



# Appeal Decision

Hearing held on 8 October 2008

Site visit made on 8 October 2008

by **C J HOILE MA (OXON) MRTPI**

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

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Decision date:  
27 October 2008

722

**Appeal Ref: APP/M5450/A/08/2075518**

**St George's Field, Headstone, Harrow, Middlesex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by St George's Parochial Church Council against the decision of the Council of the London Borough of Harrow.
- The application Ref: P/2569/07/COU, dated 2 August 2007, was refused by notice dated 21 November 2007.
- The development proposed is described in the decision notice as "development to provide 7 x 1 bed flats, 8 x 2 bed flats, 4 x 2 storey houses, 8 x 2.5 storey houses community hall, access parking for church hall; retention of 0.7 ha of open space".

## Decision

1. I dismiss the appeal.

## Preliminary Matters

2. An Internal Memo of 8 October from the Council's Legal and Governances Services Department to Mr Pidgeon, concerning the appellants' submitted Unilateral Undertaking, was handed to me and the appellants on the site in the late afternoon of 8 October 2008, shortly before I closed the Hearing. The Memo contained an Officer view that the Unilateral Undertaking of 26 September from the appellants "is not currently acceptable having regard to s106(9)." As the matter was not capable of immediate resolution, I gave the parties one week to resolve the matter, and for a revised Unilateral Undertaking to be submitted to the Planning Inspectorate if necessary. A revised Unilateral Undertaking, dated 13 October 2008 has been submitted to the Planning Inspectorate and the Council by the appellants, and is contained within the case file. The matters covered and the intent have not altered from what was before the parties at the Hearing.

## Main issues

3. From what I have seen, heard and read I consider that the main issues in this appeal are
  - (1) whether the loss of open and largely undeveloped land for this development would breach the intentions of policies in the development plan, and national policy guidance;
  - (2) if so, whether the proposals have specific planning merits, though inconsistent with policies in the development plan, and

- (3) whether the development would have any other adverse planning consequences of a material kind for the locality and its inhabitants.

### **Reasons**

4. The Council's decision considered the most relevant saved policies in the 2004 Harrow Unitary Development Plan to be: EP20 – use of previously developed land; EP47 – Open Space; and D4 – the standard of design and layout. I have read and taken account of these and other policies mentioned in the decision notice from this Plan and the London Plan 2008. Most of the appeal site is identified as "Open Space" on the Proposals Map. Policy EP47 says that development, apart from small scale ancillary facilities needed to support or enhance the proper functioning of the open space, will not be permitted on the open spaces identified on the Proposals Map unless the site is surplus to requirements, or suitable alternative provision is made available.
5. This is a proposal that has attracted considerable local interest, with the majority of respondents opposed to the scheme. The Hearing process has proved educative, as a number of things alleged in the written material before me have been examined in more detail than previously. I have found a number of matters to be far from the certainties that some have claimed.
6. The site is private land bought in 1923 by the appellants. There is not and seems never to have been any right of unrestricted public access. An eastern footpath access from Pinner View, immediately north of the Church Hall, and the vehicular entrance from the cul-de-sac road named Churchfield Close, are both gated and locked. The appeal site is 1.4 ha in extent, roughly rectangular, and appears generally flat. The land is grass covered, and currently mown only a few times a year. There are a number of modest trees and areas of scrub close to or along its boundaries.
7. To the south, west and east the gardens of 2-storey semi-detached houses bound the site. Contiguous with the south-east boundary of the site, facing Pinner View, stand the Grade II listed Church Hall and the unlisted Vicarage. To the north lie the well-maintained hard tennis courts of the Headstone Lawn Tennis Club. A large single-storey scout headquarters building, erected in the 1960's, stands in the north-west corner of the site, and is in active use by 1st Headstone Scouts.
8. A substantial strip of land at the south of the site, in area approximately one third of the whole appeal site, was formerly occupied by the grass and clay courts of a tennis club (St George's Church [Headstone] LTC). The appellants' unchallenged evidence is that four of the seven courts had been abandoned by the 1980's. Their lease from the appellants terminated at the end of 1999, and the members moved to the Headstone Lawn Tennis Club ground. The reason appears from written evidence to have been inability to fund improvements to the courts or facilities by either party. Little of the former northern boundary of this strip survives. The area occupied by the former grass courts is visually indistinguishable from the remainder of the grassland area, but I found that the surface of the old clay courts (the eastern portion of this southern strip) could still be made out on my site visit. A derelict and abandoned timber hut stands just to the north of this southern strip, adjoining its eastern boundary.

