

Appeal Decision

Inquiry opened on 5 April 2016

Site visit made on 11 April 2016

by B J Sims BSc(Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 May 2016

Appeal Ref: APP/E5330/W/15/3129768

Land at and to the rear of 132 and 134 Avery Hill Road, New Eltham, London SE9 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Linden Limited and Novalong Limited against the Council of the Royal Borough of Greenwich.
 - The application, Ref 14/3551/F, is dated 5 December 2014.
 - The development proposed is the erection of 136 residential units of up to 2.5 storeys in height, with associated access, parking, publicly accessible open space and landscaping, including demolition of a garage at 134 Avery Hill Road.
 - The Inquiry sat for 7 days on 5-8, 12-13 and 15 April 2016.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 136 residential units of up to 2.5 storeys in height, with associated access, parking, publicly accessible open space and landscaping, including demolition of a garage at 134 Avery Hill Road, on land at and to the rear of 132 and 134 Avery Hill Road, New Eltham, London, SE9 2EY, in accordance with the terms of the application, Ref 14/3551/F, dated 5 December 2014, subject to the conditions set out in the Schedule appended to this decision.

Preliminary Matters

Documentation

2. Lists of Appearances, Documents and Abbreviations are appended below.

Council Resolution to Refuse the Application

3. Notwithstanding that the appeal is against the failure of the Council to determine the application, on 1 July 2015, Council Members resolved to refuse permission in line with a recommendation by its professional officers set out in a Planning Board Report [CD 2]. The appeal had been made before a refusal notice was received by the Appellants. However, the case for the Council against the appeal is founded upon the putative reasons for refusal contained in the Report.
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Rule 6 Party and Other Interested Persons

4. The appeal site was formerly a sports ground operated by the Gaelic Athletic Association (GAA). A local group entitled Residents Against Gaelic Environmental Destruction (RAGED) claims a membership of '560 residencies around the GAA sports ground' opposed to the residential development of the site. RAGED appeared at the Inquiry as a Rule 6 Party and, aside from adducing evidence of its own, strongly supported the case of the Council against the appeal.
5. RAGED was not legally represented and did not strictly follow conventional practice in the submission of proofs of evidence in advance. However, its Chairman and principal spokesman co-ordinated the appearances of several of its representatives, some of whom made representations also on their own behalf. The submissions and cross-examination by RAGED were often repetitious or of questionable relevance, sometimes questioning the good faith and intentions of the Appellants, and of certain interested persons who favour the development, and impugning the integrity of professional witnesses. Whilst this could not be permitted and inappropriate suggestions and terminology are disregarded in this decision, there is no question that, with leniency and guidance, RAGED and its associates were properly and fairly enabled to present their best case against the appeal proposals for due consideration. In one case, due to an oversight resulting from confusion over the manner of presentation of the RAGED case, re-examination of one of the RAGED witnesses (Mr Marlow) was omitted and it was agreed that a written note covering re-examination points would be accepted. In practice, no such note was submitted but RAGED made full closing submissions with a written transcript [Doc 40].
6. RAGED asserted in advance of, and at the Inquiry that public consultation by the Appellants had misrepresented the effects of the proposed development. RAGED also asserted that they had been given limited access to Inquiry documentation and had to resort to photographing hard copies at the Council offices, whereas for personal reasons, electronic versions were essential to the Chairman of RAGED in particular. At the opening of the Inquiry, however, the Council confirmed that all Inquiry documentation had been duly available on its website. There was nothing to indicate that RAGED had ultimately been disadvantaged in the foregoing respects, in particular as the Inquiry provided the proper public forum all objectors to express their case.
7. In addition to RAGED, a number of other interested persons spoke at the Inquiry and a large number of written representations were received regarding the appeal [Doc 3]. All these were made available for consideration by the main and Rule 6 parties and are taken into account in this decision, together with all the oral representations made at the Inquiry both for and against the development.

Pre-Inquiry Note

8. In accordance with usual practice, a Pre-Inquiry Note (PIN) was issued regarding procedural aspects of the Inquiry and giving provisional advance notice of the planning issues likely to arise. The PIN is listed as an Inquiry Document [Doc 4] only in response to a submission by RAGED [Doc 31], who were concerned about the scope of the issues outlined within it. However, the

issues were properly reviewed at the opening of the Inquiry and are set out below to encompass every concern expressed by RAGED.

Common Ground

9. The Appellants and the Council provided an agreed Statement of Common Ground (SOCG) [Doc 7] and an agreed Transport Statement of Common Ground (TSOCG) [Doc 8], the contents of which are taken into account. RAGED, as a Rule 6 Party, was invited to indicate to what extent it was able to agree with the SOCG and TSOCG but did not do so, instead making its own case independently.

Ruling upon a Submission by RAGED regarding the Validity of the Appeal

10. In a written communication shortly before the Inquiry [Doc 5], and orally at its opening, RAGED submitted that the appeal was invalid. In summary, this was on the basis that the application had been substantially modified, involving new documentation and requiring fresh public consultation, and that, in practice, the Council had determined the amended application within the statutory period. RAGED alleged that the Appellants had manipulated the planning process actively to contrive the appeal on grounds of failure to determine the application, knowing that the Council were intent upon refusing the development.
11. In response, the Appellants and the Council pointed to the undisputed facts of the matter as set down in paragraphs 3.4 to 3.9 of the SOCG. An extended period for determination of the revised application was agreed to 29 May 2015. Whilst the Council made its resolution to refuse the revised application on 1 July 2015, the formal decision notice was not received by the Appellants until 17 July 2015. In the meantime, on 10 July 2015, the appeal was submitted on grounds of non-determination. In further response, the Appellants submitted that there had been no error of law in the making of the appeal and no unfairness would result from the Inquiry proceeding forthwith.
12. It was ruled [Doc 6], in brief, that, based on the agreed chronology set out in the SOCG, there was nothing to indicate that the Appellants had erred in law in making the appeal or that the Planning Inspectorate had erred in accepting it as valid. The Appellants had exercised their normal right of appeal on non-determination, whereby it is common practice for the appeal to proceed with reference to purported reasons for refusal. Had the appeal been made on refusal, the effect, and the right of objection by RAGED and any other party, would have been no different. The revised proposals now at appeal had been subject to full public consultation. There was no legal impediment, and no injustice, in regarding the appeal as valid. No case of invalidity had been made out. The Inquiry therefore proceeded directly, without adjournment.

Previous Appeal and Current Related Planning Permissions

13. The main and Rule 6 Party cases in this appeal are made with reference to a previous appeal Ref APP/E5330/A/06/2018048 for 268 dwellings, shops, surgery and open space on the same site. This was dismissed in 2007 by the Secretary of State (SoS) [CD 5-6], against the recommendation of the Inspector.
14. Outline planning permission Ref 15/1330/O, [Doc 15 Appendix 3] was granted by the Council in March 2016 to the Greenwich Borough Football Club (GBFC),

for the redevelopment of the appeal site, cited as The Gaelic Athletic Association (GAA) Sports Ground, to provide one full size 3G football pitch and a stadium grass pitch, fencing and floodlights with access via the existing entrance off Avery Hill Road. This permission also covers future car parking, changing, catering, recreation and administrative facilities, together with an additional boundary earth mound.

15. Full planning permission was granted by the Council in February 2016, to the same co-Appellants as in the present appeal, for the redevelopment of the, currently unused, Bardhill Sports Club site in Footscray Road, to include sports pitches, a community building and a school/community garden [CD 26].
16. The findings of the Inspector and the conclusions of the SoS, regarding the former scheme dismissed in 2007, and the existence of the extant permissions are all considerations material to the present appeal. However, the present proposal falls to be considered strictly on its own individual planning merits. That is irrespective whether there is potential for GBFC to implement the permission to redevelop the site, in terms of funding and land ownership interests. The latter are, in any event, strictly outside the scope of planning.
17. Further reference to the earlier appeal, and to the present permissions, are made below, where relevant to policy and planning issues arising in the present appeal.

