

**APPENDIX 5 | APPEAL DECISION FOR
FORMER WEST FINCHLEY BOWLING CLUB
(APPEAL REF: APP/N5090/W/19/3237549)**

Appeal Decision

Site visit made on 9 December 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2020

Appeal Ref: APP/N5090/W/19/3237549

Former West Finchley Bowling Club, Dudley Road, Finchley, London N3 2QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Leedham, Higgins Homes against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 18/7636/FUL, dated 13 December 2018, was refused by notice dated 8 August 2019.
 - The development proposed is described as demolition of the existing buildings and hardstanding on-site and the erection of 8 No. dwellings with associated hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and erection of 8 No. dwellings, associated amenity space, hard and soft landscaping, cycle store, refuse and recycling store at Former West Finchley Bowling Club, Dudley Road, Finchley, London N3 2QR in accordance with the terms of the application, Ref: 18/7636/FUL, dated 13 December 2018, and the plans submitted with it, subject to the conditions on the attached Schedule A.

Procedural Matters

2. The description of development in the decision above is taken from the appeal form and decision notice, as it more fully reflects the proposal than that shown on the application form.
3. A new version of the London Plan is at an advanced stage of preparation. However, the emerging new London Plan is yet to be published and adopted, which limits the weight I attach to it. The published London Plan (2016) (LP)¹ constitutes part of the development plan for the purposes of the appeal. I will determine the appeal on this basis.

Main Issue

4. The main issue is whether the proposal would lead to loss of a community facility, having particular regard to public access to open space.

¹ The London Plan: The Spatial Development Strategy for London, Consolidated with Alterations since 2011, March 2016.

Reasons

5. I have had regard to the planning history of the site, including the application which was refused in 2017, and the subsequent appeal decision² in February 2018. The appeal was dismissed on the grounds of loss of a community facility, stemming from lack of substantive evidence, including of marketing, to enable a meaningful assessment of the continuing viability of the site. Given the relatively recent nature of this decision regarding similar proposed development on the appeal site, I afford it substantial weight.
6. The site comprises a bowling green and club house, and open grass area. Residential properties back onto three sides of the site. The site has not been used by a bowling club since around 2017. Some decline in the condition of the green and club house is evident. The site and the adjoining grassed area with trees to the south are together designated an Asset of Community Value (ACV) under the Localism Act.
7. Policy DM13 of the London Borough of Barnet's Development Management Policies (2012) (DMP) allows for the possibility of loss of community use only in exceptional circumstances where either i) new community use of at least equivalent quality or quantity is provided on the site or at a suitable alternative location, or ii) there is no demand for continued community use, and the site has been marketed effectively for such use. Supporting text paragraph 14.1.8 of the DMP includes the following as one of the factors to be evidenced when considering loss of a community facility: 'can these needs be met by another local community facility or proposed facility (replacement)'?
8. The comparative analysis of alternative bowling club facilities³ illustrate that there are around ten other clubs located within an approximately three mile radius of the site, three of which are within around twenty minutes walk, and most accept new members. Whilst the previous bowling club fees on the appeal site appear to have been towards the lower end of the scale, the analysis shows annual individual memberships at other clubs to be available for typically between around £100 to £150 per year. Analysis of bowling club membership, as noted in the previous appeal decision, suggests some willingness to travel within the area, to access such facilities. Moreover, during my site visit I saw signage at Victoria Park bowling club inviting new members. Together, the above factors indicate a reasonably accessible and affordable range of alternative bowling club facilities in the area. As such, criterion i) of Policy DM13 is broadly satisfied.
9. Since the previous appeal decision, the site has been marketed for rental over around a 17 month period, during which the annual rental asking price was dropped by £5,000. Although presence of squatters on the site prevented viewings for part of the marketing period, the marketing report illustrates that at least seven viewings took place by potential occupiers who were interested in uses ranging from gym and nursery to community project. None of the viewings led to substantive offers, with reported feedback indicating that potential work necessary to make the site reusable deterred some prospective occupiers.

² Planning Application Ref: 17/1290/FUL and Appeal Ref: APP/N5090/W/17/3185754.

³ As per Tables 4.2 and 4.3 of the appellant's Appeal Statement.

