

23. Whilst I have identified that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area, this

does not outweigh the adverse effects arising from the proposed development upon the living conditions of the occupiers of neighbouring properties.

24. The proposal would harm the living conditions of the occupiers of neighbouring properties. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR

Appendix 4: Decision notice and site location plan for 07/20/0770/F

TOWN AND COUNTRY PLANNING ACT, 1990

Reference No:07/20/0770/F

Merlin, Lettice & Ludovic Glanville
Hatts Farm
Semley
Shaftsbury
SP7 9AD

Description of Development: Demolition of existing bowls pavilion and outbuildings, change of use for residential use, (C3), with some matters reserved for development of 24 residential units comprising 3,035.52 sq. m GIA of floorspace , 65 car spaces, new access road via Hillside Crescent and landscaping

Location of Development: Albury Walk Cheshunt Hertfordshire,

In pursuance of its powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council **HEREBY REFUSES** the development shown on drawing numbers proposed by you in your application dated 04/09/2020 and received with sufficient particulars on 07/09/2020.

The Council's resolution to come to this decision was based on an assessment of compliance with relevant policies in the development plan, taking into account all material considerations, The reasons for the Council's decision to **REFUSE** permission for the development are:-

- 1 The proposed residential development results in the loss of an important community sporting facility, a site allocated for open space, sport and recreation contrary to policy ORC2 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.
- 2 The proposed development represents a piecemeal development contrary to policy DSC7 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.
- 3 The proposed design and layout is uncharacteristically cramped on the edge of the settlement, presents rear boundaries to the surrounding open spaces failing to address suitably the public realm and relate to its context contrary to the aims and objectives of policy DSC1 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

4 The proposed cycle path is a poorly designed feature, aligning with the adjacent Public Right of Way (Albury Walk) but failing to incorporate it. The proposed development conflicts with the aims and objectives of Policy DSC1 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

5 The proposed scale, density and proximity of the development to neighbouring bungalows, in particular number 62 and 64 Rushleigh Avenue would create an overbearing relationship, with a significant degree of overlooking to the rear garden areas of these properties resulting in a loss of privacy for the entirety of the garden areas of these properties to the detriment of neighbouring amenities and contrary to policy EQ1 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

6 The proposed development would detract from the existing local character by way of its scale and density resulting in an overbearing nature, viewed in close proximity behind the existing bungalows in Rushleigh Avenue and exacerbated by the loss of mature trees and hedgerows, to the detriment of visual amenities and contrary to policy DSC1 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

7 The proposal results in the unjustified loss of TPO trees and makes inadequate provision for new landscaping to offset the clearly identified landscape loss and harm to landscape character contrary to policies NEB3, NEB4 and NEB5 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

8 The proposed development fails to provide a sympathetic transition towards the Albury Farm Landscape Protection Zone resulting in a hard development edge and undermining the future character of this area contrary to policy CH8 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

9 The proposals fail to demonstrate biodiversity gain on site resulting in ecological harm contrary to policy NEB4 of the Adopted Broxbourne Local Plan 2018-2033.

10 The proposals provide inadequate access to the site and the development fails to demonstrate how the site would be fully serviced by larger vehicles including refuse collection vehicles contrary to policies TM2 and TM3 of the of the Adopted Broxbourne Local Plan 2018-2033 and the Borough-wide Waste Supplementary Planning Guidance (August 2019) and the aims and objectives of the NPPF.

11 The application is not accompanied by any package of community contributions to mitigate the impacts of the development contrary policy PO1 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.

12 The application has failed to satisfactorily demonstrate that the proposals do not contribute to localised flooding or that adequate surface and foul water drainage are provided, contrary to policy W4 of the Adopted Broxbourne Local Plan 2018-2033 and the aims and objectives of the NPPF.



Signed:.....
Head of Planning and Development
DC1001MW

Dated: 25/11/2020

TOWN AND COUNTRY PLANNING ACT 1990

Appeals to the Secretary of State

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within six months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notices

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council of the District or London Borough in which the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Act 1990.

Compensation

- In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.
- These circumstances are set out in Sections 114 and related provisions of the Town and Country Act 1990.