Planning Obligation

18. The Appellants have provided a Unilateral Undertaking (UU) pursuant to Section 106 of the Act (as amended) [Doc 9]. In summary, this provides for the following:
 - 18.1 *Schedule 2* - 45 of the 136 proposed residential units to be put forward as Affordable Housing,
 - 18.2 *Schedule 3 part 1* - Financial contributions in respect of:
 - compensation for the loss of a tree on the public highway at the site entrance,
 - the Greenwich Local Labour and Business Scheme,
 - a bus shelter opposite the entrance to the development,
 - identified highway improvements,
 - 18.3 *Schedule 3 part 2A* - the Open Space proposed within the development to include, according to consideration by the appeal Inspector, either:
 - Sports Pitches, based on agreed optional layouts appended to the SOCG, with changing pavilion, subject to separate planning permission, or
 - a Local Park, including children's play areas, together with a bio-diverse habitat or an attenuation pond, and
 - an Open Space Management Plan.

- 18.4 *Schedule 3 part 2B* - delivery of the Bardhill site, Footscray Road for sports pitches, community building, changing facilities and a community garden, together with a management plan.
 - 18.5 *Schedule 3 part 3* - training, local employment and equal opportunities measures, including considerate construction and low emission transport.
 - 18.6 *Schedule 4* - Development Monitoring,
 - 18.7 *Schedule 3 part 5* - a Car Club, and
 - 18.8 *Schedule 3 part 6* - off-site access works.
19. The degree to which these planning obligations are properly material to this decision is considered below.

Suggested Conditions

20. The Appellants and the Council have agreed a Schedule of Suggested Conditions [Doc 10] to be imposed on any permission in the event that the appeal is allowed. These are also considered below.

Site Visits

21. Before and during the Inquiry I twice undertook an unaccompanied tour of the area and the residential streets surrounding the appeal site, including Overmead, Sidewood Road, Crombie Road, Halfway Street and Forest Hill Road, from where pedestrian and cycle access is proposed, as well as Avery Hill Road itself, where the main site entrance is situated.
22. On Monday 11 April I made an accompanied visit to the site itself with representatives of the Appellants, the Council and RAGED. This was observed, despite adverse weather, by a large number of local residents wishing to demonstrate their views, mainly in opposition to the proposed development. Immediately afterwards, I made a further accompanied visit to view the Bardhill Site in Footscray Road.
23. In line with correct practice, no evidence was heard at these visits but my observations inform my consideration of the oral and written evidence, including the many letters from residents received before and during the Inquiry.

Main Issues

24. Based upon all of the oral and written evidence, the main planning issues in the appeal are:
- 24.1 the principle of the residential development of the appeal site with respect to local planning policy, taking account of its designated status as Community Open Space (COS),
 - 24.2 the local and Borough-wide need for sports pitches with reference to submitted needs assessments,
 - 24.3 the need for housing with respect to evidence of the housing land requirement and five year housing land supply (5YHLS) and whether policies for the supply of housing should be considered up-to-date,

- 24.4 other material effects of the proposed development, in particular those of concern to RAGED and other interested persons, including with respect to:
- trees and landscaping,
 - road traffic,
 - local education and health care infrastructure capacity,
 - living conditions in relation to privacy, outlook, dominance, noise, disturbance and pollution, and
 - generally, the level of opposition expressed by the local community,
- 24.5 planning obligations and conditions necessary and appropriate for permission to be granted, and
- 24.6 on balance overall, whether the proposal would comply with the development plan as a whole and whether any policy conflict or environmental harm would be outweighed by material considerations or benefits, including with regard to 5YHLS and the national policy presumption in favour of sustainable development set down by the National Planning Policy Framework (NPPF).

Reasons

Background and Description of the Appeal Scheme and Related Proposals

25. The roughly flat, rectangular appeal site extends to some 5.3 hectares (ha) and is the former GAA Sports Ground. Having been vacated by the GAA in 1992, the land is now overgrown and unused. The site is designated COS and subject to several Tree Preservation Orders (TPOs), although few trees remain, apart from at the site boundaries.
26. There is no public access to the site but it is overlooked from the rear of many properties on all four sides and can be glimpsed between the houses from the surrounding streets. It is also visible from the end of Forest Hill Road.
27. The proposed development would place a total of 136 dwellings mainly around the periphery of the site, backing toward the rear of existing homes and facing inward across the proposed open space. Back-to-back distances with respect to existing houses would vary between approximately 29 and 62 metres. The built development would occupy some two thirds of the total site area, leaving about 1.86ha of open space. The dwellings would comprise semi-detached and terraced houses along three sides, as well as at the north eastern end of the site, with three apartment blocks at the south western end. The buildings are variously described as being of 2.5 or 3 storeys in height but, in any event, would have accommodation on three levels, including within the roof space. The apartment blocks would be 10.9 metres and the houses up to 10.1 metres in overall height.
28. A total of 203 car parking spaces would be incorporated within the development. The sole vehicular access would be provided by widening and improving the existing entrance off Avery Hill Road, involving the removal of a garage at No 134 and a mature tree within the highway. Additional pedestrian and cycle access would be provided via Forest View Road.
29. In the submitted proposal, as considered by the Council in formulating its putative reasons for refusal, the central open space would comprise a park

incorporating a children's play area, biodiverse habitat and an attenuation pond arranged around a general public area.

30. However, in connection with the appeal, the Appellants put forward optional layouts for sports pitches occupying the general public area, to be considered in conjunction with the appeal. These are detailed in plans appended to the SOCG and are now potentially secured by the UU, as an alternative to the park.
31. In addition, the Appellants also now undertake, by way of the UU, to deliver the Bardhill site redevelopment scheme in Footscray Road. This would be brought forward, as now permitted for sports pitches and community use, in conjunction with the appeal development, if implemented.

Planning Law and Policy

Development Plan

32. Section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 makes the overarching provision that determination of the appeal must be made in accordance with the development plan unless material considerations indicate otherwise.
33. The statutory development plan for the Royal Borough comprises the London Plan 2015 (LP) [CD 11] and the adopted Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (RGLP) [CD 8], together with certain saved policies of the Unitary Development Plan (UDP).
34. A great many of the LP and RGLP policies are germane to the issues in this appeal but those of particular relevance are summarised in the following paragraphs.

Open Space and Sports Provision

35. LP Policy 3.19, in relation to Sports Facilities, supports development that increases or enhances the provision of sports and recreation facilities and resists the loss of such facilities, including playing fields.
36. LP Policy 7.18, in relation to protecting open space and addressing deficiency, resists the loss of protected open space, unless equivalent or better quality provision is made within the local catchment area, subject to assessment of needs.
37. RGLP Policy OS1 states the strategic aim to safeguard, enhance and improve access to existing public and private open space, including Metropolitan Open Land (MOL) as well as COS.
38. RGLP Policy OS(b) relates to COS and states that only limited new building will be permitted in COS ancillary to the existing use, recognising that, in every case, COS, not all with public access, nevertheless fulfils specific local functions and constitutes welcome open breaks within the built up area.
39. RGLP Policy OS(c) concerns Public Open Space Deficiency Areas where the Council will seek to increase provision of public open space (POS) and improve public access to it. Together with RGLP Figure 5, Policy OS(c) deems the area which includes the appeal site as a Local Park Deficiency Area, on the basis that it is further than 400 metres from a Local Park. In such circumstances

Policy OS(c) requires new residential schemes over 50 units to provide POS, for which the supporting text sets a standard of 3.8ha per 1,000 population.

40. RGLP Policy OS(d) on Sportsgrounds and Playing Fields resists development which would lead to the loss, or prejudice the use of a playing field, or land last used as a playing field. This is subject to certain exceptions including: A(i), where an appraisal of current and future needs has demonstrated an excess of provision and, A(ii), the site is surplus to the requirements of all other open space functions; or B(ii), the proposal is for a sports facility of sufficient benefit to the development of sports to outweigh the loss of the land or, B(iii), an alternative site or facility of at least equivalent quantity and quality is provided in a suitable location.

Housing

41. LP Policy 3.3, in aiming to increase housing supply, recognises the pressing need for an annual average supply of at least 42,000 dwellings per annum (dpa) net additional homes across London, as compared with an indicated need of 49,000 dpa to 2036 and 62,000 dpa in the shorter term to 2026. For Greenwich, Policy 3.3 sets a minimum ten year target of 26,850 dwellings, equivalent to an annual average housing supply monitoring target to 2025 of 2,685 units. These figures are derived from the London-wide Strategic Housing Market Assessment (SHMA) and the London-wide Strategic Housing Land Availability Assessment (SHLAA) undertaken in 2013.
42. RGLP Policy H1 on New Housing sets a 15-year target to 2028 for new housing expected to be developed in six identified Strategic Development Locations (SDLs) within the Royal Borough. 99 per cent of this is expected to be on brownfield land, with specific sites to be detailed in a future site allocations plan. The supporting text commits the Royal Borough to revising the housing target to align with the LP. Accordingly, there is no dispute in this appeal that, following the alteration of the LP in 2015, the RBG minimum average housing supply monitoring target of Policy H1 is, in effect, 2,685 units, equal to that set by LP Policy 3.3.