10. The site was marketed for rent only and not for sale, thus not fully satisfying the suggested methodology in supporting text paragraph 14.1.8 of the DMP. However, it is not substantively shown that purchase of the site would be the only, or most realistic, tenure for community groups, including bowls clubs. Moreover, the viewings indicate that sufficient awareness of the site was raised to stimulate interest among a variety of potential user groups. The Council's Property Services team deemed the marketing to be effective. Together, the above factors lead me to find that sufficiently robust marketing and market analysis took place, to enable a meaningful assessment of the viability of the site.
11. The status of the site as part of an Asset of Community Value (ACV) shows that it is considered of value to the local community. Community objections to the appeal proposal further indicate support for its retention as a recreational facility. Nevertheless, the evidence before me leads me to find that criterion i) and, in part, criterion ii) of Policy DM13 of the DMP are satisfied. Accordingly, the proposal accords with the requirement of Policy DM13 to satisfy at least one of the two above criteria.
12. The site is located within an area identified as deficient in open space, as defined in Map 10 under Policy CS7 of the London Borough of Barnet's Core Strategy (2012) (CS). The proposal would not improve access to open space in an area of public open space deficiency, as sought by Policy CS7 and paragraph 3.2.1 of the London Borough of Barnet's Planning Obligations Supplementary Planning Document (2013). However, given that the site is not open to the public, it would not currently reduce such access.
13. In addition to the public open space illustrated on Map 10 of the CS, Long Lane Pasture is a greenspace with some public accessibility, which is located well within a 400m catchment of the appeal site. A number of private open spaces are also located a short walk from the appeal site, including Finchley Cricket Club, Wilf Slack Sports Ground and Bishop Douglas Sports Pitches. Stephen's House and Gardens publicly accessible open space is situated just outside the 400m catchment of the appeal site. Victoria Park, which offers a range of outdoor recreation and sports facilities, including a bowls club and pavilion, is within a modest distance. Therefore, the area around the appeal site has a range of public and privately owned green spaces in and accessible to it, which, together, provide a relatively wide, diverse and accessible choice of outdoor recreation and sport opportunities to the local community.
14. The appellant has submitted a Unilateral Undertaking (UU) to provide a £50,000 sports facilities improvements contribution, with £2,000 monitoring contribution. Notwithstanding the UU, the appellant sets out that they offered a 'without prejudice' financial contribution toward the provision of sports facilities elsewhere in the Borough, to overcome 'perceived' loss of bowling provision in the area. The nature of potential improvements envisaged is not before me. Moreover, Victoria Park bowling club - for which the Planning Officer's report indicates the Council's Greenspaces and Leisure Service requested a financial contribution to improve facilities, to accommodate any increase in demand - apparently has capacity for new members.
15. Therefore, having regard to the tests in the National Planning Policy Framework (the Framework) and Community Infrastructure Levy Regulation 122, I consider that whilst such a financial contribution may add to the quality of the

area's bowling club provision, it is not necessary in order to make the appeal proposal acceptable in planning terms, given the range of other facilities in the area.

16. Given the site is not operating as a sports and recreation facility, it is questionable whether the proposal would amount to a net loss of sports and recreation facilities. Even if it did, and thereby conflicted with Policy 3.19 of the LP, I find that there would not be significant harm to the supply of such facilities, given the alternative choice of facilities outlined above.
17. Drawing the strands together, I conclude that the proposal would not, overall, amount to a harmful reduction in supply of community facilities, sports facilities and open space in the area. As such, it would broadly accord with Policy CS10 of the CS, which seeks to ensure that community facilities are provided. Furthermore, it would not conflict with Policies DM13 and DM15 of the DMP, and Policy 7.18 of the LP, which together, allow for the possibility of loss of community facility or open space, exceptionally, where at least equivalent provision can be made.

Other Matters

18. The proposed development would reduce the spaciousness of the site, although the garden space around the houses would retain some of this. The absence of cars from the site, retention of trees around and overhanging the site boundary, and scope for a landscape scheme including new planting would, together, contribute to the relative verdancy of the proposed residential development. The relatively low rise one and two-storey form of the development - which would comprise six two-storey semi-detached houses and two bungalows, with shallow pitch roofs, would go some way to avoid an excessively hard appearance. The previous Inspector found that the proposal would not be detrimental to the character and appearance of the surrounding area, and the scheme has not changed so as to lead me to reach a different view.
19. The following refuse storage and collection points are proposed: two dedicated bin stores off the main access footway; and future occupiers would be responsible for moving the bins to the collection point in the lane between 6 Dudley Road and Al Araf. The proposal would lead to more wheelie bins at the collection point than currently exist. Nevertheless, the visibility of the bins would be relatively localised and temporary in nature, with weekly bin collection a common occurrence in urban residential areas. The previous Inspector found that no significant increased harm would occur to the character of the area or living conditions of occupiers of No 6 Dudley Road and Al Araf, with particular regard to outlook. The proposal has not changed so as to lead me to find otherwise.
20. Regarding parking, from what I saw during my site visit, some on-street parking capacity exists on streets in the vicinity of the site, albeit at a 'snapshot' in time. The Updated Parking Survey Results provided by the appellant indicates available capacity of between around 33 and 38 on-street overnight parking spaces in the neighbourhood. Moreover, the appeal site is in a relatively accessible location in terms of public transport, walking and cycling, so as to offer some realistic alternatives to private car use. I note residents' concerns about parking pressures in the locality, and questioning of the survey data. However, the above factors, in combination, lead me to find that

sufficient on-street parking capacity would be available in the area to safely accommodate the relatively modest anticipated increase in demand.