9. The outline scheme before me opted for layout and access to be determined in the decision, leaving scale, appearance and landscaping to be decided later. The scheme plans show a single line of detached residential buildings along the southern part of the site; a continuation of that line runs northwards, next to the western site boundary, to a point where the southernmost part of the scout HQ now stands. There would be a new access road to the site off Pinner View, built through the gap between the Church Hall and Vicarage. A new community facility building is shown just north of the new road, in the vicinity of the present abandoned timber hut.
10. Apart from the southern third of the site – the old tennis court area – the land was shown on the 2004 Unitary Development Plan Proposals Map as “Open Space”. Land so designated includes public and open spaces of various kinds, including allotments and cemeteries. In its evidence, the Council was unable to produce any material, or cogent reasons, casting light on why this area had been designated “Open Space”. I found it even more surprising that it was unable to produce any reason why the southern third of the site, also open in character, had been omitted from this designation, and had no other kind of allocation. However, these facts are significant, because the southern line of six detached residential buildings in the appeal scheme, as well as the southern part of the access road, appear to be located wholly outside the designated “Open Land”. This leaves a minority of the scheme – three detached residential buildings and the northern part of the access road, together with the new facilities building – located within the “Open Land” designation.
11. *The first reason for refusal* concerned the alleged unacceptability of developing what was called “a greenfield site”. The policy quoted in support is EP20, which is aspirational in tone, as “the Council will seek to secure all new build development on previously developed land”. The appellants do not claim this to be “ancillary development to support appropriate open space” in the words of this policy or policy EP47, and these proposals do not accord with the intentions of policy EP20. However, the appellants do claim that a justification has been given for the proposals, and by the time of the Hearing they had produced a considerable body of evidence in support of their scheme. It is the acceptability of that evidence that I am concerned with.
12. *The second reason for refusal* concerned a lack of Council knowledge at that stage whether “the loss of this sports and recreation facility could be offset by the availability of a similar facility in the nearby locality”. Policy EP47 quoted in this reason says the Council will protect and where appropriate enhance Open Spaces, regardless of ownership. The exception is where “the site is surplus to requirements or suitable alternative provision is made available”. Obviously, in developed parts of Greater London, like for like replacement of open land lost to development is difficult if not impossible. However, the actual quality, function, and realistic prospects for use of a particular area of open land need to be studied in arriving at a planning decision.
13. The Council wanted evidence from an assessment at the decision stage that the site was unsuitable for sports use (so did Sport England, London Region in its written representations of 9 November 2007). The latter’s stance is opposition to partial development here. However, no representative appeared at the Hearing, and what it say appears to be based on written sources but not a site

visit. Nevertheless, my reasoning below takes account of Sport England's representations.

14. I find it significant that the Council produced a major Sports and Recreation Provision Survey in 2005, after the adoption of the UDP. At the Hearing it was agreed that no mention at all was made of any part of the appeal site (the former tennis club's activities took place on land not designated as Open Land in the UDP). Thus, the Council seems to have made no discoverable analysis of the quality and usability of this land, before or after preparing the UDP.
15. There is evidence that cricket matches and practice have taken place on the northern two thirds of the site since about 1928. The Club in question was the Headstone St George's Cricket Club. It appears that until some time in the 1960's the playing area included land to the east, subsequently developed as houses facing Pinner View, by permission of that land's owner. There is an absence of firm evidence as to how active the Club was in its use of the appeal site, but in the appeal-related material in the case file, there is correspondence of August 2005 by solicitors acting for the appellants terminating the licence. In this, the clubhouse hut was described as "formerly used" and "derelict", and it is said that the Club is no longer maintaining the playing fields, mowing the grass or maintaining the cricket table and pitches. The correspondence says that the Cricket Club appears to have abandoned the premises and the use of the playing facilities. It appears that the Club had been playing elsewhere, and the appellants say no cricket at has been played since 2004. No member of the former Club appeared at the Hearing to give more information, but a letter of July 2007 to a local resident from a former Club official, Mr Wakefield says that a diminished and ageing membership, and the expense involved rule out a return.
16. It is obvious that the area of open ground used by the former Club was very small in area for adult cricket. Inquiry Plan D shows that the north-south distance of the field, from the northern boundary to the former tennis club area is around 80 metres. Though the east-west area is some 124 metres wide at its widest point, it is less than 90 metres in the vicinity of the large Scout HQ building. As was agreed by the main parties, the rules of cricket specify no minimum or maximum dimension for a field of play, but a diameter well in excess of 100 metres is normal. No doubt the area could, in theory, be used by children to play cricket at an unambitious level, but the provision of ancillary facilities, and the maintenance expenses, would be relevant factors. A note of July 2008 in the appeal correspondence to Cllr Stephenson, from the Captain of a club team playing at the nearby Harrow Recreation Ground member, expresses an interest in using the ground, but the real level of that interest or his knowledge of the appeal site is not at all clear, and no interested club appeared at the Hearing or submitted a firm or realistic intention or ambition to use the site.
17. I can only conclude that the size of the playing field here, irrespective of then lack of other desirable facilities for organised cricket, make this a facility of very low attractiveness for any amateur cricket club that wanted to play competitive matches with another club. Any ambitious hitting would result in a number of balls going into the gardens of the many houses adjoining the appeal site.