National Planning Policy Framework

43. The NPPF at paragraphs 7 and 14 sets down the presumption in favour of sustainable development in its triple economic, social and environmental roles. NPPF paragraph 14, read with Footnote 10, goes on to provide for proposals that accord with the development plan being approved without delay, unless material considerations indicate otherwise; and, where relevant development plan policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. In the latter connection, Footnote 9 gives examples of designations restricting development. This is considered further below in connection with Case Law.
44. NPPF paragraph 47 calls upon local planning authorities to boost significantly the supply of housing, based on evidence of objectively assessed needs in the housing market area, and to identify a five year housing land supply (5YHLS) of specific deliverable sites. This is with an additional buffer of 20 per cent where there has been persistent under-delivery of housing. The stated purpose of the buffer is to provide a realistic prospect of achieving the

planned supply, by moving forward sites from later in the plan period. NPPF paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5YHLS.

45. NPPF paragraph 215 makes the general provision that weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. In this appeal, there is no dispute that the foregoing development plan policies are up-to-date, subject only to consideration of 5YHLS under NPPF paragraph 49, and essentially consistent in their terms with the NPPF. In particular, RGLP Policy OS(d) protects existing sports and playing fields in terms similar to NPPF paragraph 74.

Case Law

46. The interpretation of the foregoing provisions of the NPPF has been informed by case law, including several recent High Court judgments cited in the submissions of the main parties to this appeal.
47. In relation to whether a proposal accords with the development plan in terms of Section 38(6) of the PCPA and NPPF paragraph 14, it is clear that this determination is to be made with respect to the development plan 'as a whole'. Thus, where there is tension between relevant policies of the development plan, it is necessary to make a judgement on the overall compliance of the proposed development, also taken as a whole, by considering it in relation to all the relevant policies of the plan. As submitted at the Inquiry by the Appellants, without dissent by the Council, this principle is demonstrated and established in the judgment in the case of *Tiviot Way Investments*¹ with reference to several other authorities². The appraisal of the planning issues below follows the same approach.
48. In relation to whether, and to what extent, relevant policies are to be considered out-of-date with respect to NPPF paragraph 49, it is also clear, with reference to the judgment in the case of *Hopkins Homes*³, that any policies which 'affect the supply of housing' are to be considered out-of-date if the Council cannot demonstrate a 5YHLS. At the same time it is also established, in particular in the judgments in the cases of *Crane*⁴ and *Phides*⁵, that those same policies continue to carry weight with respect to those of their provisions which do not affect housing.
49. As a result, there is no dispute that all of the policies cited above with respect to Open Space and Sports Provision do affect the supply of housing by constraining the use of land which might otherwise be used for new homes. Therefore, if it is concluded that, for the purposes of this appeal, the Council cannot demonstrate a 5YHLS, these policies should be regarded as out-of-date, to the extent that they affect the supply of housing, along with those provisions of the housing policies which specify its location. To the extent that these policies protect open space and sports fields, they continue to carry weight in the overall planning balance. The amount of that weight is a matter of judgement addressed below.

¹ *Tiviot Way Investments v SSLG & Stockton-on-Tees BC* [2015] EWHC 2849 (Admin)

² *R v Rochdale BC ex parte Milne* [2000] EWHC 650; *Tesco Stores Ltd v Dundee CC* [2012] P&CR 9

³ *Suffolk Coastal DC & Hopkins Homes Ltd etc* [2016] EWCA Civ 168

⁴ *Crane v SSCLG* [2015] EWHC 425 (Admin)

⁵ *Phides v SSCLG* [2015] EWHC 827 (Admin)

50. There is some dispute in connection with Footnote 9 to NPPF paragraph 14 as to the applicability of paragraph 74 of the NPPF to protect existing sports and playing fields when the development plan is out of date. The Appellants submitted that the examples of restrictive policies given in Footnote 9 are limited to interests of national or international significance and that the Footnote should not apply to protective provisions of a lower order. However, the Council drew attention to the judgment in a recent case involving the *Forest of Dean District Council*⁶, wherein it is held that NPPF Footnote 9 should be given a relatively wide meaning to cover any situation where the NPPF indicates a policy that cuts across the underlying presumption in favour of development. The judgment finds that paragraphs 114 and 134 on the protection of biodiversity and heritage interests are covered by Footnote 9 and paragraph 14. Footnote 9 is not exhaustive in its terms and paragraph 74 is more definitive in its wording than either paragraphs 114 or 134. NPPF paragraph 74 should accordingly be taken into account as a restrictive policy in terms of paragraph 14, in as much as this is germane to assessing the overall planning balance.
51. With respect to whether the appeal proposal represents sustainable development, the appellants cited the judgment in the case of *Renew Land Developments*⁷. This finds that, where the development plan is out of date, unless adverse impacts would significantly and demonstrably outweigh the benefits, the proposal is by definition sustainable development and should be approved.

Principle of the Proposed Development

52. The Appellants question whether the COS designation of the appeal site is robust and well founded, with reference to the history of its emergence via the UDP Inquiry and RGLP Examination. The designation was adopted contrary to the recommendation of the UDP Inspector and Council officers, whilst the RGLP Inspector left the issue of its retention to further studies, including a Green Infrastructure Study yet to proceed in connection with the emerging Site Allocations Plan. The designation nevertheless stands as a provision of the adopted and up-to-date RGLP, albeit the relative public value of the site as COS may be considered against its potential loss.
53. Whilst it is important to consider the appeal proposal as a whole, it must be accepted that the housing element of the scheme would occupy two thirds of the site area, resulting in the loss of some 3.44ha of protected COS. To that extent, the proposal would be in conflict with Policies OS1 and OS(b).
54. The significance of that conflict is mitigated in that, although designated COS, the land is enclosed, overgrown, unused and offers no public access. To some degree the site fulfils its function as COS to provide a welcome open break within the surrounding built up area. However, as noted by the Inspector in the 2007 appeal, that benefit is geographically constrained and limited principally to the rear views from surrounding residential property. The COS lost to the development would therefore be of relatively low value to the wider public and this factor is germane to the overall planning balance.

⁶ *Forest of Dean DC v SSCLG* [2016] EWHC 421 (Admin)

⁷ *Cheshire East BC v SSCLG & Renew Land Developments Ltd* [2016] EWHC 571 (admin)

55. Alongside the housing proposed, the development would include a public open space of 1.86ha. This would incorporate a park and football pitches suitable for junior soccer. In these respects, the development would comply with LP Policy 3.19 to increase or enhance sports provision and RGLP Policy OS(c) to increase POS provision in the surrounding Local Park Deficiency Area. These elements of the proposal do not obviate its conflict with the foregoing policies. However, they are benefits, secured by the UU, to be weighed in the balance of planning considerations. Also to be taken into account is the provision, also secured by the UU, of the Bardhill site for sports pitches and community facilities.
56. Although vacant and in a declining condition for some 24 years, the site was last used as a playing field and remains a potential resource for that use to resume. Therefore, even though there are currently no playing pitches on the land, the loss of two thirds of the site would also be in clear conflict with the terms of RGLP Policy OS(d). That is, unless an excess of provision is demonstrated and the site is surplus to requirements, or otherwise an equivalent alternative is provided.
57. The appeal site is not located within any of the SDLs nominated by RGLP Policy H1. Nor is it a brownfield site, as required for 99 per cent of new housing in the Royal Borough. However, in the absence to date of the projected Site Allocations Local Plan, Policy H1 is not prohibitive of other sites outside the SDLs and the 136 dwellings proposed in this case would not amount to a great proportion of the 1 per cent greenfield development contemplated. The broad spatial planning of residential development is only emphasised in the current early stages of the preparation of the Site Allocations Plan. The Issues and Options Consultation document of February 2016 [CD29] contemplates only exceptionally allocating sites outside SDLs or town centres where there is good public transport. The appeal site is not in a town centre and has relatively low access to public transport. However, the Issues and Options document carries little weight in policy terms and the location of the proposed development would not be in significant conflict with adopted Policy H1.
58. In conclusion regarding the principle of the proposed development, taken as a whole, the scheme would be in conflict with those policies of the development plan which protect COS and land last used as a playing field, albeit the latter is subject to assessment of need, as considered below. However, the development would provide secured benefits compliant with the aims of the development plan to increase and enhance sports and park provision.

