

Thurrock: A place of opportunity, enterprise and excellence, where individuals, communities and businesses flourish

Planning Committee

The meeting will be held at **7.00 pm** on **11 January 2018**

Council Chamber, Civic Offices, New Road, Grays, Essex, RM17 6SL.

Membership:

Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Roy Jones, Tunde Ojetola, Terry Piccolo, Gerard Rice and Graham Snell

Steve Taylor, Campaign to Protect Rural England Representative

Substitutes:

Councillors Martin Kerin, Brian Little, David Potter, Joycelyn Redsell and Kevin Wheeler

Agenda

Open to Public and Press

	Page
1 Apologies for Absence	
2 Minutes	5 - 10
To approve as a correct record the minutes of the Planning Committee meeting held on 7 December 2017.	
3 Item of Urgent Business	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.	
4 Declaration of Interests	
5 Declarations of receipt of correspondence and/or any	

meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting

6 Planning Appeals 11 - 14

7 Public Address to Planning Committee

The Planning Committee may allow objectors and applicants/planning agents, and also owners of premises subject to enforcement action, or their agents to address the Committee. The rules for the conduct for addressing the Committee can be found on Thurrock Council's website at <https://www.thurrock.gov.uk/democracy/constitution> Chapter 5, Part 3 (c).

8 17/01270/DVOB: Aveley Football Club, Mill Road, Aveley, RM15 4SR 15 - 28

Queries regarding this Agenda or notification of apologies:

Please contact Lottie Raper, Senior Democratic Services Officer by sending an email to Direct.Democracy@thurrock.gov.uk

Agenda published on: **20 December 2017**

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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest *at a meeting*?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- Not participate or participate further in any discussion of the matter at a meeting;
- Not participate in any vote or further vote taken at the meeting; and
- leave the room while the item is being considered/voted upon

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Vision: Thurrock: A place of **opportunity**, **enterprise** and **excellence**, where **individuals**, **communities** and **businesses** flourish.

To achieve our vision, we have identified five strategic priorities:

1. Create a great place for learning and opportunity

- Ensure that every place of learning is rated “Good” or better
- Raise levels of aspiration and attainment so that residents can take advantage of local job opportunities
- Support families to give children the best possible start in life

2. Encourage and promote job creation and economic prosperity

- Promote Thurrock and encourage inward investment to enable and sustain growth
- Support business and develop the local skilled workforce they require
- Work with partners to secure improved infrastructure and built environment

3. Build pride, responsibility and respect

- Create welcoming, safe, and resilient communities which value fairness
- Work in partnership with communities to help them take responsibility for shaping their quality of life
- Empower residents through choice and independence to improve their health and well-being

4. Improve health and well-being

- Ensure people stay healthy longer, adding years to life and life to years
- Reduce inequalities in health and well-being and safeguard the most vulnerable people with timely intervention and care accessed closer to home
- Enhance quality of life through improved housing, employment and opportunity

5. Promote and protect our clean and green environment

- Enhance access to Thurrock's river frontage, cultural assets and leisure opportunities
- Promote Thurrock's natural environment and biodiversity
- Inspire high quality design and standards in our buildings and public space

Minutes of the Meeting of the Planning Committee held on 7 December 2017 at 7.00 pm

- Present:** Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Colin Churchman, Graham Hamilton, Terry Piccolo, Gerard Rice, Graham Snell and Joycelyn Redsell (Substitute)
- Apologies:** Councillors Roy Jones and Tunde Ojetola
Steve Taylor, Campaign to Protect Rural Essex Representative
- In attendance:** Andrew Millard, Assistant Director of Planning, Public Protection and Transportation
Leigh Nicholson, Development Management Team Leader
Jonathan Keen, Principal Planner
Steven Lines, Senior Highways Engineer
Neil Weeks, Planning and Highways Lawyer
Charlotte Raper, Democratic Services Officer
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Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

48. Minutes

Councillor Churchman referred to page 9. The determination process for application 17/01171/FUL: Smurfit Kappa Lokfast Site, London Road, Purfleet, RM19 1QY stated "*It was proposed by Councillor Jones and seconded by Councillor Jones that...*" which clearly was an error. The Democratic Services Officer would correct this information as Councillor Churchman had, in fact, seconded the motion.