18. As to active sports use outside the cricket season, there is no disagreement between the Council and appellants that the ground can get very boggy outside the summer months. There is no detailed evidence as to the methods or cost needed to contain this problem, though the appellants hazarded a guess that it might cost around £25,000. I have no evidence that any organised team games such as football or hockey have ever been played on the site.
19. I find that this site has severe deficiencies for active sports use. In my opinion, neither the Council nor other parties opposed to the appeal scheme has shown that the local situation is one of material deficiency in respect of active outdoor activities.
20. National policy guidance is properly pointed out by Sport England in its representation letter. I note its contention that "the application site is currently within the definition of a sports/pitch field as defined within S.I.1817", and the quoting of the criteria in PPG17, para10. My findings above lead me to conclude that the land is more or less surplus to requirements for organised competitive or team sports played on a formal playing surface. There is considerable local public provision at the Headstone Manor Recreation Ground, some 400 metres to the north-west, and at Harrow Recreation Ground, some 300 metres to the south-east. The local private facilities for formal sport are at aforementioned Headstone LTC, and the Old Lionians Sports Ground, some 100 metres to the south.
21. Though it would be impossible to say that there is a real surplus of land for formal sport in the Borough or Greater London generally, I do not consider that the appeal site would be a valuable addition to the existing stock. Apart from matters of size and condition, the land is in the ownership of the appellants, and no other party has suggested it has the will or means to seek ownership of it from them. It is also very relevant to mention the index-linked £50,000 sporting contribution in the Unilateral Undertaking that would be triggered by a planning permission. This would be solely for use to improve sporting provision within 800 metres of the appeal site.
22. The appeal site is private church land that has always been used for church activities, by groups affiliated to the church or others by specific arrangement. I was told that the 1st Headstone Scouts use the open land for outdoor activities and informal games. This seems to me the kind of use that should endure and might be extended further with the good will of the appellants. However, when I asked the appellants for some indication of the regime that might ensue if I allowed the appeal, it became apparent that there was no fully formulated thinking on such matters as: whether or how the 0.7 ha of open land would be enclosed; the degree or kind of public access that might be allowed; whether the land would have its drainage problems removed; and the kind of outdoor provision intended for scouts or other users of the many organisations who now lease space in the Church Hall, or might be accommodated in the new community facility building.
23. These omissions are important. Also, the representations made on behalf of the Scouts suggest that they have been yet been convincingly or formally assured that they would be accommodated satisfactorily in the new scheme. This is despite the text legend on the Indicative Masterplan drawing no. ccs.g.h203, which indicates that the community building would be for them. Their