Need for Sports Pitches

59. Having regard to the terms of Policy OS(d), which are in turn reflective of NPPF paragraph 74, the Appellants undertook, and submitted with the application, a Sports Pitch Needs Assessment (SPNA) [CD 11]. This was undertaken by specialist consultants, using methodology broadly in line with the published advice of Sport England (SE). The SPNA was tailored to a maximum 'catchment buffer' of 1,600 metres, based on a finding of a previous Greenwich Open Space Study in 2008 [CD 9]. The SPNA concluded that the level of pitch provision within the study catchment area is 1.36ha per 1,000 population. This excludes the appeal site and Bardhill, which are not in current use, and exceeds recommended standards. Accordingly, it is not

disputed that there is a local surplus of playing pitch provision within the southern part of the Royal Borough, where the appeal site is located.

60. However, it is common ground that two comparatively recent studies undertaken for the Council and entitled Sports Facilities Strategy (SFS) [CD 30] and Playing Pitch Strategy (PPS) [CD21] are together a matter for consideration in the appeal. The PPS and SFS were also undertaken in line with SE guidance and show, in contrast with the local surplus shown by the SPNA, an overall Borough-wide under provision of sports facilities. This is due to higher levels of demand compared with facilities available in the northern parts of the Royal Borough, including within Woolwich and urban Greenwich itself. Again, the broad quantitative results of the PPS are not questioned but its site-specific recommendations are not supported by detailed analysis.
61. The previous proposal of 2007 was dismissed with reference to a lack of marketing evidence. Although there is no policy requirement to provide evidence that the appeal site has been offered for sale in its established sports use, in the present appeal, the Appellants provide a Marketing Report [CD 1m]. This informs the judgement as to whether the appeal land is needed for sports use. The marketing campaign, and the Marketing Report upon it, appear to have been undertaken in accordance with generally accepted professional good practice. However, the Marketing Report is criticised by the Council in two particular respects.
62. First, although the guide price of £750,000 and a requirement to provide proof of funding are not questioned, the tender conditions appear to apply an unusually high level of rigour in not only applying a clawback condition but also a restrictive covenant, to cover the event of the site not being developed as proposed. Whilst their imposition is a matter of professional judgement, there is no other example in the evidence in this appeal of both these requirements being applied together.
63. Second, it is widely accepted that a site should be marketed for at least a year before it can be concluded that there is no need for it in its current use. In this case, the site has been offered for sale for nearly two years without a strictly compliant bid being received. Importantly however, the site had only been on the open market for some seven months before the appeal application was submitted and the prospect of the site being redeveloped for the much higher valued residential use became public knowledge.
64. On one hand, these considerations would be expected to discourage prospective tenderers and render the results of the marketing campaign unreliable in relation to the level of need for the appeal site for sport. On the other hand, a number of offers were submitted, most of them after the planning application was made. The majority of these were non-compliant with the tender conditions or the guide price, or both. Two, however, were at or above the guide price.
65. GBFC offered the full guide price, without any deduction for the cost of site remediation, having obtained outline planning permission to redevelop the whole site as a soccer stadium. However, the Appellants rejected the bid on grounds that proof of funding was not forthcoming because the benefactor named as financing the project did not demonstrate that the funds were available in sterling.

66. The other offer, from the Department of Education, was for the development of a secondary school, at a price much inflated over the guide figure, but therefore non-compliant in terms of use and subject to the grant of planning permission for education development, with no certainty that this would be secured.
67. Thus having sought, in effect, to prove the negative claim that there is no demand for the appeal site in sports use, the marketing campaign in some measure leads to the opposite conclusion.
68. Moreover, in supporting the appeal at the Inquiry, Elmstead Football Club stated an interest making use of the junior pitches now proposed on the appeal site, whilst Foots Cray Rugby Sports and Athletic Club supported the Bardhill sports proposal. These expressions of interest, whilst aimed in good faith at supporting the claimed benefits of the appeal development, also demonstrate a local interest in the continued use of the appeal site for sport.
69. Indicative local demand is however not directly related to need in terms of adopted policy and it does appear unlikely that sports teams from the north of the Borough would travel from outside the local SPNA catchment to use the appeal site. At the same time, it must be accepted that the Borough-wide under provision identified by the PPS places the loss of the majority of the appeal land last used as a playing field into conflict with the Borough-wide aim of Policy OS(d) to protect such land. Moreover, it follows from the evidence of the Appellants themselves that there is a strong interest in the re-use of the site for sport, leaving aside a known shortage of pitches in neighbouring Bexley, noted by RAGED. This level of interest is demonstrated by the GBFC planning permission and offer to purchase the land, as well as the favourable response expressed in the junior soccer pitches now proposed for the remaining open space within the development, as well as for the Bardhill sports development.
70. On the evidence to the appeal therefore, no excess of provision is demonstrated in terms of adopted Borough-wide policy and the site is not to be regarded on balance as surplus to requirements, despite an overall local surplus. This view is supported by marketing evidence and local expressions of interest in the proposed facilities. Neither is the Bardhill development directly put forward as providing an equivalent alternative. In conclusion regarding the need for sports pitches, the proposed development would strictly be in conflict with the aim of GBLP Policy OS(d) to protect land last used as a sports field. This further policy conflict is to be taken into account alongside any countervailing advantages of the whole scheme.

Need for Housing

Requirement

71. There is no question that there is a desperate need for housing within the Royal Borough, as reflected in LP Policy 3.3 and adopted RGLP Policy H1, with a minimum average housing supply monitoring target of 2,685 dpa, a figure well beneath the level of need indicated by the London SHMA of 2013.
72. Even so, the Council began the Inquiry with an assertion that it has, in effect, two housing land requirement figures, that of 2,685 dpa set by adopted RGLP Policy H1 and a lower figure between 1,557 dpa and 1,701 dpa derived from a

separate South East London SHMA, implying a projected surplus over the development plan requirement. This joint sub regional SHMA was undertaken in response to LP Policy 3.8 on Housing Choice, that London Boroughs should take account of the range of local housing needs. However, this aspect of housing land policy was not substantively pursued in evidence or submission at the Inquiry.

73. In any event, the manner in which the need for housing impinges on the present appeal is centred on whether the Council can demonstrate a 5YHLS and the implications of this judgement for its housing supply policies under NPPF paragraph 49. It is unquestionable that the proper starting point for assessing the Royal Borough 5YHLS is the recently revised minimum requirement figure of 2,685 dpa set by RGLP Policy H1.

Supply

74. The Council admits to a history of past under performance in the supply of housing and adds the 20 per cent buffer to its supply figure as required by NPPF paragraph 47. There is no dispute as to the arithmetic calculations used to arrive at the differing values for 5YHLS promulgated respectively by the Council and the Appellants. Disagreement is focussed essentially, first, on the manner in which shortfall in supply during the period of the RGLP is considered and, second, the practical five year contribution to be anticipated from one key strategic site.
75. For the purpose of this appraisal and for clarity, shortfall since the beginning of the plan period is distinguished from prior backlog, which is assumed to be covered in the updated requirement derived from the London-wide SHMA of 2013. The Council maintains that the addition of the 20 per cent buffer to the supply covers the shortfall created by under performance and that to include in addition the shortfall to date in the five year requirement amounts to inappropriate double counting. The Council takes this view on its interpretation from first principles of the wording of NPPF paragraph 47, in the absence of any other government policy on how shortfall should be taken into account. The Council also relied upon the Interim Findings of the Inspector in the Knowsley Local Plan Examination in this regard, where the same approach was contemplated.
76. The Council accordingly calculates its 5YHLS figure from 2015 to 2020 simply on the basis of the annual monitoring target of 2,685 dpa, equivalent to a five year requirement of 13,425 units ($2,685 \times 5$) and a target supply figure 20 per cent greater of 16,110 units ($13,425 \times 1.2$), equivalent to 3,222 dpa. This was initially compared with a claimed identified five year supply of 16,672 units, giving rise to a 5YHLS of figure of 5.17 years ($16,672 \div 3,222$).
77. However, this approach runs quite contrary to established practice supported by the Planning Advisory Service and widely applied with only few exceptions. In the case of the Knowsley Local Plan Examination, the interim approach was reversed in the final report, consistent with other Local Plan Examination Reports across the country. Notably, matters of requirement and supply are frequently confused. However, the two matters of the five year requirement and the supply buffer are separate and distinct. The five year requirement defines the amount of housing necessary in the next five years for the housing supply to keep up with the planned target. The 20 per cent buffer is