BROXBOURNE BOROUGH COUNCIL
 BOROUGH OFFICES
 CHURCHGATE
 CHESHUNT
 WALTHAM CROSS
 EN8 9QX TEL - 01992 785555

Title Planning application 07-20-0770-F
Location Albury Walk Cheshunt Hertfordshire

S.Bates / DP Date: 2/11/2020 Scale: 1/2500 Centre: 535482.53 , 201799.30

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Appendix 5: Decision notice and proposed plan for 07/16/1369/F

TOWN AND COUNTRY PLANNING ACT, 1990

Reference No: 07/16/1369/F

Mr Dean Williamson
LW Developments Ltd
Regency House
White Stubbs Farm
White Stubbs Lane
Broxbourne
Hertfordshire
EN10 7QA

Description of Development: Area 1 - New stadium with up to 5,192 seats, 66 no. 1 bedroom apartments, 70 no. 2 bedroom apartments, 22 no. 3 bedroom houses and 28 no. 4 bedroom houses, highway access works, internal roads and supporting infrastructure.
Area 2 - Northern block - New facilities for Cheshunt Football Club in use classes D1, D2 and sui generis - matters relating to internal layout and appearance reserved.
Area 3 - Western block - New sports, community, leisure and commercial uses in use classes A1, A3, A4, A5, B1, D1 and D2 - matters relating to internal layout reserved.

Location of Development: Cheshunt Football Club Theobalds Lane Cheshunt Hertfordshire, EN8 8RU

In pursuance of its powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council **HEREBY REFUSES** the development shown on drawing numbers detailed on the attached schedule and proposed by you in your application dated 19/10/2016 and received with sufficient particulars on 14/12/2016.

The Council's resolution to come to this decision was based on an assessment of compliance with relevant policies in the development plan, taking into account all material considerations, The reasons for the Council's decision to **REFUSE** permission for the development are:-

- 1 The design of the houses is not in keeping with the adjacent area which would result in an incongruous development which is contrary to Policy HD14 of the Borough of Broxbourne Local Plan adopted December 2005, draft Policy DSC1 of the Broxbourne Local Plan July 2016 and section 7 of the NPPF: Requiring Good Design.
- 2 The scale and density of the development would result in harm to the openness of the greenbelt which is not sufficiently outweighed by very special circumstances. The proposal is therefore contrary to section 8 of the NPPF: Protecting Green Belt Land and in particular, paragraph 89.

- 3 Insufficient information has been submitted with the planning application and in advance of the infrastructure requirements of the emerging local plan being established, it cannot be determined that the local highway network is capable of supporting the proposed development with the stadium operating at full capacity of 5,192.
- 4 Insufficient information has been submitted relating to the ground height of the proposed houses in relation to neighbouring houses in Montayne Road. As a result the Council is not in a position to fully assess the impact on amenity for residents adjoining the application site to the east.



Signed:.....
Head of Planning and Development
DC1001MW

Dated: 15 August 2017

TOWN AND COUNTRY PLANNING ACT 1990

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- These circumstances are set out in Sections 114 and related provisions of the Town and Country Act 1990.

Drawing Schedule 07/16/1369/F

Bryant and Moore Architects drawings

PL01_1	Site Location plan
PL01_2	Outline Application ID plan
PL02	Proposed Block Plan
PL03	Proposed Ground Floor Plan
PL04	Proposed First Floor Plan
PL05	Proposed Second Floor Plan
PL06	Proposed Third Floor Plan
PL07	Proposed Fourth Floor Plan
PL08	Proposed Fifth Floor Plan
PL09	Proposed Roof Plan
PL10	Proposed Commercial Floor Plans
PL11	Proposed Football Club Floor Plans
PL12	Proposed Refuse Strategy Plan
PL13	Proposed Amenity Plan
PL14	Proposed Floodlight Plan
PL15	Proposed Parking & Cycle Plan
PL16	Long GA Elevations
PL17	Cheshunt FC Elevations
PL18	Housing Elevations
PL19	Proposed GA Sections
PL20	House Type A 3Bed 6Person Unit
PL21	House Type B 4Bed 7Person Unit
PL22	Apartment Type 1A 1B2P
PL23	Apartment Type 1B 1B2P
PL24	Apartment Type 1C 1B2P

PL25	Apartment Type 2A 2B4P
PL26	Apartment Type 2B 2B4P
PL27	Apartment Type 2C 2B4P
PL28	Apartment Type 2D 2B4P
PL29	Apartment Type 2E 2B4P
PL30	NE 3D View
PL31	NW 3D View
PL32	SE 3D View
PL33	SW 3D View
PL34	3D View
PL35	3D View
PL36	3D View
PL37	3D View
PL38	3D View
PL39	3D View
PL40	3D View

WSP UK Ltd drawings

19827-SK-01 Rev B

19827-SK-02 Rev B

19827-ATR-06 Rev A



SITE LOCATION PLAN
1:2500

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bryant + moore
ARCHITECTS
19-25 Salisbury Square, Old Hatfield, Herts AL9 5BT
Tel: 01707 251428 Fax: 01707 251429 Email: info@bryantmoore.co.uk

PROPOSED DEVELOPMENT AT:
CHESHUNT FC, THE STADIUM, THEOBALD'S LANE, CHESHUNT, EN8 8RU

Final Football Pitch Layout

1:2500@A3

January 2017

15_238_PL43