21. Trees along the edge of the site will be retained, and gardens will provide scope for new planting to enhance the relatively low ecological value of the amenity grassland, as outlined in the appellant's Ecological Impact Assessment.
22. The proposed two-storey buildings would achieve the 10.5m separation gap requirement to neighbouring garden boundaries. The proposed dwellings would also achieve the 21m separation distance requirement between habitable windows of neighbouring dwellings⁴. As such, within the suburban context, I consider that the proposal would not result in harm to living conditions of neighbouring residents in terms of privacy, outlook and light. The scale of proposed development would limit its effects in terms of noise, air pollution and stress on local infrastructure.
23. The proposal would provide six new houses and two bungalows, including some wheelchair adaptable accommodation, on a site free from access by vehicles. This is within the context of a suggested historic undersupply, which is not substantively rebutted. As such, the proposed development would positively contribute, on a modest scale, to the diversity and supply of housing in the area. The development would also provide associated socio-economic benefits during and after construction, including through New Homes Bonus and custom for local services and facilities in Finchley, including, potentially, for community and sporting facilities. Furthermore, the proposal would provide a realistic new use for this somewhat 'niche' site, given its restricted access to the rear of residential properties. Together these benefits carry significant weight in favour of the proposed development.

Conditions

24. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been broadly found to be reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision.
25. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, in order to provide certainty. Conditions regarding materials, boundary treatment, landscape, tree protection and permitted development rights are required to safeguard the character and appearance of the area. Conditions relating to cycling, ecology, carbon emissions and water efficiency are necessary in the interests of environmental sustainability. I attach conditions relating to levels, refuse facilities, construction management, building adaptability and security, to safeguard living conditions of residents.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

William Cooper INSPECTOR

⁴ Recommended separation distances in the London Borough of Barnet's Residential Design Guidance Supplementary Planning Document (2016).

Schedule A) Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: F811/P1 Revision C Site Plan; F811/P2 Revision C Site Plan; F811/P3 Revision A Context Elevation A; F811/P4 Revision A Context Elevation B; F811/P5 Revision A Unit Type A; F811/P6 2 Storey Elevations; F811/P7 Revision B Unit Type B & C; F811/P8 Bungalow Elevations; F811/P9 OS Map red line boundary.
- 3) Prior to carrying out any above-grade works other than demolition and site clearance, details of the materials to be used for the external surfaces of the buildings and hard surfaced areas shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) Prior to carrying out above-grade works other than demolition and site clearance, details of the levels of dwellings, roads and footpaths in relation to adjoining land and highways, and any other changes proposed in the levels of the site, shall be submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a demolition and construction management and logistics plan (DCMLP). The DCMLP shall include, but not be limited to, the following: (i) details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures; (ii) site preparation and construction stages of the development; (iii) details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials; (iv) details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway; (v) the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works; (vi) a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance; (vii) noise mitigation measures for all plant and processors; (viii) details of contractors' compound and car parking arrangements; (ix) details of interim car parking management arrangements for the duration of construction; (x) details of a community liaison contact for the duration of all works associated with the development. Development shall be implemented in accordance with the approved DCMLP.
- 6) No construction work shall be carried out on the site at any time on Sundays, Bank or Public Holidays, before 08:00 or after 13:00 on Saturdays, or before 08:00 or after 18:00 on other days.
- 7) Prior to occupation of the development hereby permitted, a refuse and recycling collection strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall include details of the following measures, to be implemented prior to first occupation of the

dwellings: (i) refuse and recycling collection arrangements and whether or not the collections would be carried out by the Council or an alternative service provider; (ii) enclosures, screened facilities and internal areas of the proposed buildings to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable; and (iii) collection points for refuse and recycling. The measures implemented as approved shall be retained thereafter.

- 8) Tree protection measures shall be implemented in accordance with the BS5837 Tree Survey, Arboricultural Impact Assessment and Method Statement (Elizabeth Greenwood 2017/2018). No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the Tree Protection Plan has been erected. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time.
- 9) Prior to occupation of the development hereby permitted, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping. The approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
- 10) The development hereby permitted shall be implemented in accordance with the Ecological Impact Assessment (ADAS, February 2017). This shall include the recommendations in section 4 and Table 5 of the Ecological Impact Assessment, including incorporation of wildlife-friendly planting within the landscaping scheme.
- 11) Prior to occupation of the development hereby permitted, a scheme of cycle parking and storage facilities shall be submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 12) Prior to occupation of the development hereby permitted, details of the means of enclosure, including boundary treatments, shall be submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 13) Prior to carrying out above-grade works other than demolition and site clearance, a detailed scheme of measures sufficient to achieve full Secured by Design accreditation for the development hereby permitted, shall be submitted to and approved in writing by the local planning authority. Secured by Design accreditation shall be obtained for the dwellings, prior to their first occupation.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no

development otherwise permitted by any of Classes A, B, D, E and F of Part 1 of Schedule 2 of that Order shall be carried out within the area of new dwellings hereby approved.

- 15) Prior to first occupation of the new dwellinghouses hereby permitted, they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters. Each new dwelling shall be constructed to include water saving and efficiency measures which comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach used to determine the water consumption of the proposed development. The development shall be maintained as such thereafter.
- 16) Prior to first occupation of the new dwellinghouses hereby permitted, notwithstanding the details shown in the drawings otherwise hereby approved, the dwellings shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such thereafter.
- 17) Prior to the first occupation of the development hereby permitted, it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 6% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such thereafter.