- a precautionary measure related to bringing forward supply in the face of past under performance.
78. Under performance is not necessarily the fault of the Council and it is recognised in the case of Greenwich that the Council has granted an impressive number of housing permissions. In these circumstances, under performance is more likely to be a function of developer policy and market conditions. The requirement to add the 20 per cent buffer to supply is not therefore to be seen as a penalty upon the Council, or the community, but as a planning necessity.
 79. The accepted formula is to add the shortfall to date to the basic five year requirement and then add the appropriate buffer to the total to create the five year supply target for comparison with the predicted supply. In this case, the amount of shortfall to date is undisputed at 2,153 units. Using the more appropriate established methodology, this is added to the basic five year requirement of 13,425 units to make a total five year requirement of 15,578 units. Adding the 20 per cent buffer creates a five year supply target of 18,694 units, equivalent to 3,739 dpa ($18,694 \div 5$).
 80. Even compared with the five year supply claimed by the Council of 16,672 units, this results in a 5YHLS of only 4.5 years ($16,672 \div 3,739$), or 4.6 years if the shortfall is distributed over the entire plan period.
 81. This leads to the conclusion that the Council cannot demonstrate a 5YHLS, even on the basis of its initial claimed supply figure.
 82. Moreover, during the Inquiry, the Council conceded certain relatively minor reductions in the supply figure of 184 units as well as a substantial reduction of 585 units from a major strategic site on the Greenwich Peninsula South of the O2 stadium. Outline permission was granted for this development in December 2015, under Ref 15/0716/O, for some 12,898 dwellings. The Council had anticipated that these homes would be delivered at an average rate of 921 dpa, amounting to 3,685 dwellings over the remaining 4 years of the five year supply period. However, on the advice of the developer, the Council now accepts that no more than 3,100 units will be delivered within the five year period, equivalent to 775 dpa and resulting in the agreed reduction in the five year supply of 585 units. The total of the agreed reductions is 769, bringing about a lowering of the supply to 15,903 units ($16,672 - 769$) and the 5YHLS figure to about 4.3 years ($15,903 \div 3,739$).
 83. Even compared with the basic requirement of 3,222 dpa, this agreed reduced supply figure reduces the 5YHLS just below 5 years ($15,903 \div 3,222$).
 84. The foregoing development contributes to the updated Greenwich Peninsula Masterplan 2015, where there is already a history of a high rate of housing delivery, which the Council is geared up to support into the future. Even so, the assumed commencement of delivery in the current year 2016-17 still appears optimistic, due to a complex matrix of planning conditions yet to be discharged. On a balance of judgement, a further one year's contribution of 775 units should be deducted from the estimated five year supply, reducing it to 15,128 units ($15,903 - 775$). The resulting 5YHLS figure is 4.0 years ($15,128 \div 3,739$).

85. again, if this further reduced supply total is compared with the basic requirement, the 5YHLS becomes 4.7 years.

Conclusion on Housing Need

86. In overall conclusion, calculated using accepted methodology, the Council is unable to demonstrate a 5YHLS. Whilst such predictions are notoriously uncertain and imprecise, in this instance, the essential basic data are largely agreed and well supported by evidence. It is mainly the differing methodology and assumed commencement of delivery of a single strategic site which account for the reduction below the requisite five years supply.
87. The Council cites a previous appeal, Ref APP/E5330/A/13/2208027, wherein it was accepted that it could demonstrate a 5YHLS; but that decision is dated almost two years prior to the Inquiry into the present appeal and does not rehearse housing land supply evidence in any detail. The present case must be evaluated on current individual merit.
88. On the evidence available now, and for the purpose of deciding this appeal, the 5YHLS of deliverable sites is no greater than 4.3 years, using the appropriate calculation methodology and the supply figure now agreed by the Council, and is properly to be regarded as 4.0 years, taking into account the likely commencement of delivery from the strategic Greenwich Peninsula site discussed above.
89. Accordingly with regard to housing need, RGLP Policies H1, OS1, OS(b) and OS(d) are not to be considered up-to-date, in as much as they are relevant to the supply of housing and the appeal should be determined with respect to NPPF paragraph 14 and the presumption in favour of sustainable development.

Other Planning Effects

Trees and Landscaping

90. Most trees have been removed from the site and a further specimen would be lost due to the road access improvement in Avery Hill Road. However, the landscaping proposals integral to the proposed development scheme, and secured by planning conditions, would result in a net improvement to the tree cover and landscape quality of the appeal site.

Access, Highways and Traffic

91. Notwithstanding local concern regarding increased traffic generated by the proposed development, there is no objection from the highway authority or transport for London. The submitted Transport Assessment [CD 1n] and the TSOCG demonstrate that safe access can be provided and generated traffic accommodated safely on the highway network.

Infrastructure

92. 136 new households would inevitably create additional demand for local medical, educational or other services. However, there is no evidence that such increased demand would exceed the capacity of the existing infrastructure in these respects, subject to due payment of the Council and London Mayoral Community Infrastructure Levy (CIL).

Living Conditions

93. RAGED and many individual objectors fear and oppose the prospect of the introduction of substantial dwellings backing onto their rear gardens where, for many years, there has been nothing but open space and, long before that, no more than a playing field. That is easily understandable. However, the overall heights of the proposed dwellings, coupled with the intervening distances between buildings, are such as to avoid unacceptable dominance, overshadowing or loss of privacy, especially in what is essentially an already urban context. Accordingly, there is no substantive objection related to the living conditions of present residents.

Local Opposition

94. There is an impressive volume of local opposition to the residential development of the former GAA Sports Ground led by RAGED. This calls attention to the material planning matters set out above in addition to the main issues. The strength of local opinion does not go unnoticed and is a material consideration. RAGED and others also question the conduct of the Appellants, including in terms of deliberate disuse and landbanking of both the appeal site land and the Bardhill site. However such matters, related to land ownership and the intentions of the developers, are not primarily planning considerations. Properly based on the true planning evidence, and taking account of every matter raised in connection with the appeal, there would be no adverse impact of the development that could not be addressed by way of planning conditions or the submitted UU.

Planning Obligations and Conditions

95. The submitted UU provides a range of planning obligations which would be necessary, relevant and directly related in scale and kind to the proposed development, in terms of Regulation 122 of the CIL Regulations 2010, as amended. These include the provision and ongoing maintenance of the public park and sports pitches within the site, as well as the separate implementation of the Bardhill Sports Club site redevelopment. The latter would include a community garden reasonably justified as serving the increased local population due to the development, as supported at the Inquiry by Charlton Manor Primary School. In addition, the affordable housing contribution would make available the requisite number of affordable homes in compliance with development plan policy to address identified need in this respect. The financial and physical off-site works contributions would meet the remaining costs and effects of the scheme.
96. The agreed suggested conditions are all necessary, relevant, precise, enforceable and reasonable, in terms of national planning practice guidance. For the avoidance of doubt, in the interests of proper planning and to ensure that the effects of the development would be acceptable, the development should be required to be implemented in accordance with the approved plans and supporting documents, with details of external finishing materials, landscaping, lighting, ecological and tree protection and management, waste storage and drainage and of a construction and demolition method statement and remediation strategy, all submitted for approval in advance. In addition, specific limitations on working hours to the normal working week would be necessary. The proposed car parking spaces should be provided before occupation and kept available thereafter to avoid on-street congestion. A

travel plan, as well as cycle storage, should be provided in the interests of transport sustainability. A further range of conditions should be included to ensure compliance with adopted policy standards on housing construction, accessibility and renewable energy provision.