- lease expired on 31 March 2008, and they now occupy premises on 6 months rolling notice.
24. The Council's suggested condition No. 2 could ensure that the community hall would be completed before any residential unit was occupied. However, I consider that further hard thinking and decision-making by the appellants is needed on the matters I highlight in paragraph 22 above. Only then can a responsible decision-maker reasonably conclude whether a reduction in the area of this locally-valued open land is properly counter-balanced by new arrangements that maximise the use and potential benefits of the remainder for the foreseeable future. In this case, I firmly believe that more active use of a smaller area of open land than now exists would give greater local benefit than what now obtains on a largely unused larger area, of private land; this might reasonably be considered to outweigh any technical contravention of policies EP20 and EP47.
25. *The third reason for refusal* alleged poor layout, and a cramped relationship between buildings and spaces, resulting in over-development of the site detrimental to the character and appearance of the building. The scheme is for 27 dwellings, built at a density of 21 dwellings per hectare across the whole site. The Council considers parking provision is not objectionable, and that adequate access arrangements from Pinner View could be ensured by a planning condition. The Council Officers' report on the application considered that the proposal would not cause any loss of residential amenity to properties that border the site, in respect of distance, overlooking, loss of privacy, or loss of daylight or sunlight. The parties agree, in the light of a Flood Risk Assessment made by the appellants, that an appropriate planning condition can deal with any potential issue arising on-site.
26. At the Hearing, I did not find the Council's evidence on this reason for refusal convincing. It made three criticisms. The first was that on entering the site the viewer would have a prominent view of residential building No. 4, and that this would be unpleasing. The second was that from the entrance area the open car parking area in the north-west part of the site would be visible. The third was that the front elevational parts of residential building No. 6 would be blocked from easy public view by block No. 5. From the evidence of the plans themselves and what I saw on site, I cannot find any real substance in these criticisms. If the detailed designs for individual buildings in the outline scheme were of decent quality, I consider the first and third criticisms would be without substance. As to the second criticism, if landscaping and ground modelling was used with imagination, the visual impact of car parking throughout the scheme could be much diminished. I therefore find this third reason for refusal insubstantial, and insufficient in itself to dismiss the appeal, as there would be no breach of UDP Policy D4.
27. It is relevant to mention that neither main party disagreed that the scheme could provide a bat habitat in the roof areas of one or more of the proposed buildings, should it be established that bats inhabit the appeal site. A Council bat survey in August 2008 provided no evidence that this protected species has any habitat, as opposed to presence, within the appeal site. It was also agreed that the site has no particular special interest, in respect of flora and fauna, needing to be accommodated in a detailed scheme.

28. *The fourth reason for refusal* stemmed from the Council's concern that there could be inadequate affordable housing provision. The appellants Unilateral Undertaking binds the appellants to provide 14 of the 27 residential units on site as affordable housing. At the Hearing, it was confirmed that the Council was content with the quantity of units. It had a criticism of the size of units that the outline scheme seemed to indicate, as it wants any three bed units to have a size that could accommodate up to six persons. I consider that, if the scheme were unobjectionable in other respects, that matter could be fairly safely left to discussion and negotiation at the detailed matters stage.
29. The Council made the point that its calculations showed a sufficiency of housing land available to meet PPS 3 requirements and that the delivery of affordable housing has also been satisfactory up to year 2006-7; thus, housing achieved on a greenfield site rather than previously developed land was not necessary or desirable. This is a strong point but, as the appellants pointed out, rightly in my opinion, severe current market conditions will affect previous delivery projections in a major way. Though I cannot be sure that the outline proposal before me might not itself be affected by the current economic situation, a scheme with thirteen market dwellings of a modest kind and 14 affordable units seems to me to be not objectionable, if other planning considerations are satisfactory. The Council agreed that the offer of houses in the affordable provision, rather than all flats, is a positive factor. I find that the appellants have done sufficient to avoid materially breaching the two policies in the London Plan cited in the planning decision.

#### **Overall Conclusions on the Main Issues**

30. *whether the loss of open and largely undeveloped land for this development would breach the intentions of policies in the development plan, and national policy guidance* The proposals do not accord with UDP Policies EP20 or EP47 for reasons I set out in paragraphs 9 and 10. As I set out in paragraphs 24 and 27, I find no other breach of development plan policies.
31. *if so, whether the proposals have specific planning merits, though inconsistent with policies in the development plan* I have come to the conclusion that the actual value of the appeal site for active team sport, both the designated Open Space, and the unallocated southern third, is very low. As privately owned space to accommodate other kinds of outdoor activity, I consider that the existing open space has considerable value. Its use could endure and be intensified above the present low level, albeit on a smaller area, if the appeal scheme were implemented. The addition to the housing stock, particularly in terms of affordable housing, could be another planning benefit, for reasons I explain, as it would be mostly sited on unallocated land to the south, leaving a significant area of useable open space within the UDP's allocated area.
32. However, the appeal must fail, because I find the way in which the open land would be used has been insufficiently spelt out at the outline planning stage, for reasons I spell out in paragraphs 22—24 above.
33. *whether the development would have any other adverse planning consequences of a material kind for the locality and its inhabitants* Though some local residents whose back gardens overlook what is now largely undeveloped green land would be affected by a different outlook, I consider that