The minutes of the meeting of the Planning Committee held on 2 November 2017 were approved as a correct record, subject to this amendment.

49. Item of Urgent Business

There were no items of urgent business.

50. Declaration of Interests

There were no declarations of interests.

51. Declarations of receipt of correspondence and/or any meetings/discussions held relevant to determination of any planning application or enforcement action to be resolved at this meeting

The Chair declared receipt, on behalf of the whole Committee, of an email in support of application 17/00990/OUT: Land Adjacent Martin Farmhouse, Church Lane, Bulphan, Essex, which was item 8 on the agenda.

Councillor Hamilton declared receipt of texts and phone correspondence, also in support of application 17/00990/OUT: Land Adjacent Martin Farmhouse, Church Lane, Bulphan, Essex.

52. Planning Appeals

The Development Manager Team Leader presented the report which provided Members with information regarding planning appeal performance. He highlighted the fact that recent figures had been very good.

RESOLVED:

That the Planning Committee noted the report.

53. 17/00990/OUT: Land Adjacent Martin Farmhouse, Church Lane, Bulphan, Essex

The Principal Planner advised the Committee that the application was an outline application, with all matters reserved. Since the agenda had been published a petition had been received in support with 184 signatures. A draft S106 agreement had been also received at 5pm that day, although there were no details included as to education contributions or affordable housing.

The application sought outline planning permission for the development of the site for 31 residential dwellings for occupation by ex-servicemen consisting of 3 and 4 bed houses and 2 bed bungalows suitable for wheelchair users. The applicant had submitted Very Special Circumstances though these were not considered to clearly outweigh the identified harm to the Green Belt. This, along with objections in terms of highways, flood risk and the lack of affordable housing or contribution to education led officers to recommend the application be refused.

Councillor Rice queried whether the Government target for more housing, alongside the medical needs of ex-servicemen which would be best suited to quiet and peaceful surroundings would go towards outweighing the harm to the Green Belt, if the lack of 5-year housing supply could not be considered sufficient alone. He recalled the Council had a Charter for ex-service personnel. The Principal Planner advised that Government guidance outlined that the lack of a 5-year housing supply was insufficient as a reason on its own to outweigh the harm to the Green Belt. The Health and Wellbeing Board had also objected to this site as it was too isolated, they recommended a site with better access to facilities would be more suited to the needs of ex-servicemen. The need for peace and quiet could be taken into account but would still not outweigh the harm to the Green Belt.

Councillor Redsell noted that the Council Charter applied to Council properties rather than private developments. She failed to see how it could be ensured that properties that formed part of private developments could be guaranteed for a specific group. She felt there was insufficient information provided on the matter.

Councillor Piccolo continued with this thought and asked, even if they could be guaranteed for ex-servicemen, whether it would be possible to ensure they were reserved for injured veterans, and whether this would be legally enforceable. Members were advised that it would be possible within the S106 agreement; however this did not form part of the application as submitted. Members continued to clarify whether if the application were to go ahead with this caveat it would be legally binding and were reminded that nothing had been submitted.

Councillor Hamilton expressed the view that although the quiet and tranquillity might be a positive it could conversely work against the needs of the intended residents, particularly in cases of medical emergency. Given the rural and isolated nature of the site emergency vehicles would face issues around access and this would not be ideal.

The Vice-Chair sought further information around flood risk. He recalled the site flooding 5 years previously. The principal planner advised that the issue was that information in relation to a suitable drainage strategy had not been supplied. Further tests and studies could be carried out and it may be that a strategy could be provided, but nothing had been received.

Janet McCheyne was invited to the Committee to present her statement of objection.

The local Ward Councillor, Councillor Brian Little, was invited to the Committee to present his statement of objection.