Balance of Planning Considerations

97. It is concluded above that, on the evidence in this appeal, the Council cannot demonstrate a 5YHLS. Therefore, in accordance with the NPPF and recent case law, relevant Policies OS1, OS(b), OS(d) and HS1 of the RGLP, and the equivalent provisions of the LP, are not to be regarded as up to date to the extent that they affect the supply of housing in the Royal Borough, in terms of its amount and location.
98. It is therefore necessary to turn to NPPF paragraph 14 and consider whether any adverse impacts of the development would significantly and demonstrably outweigh the benefits, assessed against the NPPF as a whole or whether specific NPPF policies indicate development should be restricted.
99. It is also in accordance with recent case law that Policies OS1, OS(b) and OS(d) continue to carry weight with respect to their primary aims to protect and improve COS and sports pitches, broadly in line with NPPF paragraph 74. In this respect it is also concluded that the appeal proposal, to place residential development on some two thirds, or 3.44ha, of the appeal land, is in conflict with these development plan objectives.
100. On the other hand, the adverse impact of this conflict is mitigated in that the enclosed, private and unkempt COS is currently of limited public value, save as a break in urban development hardly perceptible save from the rear of surrounding residential properties.
101. Moreover, the proposed development, properly considered as a whole, would also provide material planning benefits, compliant with other aspects of the development plan. In particular, the proposed 1.86ha public open space including a park and junior soccer pitches would provide improved access to the remaining COS as well as a sports facility for which there is evident demand locally and which would be consistent with recommendations of the PPS. These benefits would be compliant with RGLP Policy OS(c) in addressing a local park deficiency, as well as with LP Policy 3.19 to enhance sports provision.
102. Furthermore, the UU would furnish additional sports and other facilities in demand to serve the community at the Bardhill Sports Club site. Although not claimed as directly offsetting the loss of the larger part of the appeal site as COS, this would also assure a benefit in favour of the Avery Hill Road scheme.
103. Whilst there is some prospect that, in the event that this appeal were dismissed, the GBFC-proposed refurbishment of the whole appeal site might take place in line with Policies OS1, OS(b) and OS(d), this is far from being assured in view of the outstanding issues of funding and site ownership. Moreover, the GBFC scheme would not include the development plan-compliant benefit of the public park. This appeal must in any event be decided on individual merit.

104. The proposed development would also comply with a wide range of other development plan policies, cited by the Appellants without dissent from the Council. However, the compliance of a proposal with the development plan overall cannot be intended to be measured simplistically by a mechanistic review of those policies that the development would not offend, any more than the concept of localism is intended to allow development to be impeded simply on the number of objectors, as opposed to a judgement on the weight of planning evidence.
105. There is, therefore, merit in the submission of the Council that any properly designed mixed housing and public open space scheme would naturally meet most of the policies quoted. The mere compliance of the proposal with many of the other policies of the development plan accordingly carries only little weight in favour of the appeal.
106. At the same time, whilst the sheer volume of heartfelt local opposition is a material consideration against the appeal, in the absence of substantive objection in other respects, this carries less weight than the central considerations derived from the main issues of open space and sports provision.
107. The degree of shortfall in the 5YHLS amounts to a one year supply, or 0.7 of a year on a more optimistic assumption regarding the delivery of housing in the Greenwich Peninsula. Either way, this is a significant deficit in anticipated housing delivery in the next five years, compared with development plan minimum requirements. The appeal dwellings would make a significant contribution to addressing this deficit. The shortfall in the 5YHLS, and the contribution which 136 appeal dwellings, including 43 much needed affordable homes, would make to addressing this shortfall, are considerations which further militate strongly in favour of the proposed development. This is especially so in the light of the desperate need for new housing in London, set down in the LP as substantially exceeding statutory plan targets and despite the sub regional SE London SHMA prediction of a comparative surplus of supply.
108. On an overall balance of planning judgement, whilst the loss of the larger part of the appeal site as COS would militate materially against the proposal, this adverse impact would not be so great as significantly and demonstrably to outweigh the very considerable benefits of the development in providing much needed homes in the face of the significant 5YHLS shortfall. The public local park and sports pitches on the appeal site and the Bardhill community scheme being made a reality, all secured by the UU, form a further substantial benefit.
109. It follows for the same reasons that the degree of restriction on the loss of open space and sports fields, indicated by NPPF paragraph 74 in similar terms to RGLP Policy OS(d), is also outweighed by other material considerations in favour of the development, having regard to NPPF paragraph 14 and Footnote 10.
110. The proposed scheme as a whole is thus to be regarded as sustainable development and should be allowed in accordance with the presumption of the NPPF in its favour.
111. Finally, when compared with the former development scheme, dismissed by the SoS in 2007, the circumstances of the present proposal are markedly

different. The appeal scheme is for far fewer dwellings in a much changed planning policy context. In the intervening nine year period, with the advent of the NPPF and several alterations to the LP, as well as the adoption of the RGLP, there has grown a greater emphasis of the need for more housing. Moreover, it is notable that the SoS dismissed the previous appeal with express reference to the absence of marketing evidence for assessment, whereas such information is provided in this case.

Overall Conclusion

112. For the reasons explained above, there is an overriding case in support of the development proposed in this appeal, when properly appraised on its individual merits. Planning Permission is consequently granted, subject the conditions reviewed above.

B J Sims

Inspector

SCHEDULE OF PLANNING CONDITIONS

Time Limit

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Approved Plans

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site Location Plan (ref: 21963A_120)
Existing Site Layout Plan (ref: 21963A_130)
Site Layout Plan (ref: 21963A_200 A)
Existing Site Sections (ref: 21963A_700)
Proposed Site Sections (ref: 21963A_710 A)
Site Layout Plan and sections extract of apartment blocks (Proposed) (ref: 21963A_290 A)
Site Section D-D (Proposed) (ref: 21963_A291 B)
Street Elevations AA-BB (ref: 21963A_500 H)
Street Elevations CC-DD (ref: 21963A_510 I)
Street Elevations EE-FF (21963A_520 G)
Street Elevations GG-HH (ref: 21963A_530 I)
Street Elevations JJ-KK (21963A_540 A)
House Type 201 Brick and Render (ref: 21963A_201 B)
House Type 202 Brick (ref: 21963A_202 C)
House Type 203 Brick and Render (ref: 21963A_203 C)
House Type 301 Brick (ref: 21963A_301BR B)
House Type 301 Render (ref: 21963A_301RE B)
House Type 302 Brick (ref: 21963A_302BR B)
House Type 302 Render (ref: 21963A_302RE A)
House type 303 Brick (ref: 21963A_303 B)
House Type 304 Brick (ref: 21963A_304 B)
House Type 305 (ref: 21963A_305 B)
House Type 401 Variant A Brick (ref: 21963A_401VABR A)
House Type 401 Variant A Render (ref: 21963A_401VARE A)
House Type 401 Variant B Brick (ref: 21963A_401VBBR A)
House Type 401 Variant B Render (ref: 21963A_401VBRE A)
House Type 402 Brick (ref: 21963A_402BR)
House Type 402 Render (ref: 21963A_402RE)
House Type 403 Brick (ref: 21963A_403 A)
House Type 404 (ref: 21963A_404 A)
House Type 502 Variant A Brick (ref: 21963A_502VAA)
House Type 502 Variant B Brick (ref: 21963A_502VBBR B)
House Type 502 Variant B Render (ref: 21963A_502VBRE B)
Apartment Block 1 Ground and First Floor Plans (ref: 21963A/AffBlock1_1 C)
Apartment Block 1 Second Floor and Roof Plans (ref: 21963A/AffBlock1_2 C)
Apartment Block 1 Elevations (ref: 21963A/AffBlock1_3 C)
Apartment Block 1 Section (ref: 21963A/AffBlock1_4 A)
Apartment Block 1 Ceiling Height Diagram (ref: 21963A/AffBlock1_5 A)