their residential amenities would not suffer. This is also the conclusion of the Council Officers' report. The land is private, access to it has always been controlled by the appellants, and the passer-by is largely unaware of its presence. Those who formerly played tennis and cricket there ceased to do so some years ago, and appear to have left by mutual agreement. There is no reason to suggest that those who now lease accommodation from the appellants in buildings on the St George's church land, on and next to the appeal site, could not be accommodated in a worked-up final scheme, stemming from this outline proposal.

**Conclusions**

34. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should fail.

*C J HOILE*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANTS

Mr SBW Chalwin	Partner, Gerald Eve , 7 Vere St, London W1G 0JB.
Rev S Keeble	Vicar, St George's Church , The Vicarage, 96 Pinner View, Harrow HA1 4RS.
Mr C Campion	Scheme Architect, John Thompson & Partners.
Mr P Miller	Architect, John Thompson & Partners.

### FOR THE LOCAL PLANNING AUTHORITY

Mr R Pidgeon	Interim Chief Planning Officer, LB Harrow, Civic Centre, Harrow, Middx HA1 2UY.
Ms E Slowe	Project Manager, Housing Enabling.

### INTERESTED PERSONS

Mr G Thomas MP	House of Commons, London SW1A 0AA.
Mr A Watts	7 Parkfield Gardens, Harrow, Middx HA2 6JR.
Mr D Killeen	34 Main Road, Hursley, Winchester SO21 2JW.
Ms S Palmer	122 Pinner View, Harrow, Middx HA1 4RL.
Mrs M Garner Patel	Kingsfield Estate Residents' Action Group, 60 Kingsfield Avenue, Harrow Middx HA2 6AS.
Cllr W Stephenson	13 Cunningham Park, Harrow, Middx HA1 4QN.

Mr M Gandolfi	34 Bessborough Road, Harrow, Middx HA1 3DL.
Mr S Gupta	88 Kingsfield Avenue, Harrow, Middx HA2 6AS.
Mr M Sayer	41 Cunningham Park, Harrow, Middx HA1 4QW.
Mr W Garrett	108 Pinner View, Harrow, Middx HA1 4RL.
Mr B Irani	126 Pinner View, Harrow, Middx HA1 4RL.
Mrs J Smith	84 Kingsfield Avenue, Harrow, Middx HA2 6AS.
Mr M Christy	41 Station Road, North Harrow, Middx.
Ms L Vann	70 Pinner View, Harrow, Middx HA1 4QD.

#### DOCUMENTS

- Doc 1 - Lists of persons present at the Hearing.
- Doc 2 - Letter of notification and list of those notified.
- Doc 3 - Appellants' Design and Access Statement of August 2007.
- Doc 4 - Appellants' Pre-application Statement of September 2006.
- Doc 5 - Appendices 1-25 from the appellants.
- Doc 6 - Written evidence from the appellants.
- Doc 7 - Written evidence from the Council.
- Doc 8 - Completed Unilateral Undertaking of 26 September 2008, with amended preamble wording, handed to the Inspector at the Hearing, from the Appellants.
- Doc 9 - Opening statement text and document schedule from Mr Chalwin.
- Doc 10 - Suggested Planning Conditions and Informatives from the Council.

- Doc 11 - Memo of 8 October from Legal and Governances Services Department to Mr Pidgeon, concerning the Unilateral Undertaking, handed to the Inspector and appellants on the site in the late afternoon of 8 October 2008.
- Doc 12 - Petition with 637 signatures handed to the Inspector by Ms Palmer.
- Doc 13 - Bundle of written material from Mrs Garner-Patel.
- Doc 14 - Relevant Development Plan Policy text from the Council.
- Doc 15 - Appeal-related correspondence to the Planning Inspectorate.

#### PLANS

- Plan A - Appellants' submitted plans.
- Plan B - Copy Of Proposals Map from Harrow UDP, dated 30 July 2004, with Key, from Mr Pidgeon.
- Plan C - Plan showing the area of various parts of the appeal site, from Mr Pidgeon.
- Plan D - Plan showing the dimensions in length of various parts of the appeal site, from Mr Pidgeon.