Stephen Ward was invited to the Committee to present his statement of support.

Councillor Redsell reiterated that the Council had a Charter which ensured ex-servicemen were placed atop the list for Council properties. The application was 31 dwellings however there was no guarantee that they would not just be sold as any other property since they were individual homes. She was unsure how the restriction could be legally binding.

Councillor Rice stressed that the restriction to ex-servicemen could be controlled through the S106 agreement. These were 31 units as part of something historic for Thurrock and would help towards Government targets for new homes in the borough. The ex-servicemen suffering from PTSD needed the therapy of a quiet and rural setting and he felt they were owed a debt of gratitude. He urged other Members to find reasons to support the application.

Councillor Churchman explained that he felt torn, given his father's needs once he left the army. He stressed the need to provide for soldiers and wanted to know if it was realistic to see a caveat within the S106 agreement.

Councillor Snell recognised it was an emotive issue and emphasised that everyone wished to help ex-servicemen however this site was not suitable. Church Lane was very narrow and often became jammed when local roads were gridlocked. The site was socially isolated with an inadequate road, no information had been provided in terms of the flood risk, there was insufficient parking and the design itself could be better. He felt the idea was brilliant however more work needed to be done and a more suitable site found.

The Chair asked what could be done within the Local Plan if the application were refused, to find a more suitable site for the scheme. The Assistant Director of Planning, Public Protection and Transportation outlined that there was a great window of opportunity for the applicant as the Council was currently updating its Local Plan. There was a need to meet the broader challenges facing the borough, with a need for additional housing of all types. There was clear sympathy for the intention of the scheme and he encouraged the applicant and agent to engage with officers to find suitable sites as part of the Local Plan.

Councillor Hamilton echoed that no one disagreed with the emotive appeal; however from a purely objective stance the site was unsuitable. The roads were narrow and unaccepting of large traffic; there were no public transport links and a lack of facilities. He referred to sections 6.24 and 6.29 of the application report. He wished he could support the application and agreed more should be done to support ex-servicemen however he felt this was not the right site and could envisage problems in the future were the application to be approved.

Councillor Piccolo agreed that there should be support for ex-servicemen however he felt the site was too isolated. If there was a need for urgent care emergency vehicles would struggle with access. He also worried that, for those suffering with trauma, the proximity to the local airfield would not be suitable. He was unconvinced that the S106 agreement could dictate that properties would only be for ex-servicemen suffering from trauma or with disabilities and feared nothing would stop others from buying homes simply because they were in a rural location. The Assistant Director Planning & Growth outlined that the agreement had only been received that day and it was not overly detailed, with no mention whatsoever of ex-servicemen. The Planning and Highways Lawyer advised that such limitations would require input from the armed forces medical team, while it would be possible there would need to be far more information than had been provided.

Councillor Redsell felt the scheme was needed but if the application was approved the Committee would be isolating ex-servicemen. There was no shop in Bulphan, very few school places, the doctor's surgery was a long way from the site and it was just not ideal.

Councillor Rice accepted that the Committee had sympathy for the needs of ex-servicemen and felt the key barrier was the lack of detail in the application. He was minded to invite the applicant to come back with all the details needed for the Committee to give the application fair consideration. He felt it was only fair to the ex-servicemen to allow that opportunity.

Councillor Piccolo referred to the previous applications on the site for assisted living complexes, which was comparable to some extent to the application for consideration. Far more had been suggested such as shops and a doctor's surgery and the application had still been refused. While he appreciated the sacrifice made by servicemen he found it hard to justify approving planning permission if previous applications with more facilities had been refused.

Councillor Hamilton stressed the need for upgrades to the road such as lighting and widening which were likely to be prohibitively expensive. While he wished to support the reasoning, with the added factor of flood risk he felt the application would be unviable.