Apartment Block 2 Floor and Roof Plans (ref: 21963A/AffBlock2_1 D)
Apartment Block 2 Elevations (ref: 21963A/AffBlock2_2 C)
Apartment Block 2 Section (ref: 21963A/AffBlock2_3 A)
Apartment Block 2 Ceiling Height Diagram (ref: 21963A/AffBlock2_4 A)
Apartment Block 3 Ground and First Floor Plans
(ref: 21963A/AffBlock3_1 C)
Apartment Block 3 Second Floor and Roof Plans
(ref: 21963A/AffBlock3_2 B)
Apartment Block 3 Elevations (ref: 21963A/AffBlock3_3 C)
Apartment Block 3 Section (ref: 21963A/AffBlock3_4 A)
Apartment Block 3 Ceiling Height Diagram (ref: 21963A/AffBlock3_5 A)
Bin Store at Apartment Block 1 (ref: 21963A/BIN1)
Bin Store at Apartment Block 2 (ref: 21963A/BIN2)
Substation at Apartment Block 1 (ref: 21963A/SUB)
Illustrative Coloured Masterplan (ref: 29904-1-L-90-PL-001 P2)
Landscape General Arrangement Plan (ref: 29904-1-L-90-PL-002 P2)
Boundary Treatment Plan (ref: 29904-1-L-90-PL-003 P2)
Sheet Layout Plan (ref: 29904-1-L-90-PL-004 P2)
Landscape Detail Plan – General Arrangements Sht1
(ref: 29904-1-L-90-PL-101 P2)
Landscape Detail Plan – General Arrangements Sht2
(ref: 29904-1-L-90-PL-102 P2)
Landscape Detail Plan – General Arrangements Sht3
(ref: 29904-1-L-90-PL-103 P2)
Landscape Detail Plan – General Arrangements Sht4
(ref: 29904-1-L-90-PL-104 P2)
Landscape Detail Plan – General Arrangements Sht5
(ref: 29904-1-L-90-PL-105 P2)
Landscape Detail Plan – General Arrangements Sht6
(ref: 29904-1-L-90-PL-106 P2)
Planting Strategy
(ref: 29904-1-L-90-PL-300 P2)
Proposed Site Access Drawing
(ref: ITL10032-SK-007 G)
Design and Access Statement
Landscape Strategy
Planning Statement
Arboricultural Implications Report and tree survey
Sports Pitch Needs Assessment
Marketing Report (4th December 2014), Supplemental Report: Marketing
Update: 5th December – 17th February 2015, Further Supplemental
Report:
Marketing Update: 18th February 2015 – 10th April 2015
Transport Assessment
Residential Travel plan
Statement of Community Involvement
Phase 1 Habitats Survey
Energy Statement and Sustainability Strategy, Incorporating Code for
Sustainable Homes Pre-Assessment
Desk Study, Preliminary Site Investigation and Risk Assessment Report
Flood Risk, Surface Water and Foul Water Drainage Assessment
Site Waste Management Plan

External Materials

- 3) Prior to the commencement of the development, full details including samples of all facing materials and fenestration to be used on the buildings shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approval.

Hard and Soft Landscaping

- 4) Prior to the commencement of the development, full details of all hard and soft landscaping arrangements including surface treatment, fencing or other means of enclosure; tree, or shrub planting indicating species and size shall be submitted to, and approved in writing by, the Local Planning Authority before the development is commenced. The hard and soft landscaping shall be completed within 12 months, or by the end of the first planting season, after the completion of the development to the satisfaction of the Local Planning Authority.

Any trees or plants which die within a period of 5 years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Ecological/Landscape Management Plan

- 5) Prior to the commencement of development a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) shall be submitted to and approved in writing by the Local Planning Authority. Development proposals must ensure no net loss of biodiversity and wherever possible, make a positive contribution to the protection, enhancement, creation and management of biodiversity.

The submitted information shall include:

- a) A report from a suitably qualified ecologist specifying how the landscape features have been developed for biodiversity and ecological enhancement, and
- b) Details of all landscape features including plans and cross sections.

The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

Tree Protection Measures

- 6) The tree protection measures shall be installed and maintained during the implementation of the development, in strict accordance with the approved Arboricultural Implications Report by Simon Jones Associates Ltd, dated December 2014.

Timing of Vegetation Clearance (breeding birds)

- 7) All removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall

check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation shall not be removed until the fledglings have left the nest.

Implementation of Agreed Biodiversity Mitigation/Enhancement

- 8) The mitigation measures set out in Table WM03 of the Phase 1 Habitat Report by Wildlife Matters, dated November 2014 shall be implemented in full. Full details of these measures shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the relevant part of the development hereby approved.

Bat Survey

- 9) Prior to the implementation of the development an updated bat survey shall be carried out and evidence that the survey has been undertaken along with any proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority.

Details of Bird and Bat Boxes

- 10) Details of bird and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the exact location, specification and design of the habitats. The boxes shall be installed prior to the first occupation of the development and maintained in accordance with the approved details thereafter.

Lighting

- 11) Prior to the commencement of the development, full details of any lighting within the site, including measures to protect existing wildlife and prospective and neighbouring residents from light nuisance, shall be submitted to, and approved in writing by, the Local Planning Authority. The lighting shall in all respects be carried out in accordance with the approved details prior to the first occupation of the relevant residential units and thereafter permanently retained and maintained.

Construction of the Development

- 12) Building works must only be carried out within the following times:-

08:00 hours to 18:00 hours, Monday to Friday

09:00 hours to 13:00 hours on Saturday

and not at all on Sundays or Bank Holidays

unless otherwise agreed in writing by the Local Planning Authority.

Construction/Demolition Method Statement

- 13) Prior to the commencement of any works and/or demolition/construction work a demolition/construction method statement shall be submitted to, and approved in writing by, the Local Planning Authority. The method statement shall include full details of the following:

Haulage Routes;

Measures to ensure the footway and carriageway is not blocked;

Likely noise levels to be generated from plant;

Proposals for monitoring of noise and procedures to be put in place where agreed noise levels are exceeded;
Likely dust levels to be generated and any screening measures to be employed;
Proposals for monitoring dust and controlling unacceptable releases;
Wheel washing facilities and facilities for discharging the water.

Travel Plan

- 14) Prior to the occupation of any part of the development the Residential Travel Plan prepared by i-Transport LLP and dated December 2014 shall be implemented in full.

Car Parking

- 15) The parking space(s) provided shall be laid out in accordance with the approved plans. Prior to the occupation of any of the dwellings hereby permitted each unit shall be provided with the requisite parking space(s). The parking spaces shall be used only for that purpose and no development whether permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification) or not shall be carried out so as to interfere with such use.

Cycle Storage

- 16) Full details of the cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any of the dwellings hereby permitted, each unit shall be provided with the requisite cycle storage in full compliance with the approved details and the cycle storage shall thereafter be permanently retained for such use, unless the Local Planning Authority gives written consent to any variation.

Waste and Recycling Facilities

- 17) No development shall take place above ground level until full details of the waste and recycling facilities have been submitted to, and approved in writing by, the Local Planning Authority. Prior to the occupation of any of the dwellings hereby permitted each unit will be provided with the requisite waste and recycling facilities.

Submission of Remediation Strategy

- 18) Prior to the commencement of the development, a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be submitted to, and approved in writing by, the Local Planning Authority, with the exception of the Preliminary Risk Assessment, which has been submitted and approved (Desk Study, Preliminary Site Investigation and Risk Assessment Report dated July 2014). The strategy must include the following components to deal with the risks associated with contamination of the site:

1. A site investigation scheme, based on the approved Preliminary Risk Assessment to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Verification Report

- 19) Prior to the first occupation of the development a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved by the Local Planning Authority.

Piling

- 20) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Surface Water Drainage

- 21) Prior to the commencement of the development, full details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include details of:
 - a) how the scheme shall be maintained and managed after completion, and
 - b) the extent of any design ponding on the landscaping and how this will be contained.

Flood Risk

- 22) The development permitted by this planning permission shall be carried out in strict accordance with the approved Flood Risk, Surface Water & Foul Water Drainage Assessment by RSK Land and Development Engineering Ltd, dated December 2014, and the mitigation measures identified therein.

Accessibility Standards

- 23) No part of the development hereby permitted shall be implemented until drawings illustrating that a minimum of 90% of all dwellings in the development comply with Building Regulation requirement M4(2) 'accessible and adaptable dwellings' have been prepared in consultation with the Council's Housing Occupational Therapist and submitted to, and approved in writing by, the Local Planning Authority.

Wheelchair Adaptable Dwellings

- 24) Ten per cent of all dwellings in the development hereby permitted shall comply with Building Regulation requirement M4(3)(2)a 'wheelchair adaptable dwellings'. Wheelchair adaptable dwellings are identified in the Accommodation Schedule/Drawing Numbers 21963A_201B, 2193A_202, 21963A_Affblock1_1C, 21963A_Affblock2_1D and 21963A_Affblock3_1C hereby approved.

The wheelchair adaptable dwellings shall be marketed as such for a period of eight months. After that period evidence of such marketing shall be submitted to and approved by the Local Planning Authority in consultation with the Council's Housing Occupational Therapist prior to first occupation of the dwellings identified above.

Energy Performance

- 25) All houses and flats must achieve a minimum of a thirty five per cent (35%) reduction in building carbon dioxide emissions beyond Part L of the Building Regulations 2013 in line with the Energy Statement and Sustainability Strategy, dated October 2014.

Water Efficiency

- 26) The development hereby permitted shall comply with Regulation 36(2)(b) of the Building Regulations 2010 (as amended by the Building Regulations &c. (Amendment) Regulations 2015/767) and as set out in section G2 of the Building Regulations Approved Document (110 litres per person per day).

On-site Renewable Energy Technologies

- 27) The renewable energy technologies, which shall provide for no less than 20% on-site CO₂ reduction, as detailed within the 'Energy Statement', shall be installed and operational prior to the first occupation of the development hereby approved. Details of the renewable energy technologies shall be submitted to and approved in writing by the Local Planning Authority prior to the implementation of the development. The details shall include:
- a) An energy assessment stating:
 - baseline energy demand in KWh and kg/CO₂
 - energy reduction achieved on the baseline through the use of on-site renewable energy technologies in KWh, kg/CO₂ and % CO₂ reduction.
 - b) The resulting scheme, along with machinery/apparatus location, specification and operational details
 - c) A management plan for the operation of the technologies

- d) (if applicable) A servicing plan including times, location, frequency, method of servicing (and any other details the Local Planning Authority deems necessary)
- e) (if applicable) A noise assessment regarding the operation of the technology.

The development shall be carried out and thereafter maintained in accordance with the details approved no amendments to the approved scheme shall be permitted without the prior written consent of the Local Planning Authority.

On-site Renewable Energy Technologies – Evidence of Installation

- 28) Evidence that the scheme of renewable energy provision has been installed in accordance with the condition above, including evidence of commissioning and a copy of the buildings' Energy Performance Certificate, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Fraser-Urquart of Queens Council
instructed by Head of Law and Governance
Royal Borough of Greenwich

Ms C S Knight Authorised by acting Head of Legal Services to
provide legal representation for the Royal
Borough of Greenwich in the agreed absence of
leading Counsel on Day 4 only of the Inquiry, 8
April 2016, which was devoted solely to third
party representations against the appeal

They called:

Mrs Clare Loops	Planning Policy Manager
BA Arch	Royal Borough of Greenwich
Mr Peter Barefoot	Partner, Alder King LLP
FRICS	Property Consultants
Mr Robert Gillespie	Managing Director, Impact Planning Services
BA(Hons) MRTPI	Limited
Mr Mark Mirams	Principal Planning Officer
BA(Hons) PGDipTP	Royal Borough of Greenwich
MRTPI	

FOR THE RULE 6 PARTY AND OTHER INTERESTED PERSONS AGAINST THE APPEAL:

Mr Malcolm Bond Chairman and Principal Speaker for RAGED
BSc also made representations on his own behalf

Mr Stewart Marlow Architect and Development Director
BA(Hons) DipArch for Greenwich Borough Football Club and RAGED

Mr Francis Lee for the Eltham Society and RAGED

Cllr Mark Elliot Eltham South Ward Member of Royal Greenwich Borough
Council spoke also on behalf of Cllrs Matt Clare and Nuala
Geary in support of RAGED and other objectors

Mr Paul Meaton for RAGED and on his own behalf

Mr Clive Efford MP Constituency Member of Parliament in support of RAGED and
other objectors

*Note Other members of RAGED and other interested persons
unable to attend the Inquiry provided written statements as
listed below*

APPEARANCES continued

FOR THE APPELLANTS:

Mr Christopher Katkowski

of Queens Counsel
instructed by Planning Potential Limited

He called:

Mr Thomas H Dobson
BA(Hons) MRTPI FRSA
Mr Richard J Henley
TP BPI MRTPI

Director
Quod Limited
Preston Bennett Hamptons
Group Planning and Land Director
Countrywide plc

Mr Stuart J Slatter
BTech TRP(SA) MRTPI

Director
Planning Potential Limited

INTERESTED PERSONS SUPPORTING THE APPEAL:

Mr Tim Baker
BEd(Hons) NPQH MBA
Mr Norman

Head Teacher, Charlton Manor Primary School

Mr Fabio Rossi

Speaking on behalf of Mr Andrew de Lord
Hon Chairman Foots Cray Rugby Sports and Athletic Club
Treasurer and General Manager
Elmstead Football Club

DOCUMENTS AND PLANS

	GENERAL DOCUMENTS
Document 1.1-7	Inquiry Attendance Lists
Document 2	Letter of Notification of the Inquiry and circulation list
Document 3	Letters from Interested Persons submitted before the Inquiry
Document 4	Pre-Inquiry Note by the Inspector
Document 5	Written submission by RAGED that the appeal is invalid and that the Inquiry should not proceed
Document 6	Transcript of Ruling by the Inspector that the appeal is valid and that the Inquiry shall proceed
Document 7	Statement of Common Ground between the Appellants and the Council
Document 8	Transport Statement of Common Ground between the Appellants and the Council
Document 9	Unilateral Undertaking provided by the Appellants
Document 10	Schedule of Suggested Conditions agreed without prejudice between the Appellants and the Council
	COUNCIL EVIDENCE AND SUBMISSIONS
Document 11	Mrs Loops - Proof and Appendices
Document 12	Mrs Loops - Rebuttal Proof and Appendices
Document 13	Mrs Loops - Supplementary Proof and Appendix
Document 14	Mr Barefoot - Proof and Appendices
Document 15	Mr Barefoot - Rebuttal Proof and Appendices
Document 16	Mr Gillespie - Proof and Appendices
Document 17	Mr Gillespie - Rebuttal Proof and Appendices
Document 18	Mr Mirams Proof and Appendices
Document 19	Council Opening Submissions
Document 20	Council Closing Submissions and Appendices
	APPELLANTS EVIDENCE AND SUBMISSIONS
Document 21	Mr Dobson - Proof and Appendices
Document 22	Mr Dobson - Rebuttal Proof and Appendices
Document 23	Mr Henley - Proof and Appendices
Document 24	Mr Henley - Rebuttal Proof and Appendices
Document 25	Mr Slatter - Proof and Appendices
Document 26	Mr Slatter - Rebuttal Proof and Appendices
Document 27	Mr Slatter - Additional Appendices
Document 28	Appellants Opening Submissions and Appendix
Document 29	Appellants Closing Submissions

DOCUMENTS AND PLANS continued

	RULE 6 PARTY, RAGED - EVIDENCE AND SUBMISSIONS
Document 30	RAGED Statement of Case/General Proof of Evidence and Appendices
Document 31	RAGED submission that the Pre-Inquiry Note should be an Inquiry Document with respect to the definition of planning issues for consideration.
Document 32	Mr Bond – Proof and Appendices on behalf of RAGED
Document 33	Mr Bond – Personal Statement
Document 34	Mr Marlow – Proof and Appendices
Document 35	Mr Lee – Proof and Appendix
Document 36	Clr Elliot - Proof
Document 37	Mr Meaton - Proof
Document 38	Written Statement by Mr M Dixon presented by Mr Bond on behalf of RAGED
Document 39	RAGED Opening Submissions
Document 40	RAGED Closing Submissions
	INTERESTED PERSONS WRITTEN STATEMENTS submitted at the Inquiry
Document 41	Mr Clive Efford MP – Proof and Appendices
Document 42	Two Written Representations by Mr Barry Jacobs
Document 43	Written Representation by Mr Matthew Assiter
Document 44	Written Representation by Mr P M Montebello
	CORE DOCUMENTS
Document 45	List of Core Documents and Plans
APPLICATION PLANS	The application Plans are scheduled in the Statement of Common Ground [Doc 7] List of Core Documents [Doc 45] and agreed Schedule of Suggested Conditions [Doc 10]

Abbreviations

The following abbreviations are use in this decision:

[Doc xx]	Reference to Listed Inquiry Document xx
[CD yy]	Reference to Listed Core Document yy
5YHLS	Five Year Housing Land Supply
CIL	Community Infrastructure Levy
COS	Community Open Space
dpa	dwellings per annum
GAA	Gaelic Athletic Association
GBFC	Greenwich Borough Football Club
ha	hectares
LP	London Plan
MOL	Metropolitan Open Land
NPPF	National Planning Policy Framework
PCPA	Planning and Compulsory Purchase Act
PIN	Pre Inquiry Note
RAGED	Residents Against Gaelic Environmental Destruction
RBG	Royal Borough of Greenwich
RGLP	Royal Greenwich Local Plan
SDL	Strategic Development Location
SE	Sport England
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SOCG	Statement of Common Ground
SPNA	Sports Pitch Needs Assessment
TPO	Tree Preservation Order
TSOCG	Transport Statement of Common Ground
UDP	Unitary Development Plan
UU	Unilateral Undertaking