The Chair highlighted that the land had been previously discussed by the Committee and previous schemes rejected for lack of drainage plans. He was disappointed to see that this had not been addressed in this instance. He felt the rural location was a positive however there was a lot to iron out within the application itself such as the legal obligation for ex-servicemen, the flood plan and adequate parking. It was very unusual for the S106 agreement to be submitted only hours before the Committee and it was disappointing that there had been no flood plan despite the Committee having been specific the year before. He felt the application was too messy to defer and would encourage the applicant to come back with a new application. He was keen to hear from the Assistant Director of Planning, Public Protection and Transportation as to what could be done moving forward to provide the scheme.

Councillor Rice outlined that a flood risk assessment had been submitted, the issue was the lack of a drainage strategy. He wished to propose that the application be deferred to allow the applicant time with planning officers to look at what information was missing and what Very Special Circumstances might overcome the harm to the Green Belt. In his opinion there was not enough information for the Committee to say decide either way.

The Assistant Director of Planning, Public Protection and Transportation highlighted that even if the information were submitted the in-principle issue of the inappropriate development of the Green Belt would remain. The Chair stressed the proposal was an opportunity the Council shouldn't lose and advised that, should the application be refused, the applicant could liaise with the planning department to find a more suitable site as part of the Local Plan process.

It was proposed by Councillor Rice and seconded by Councillor Churchman that the application be deferred to allow the applicant to provide additional information. The Committee voted against deferring the application.

The Committee proceeded to vote as to whether the application be refused, as per the officer's recommendation.

For: Councillors Tom Kelly (Chair), Steve Liddiard (Vice-Chair), Graham Hamilton, Terry Piccolo, Graham Snell and Joycelyn Redsell.

Against: Councillors Colin Churchman and Gerard Rice.

Abstain: (0)

RESOLVED:

That the application be refused, as per the officer's recommendation.

The meeting finished at 8.02 pm

Approved as a true and correct record

CHAIR

DATE

Any queries regarding these Minutes, please contact Democratic Services at Direct.Democracy@thurrock.gov.uk

11th January 2018		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Leigh Nicholson, Development Management Team Leader		
Accountable Head of Service: Andy Millard, Assistant Director - Planning, Transport and Public Protection		
Accountable Director: Steve Cox, Director of Environment and Place		

Executive Summary

This report provides Members with information with regard to planning appeal performance.

1.0 Recommendation(s)

1.1 To note the report

2.0 Introduction and Background

2.1 This report advises the Committee of the number of appeals that have been lodged and the number of decisions that have been received in respect of planning appeals, together with dates of forthcoming inquiries and hearings.

3.0 Appeals Lodged:

3.1 **Application No:** 17/00133/BUNUSE (16/01416/FUL)

Location: Ongar Hall Farm, Brentwood Road, Orsett

Proposal: Retention of extension to parking facilities with associated landscaping

4.0 Appeals Decisions:

4.1 The following appeal decisions have been received:

4.2 None.

5.0 Forthcoming public inquiry and hearing dates:

5.1 The following inquiry and hearing dates have been arranged:

5.2 None.

6.0 APPEAL PERFORMANCE:

6.1 The following table shows appeal performance in relation to decisions on planning applications and enforcement appeals.

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	2	2	6	5	8	1	0	2	0				26
No Allowed	0	2	4	1	0	0	0	0	0				7
% Allowed													27%

7.0 Consultation (including overview and scrutiny, if applicable)

7.1 N/A

8.0 Impact on corporate policies, priorities, performance and community impact

8.1 This report is for information only.

9.0 Implications

9.1 Financial

Implications verified by: **Sean Clark**
Head of Corporate Finance

There are no direct financial implications to this report.

9.2 Legal

Implications verified by: **Neil Weeks**
Planning & Highways Lawyer

The Appeals lodged will either have to be dealt with by written representation procedure or (an informal) hearing or a local inquiry.

Most often, particularly following an inquiry, the parties involved will seek to recover from the other side their costs incurred in pursuing the appeal (known as 'an order as to costs' or 'award of costs').

9.3 **Diversity and Equality**

Implications verified by: **Rebecca Price**
Community Development Officer

There are no direct diversity implications to this report.

9.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

10. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- All background documents including application forms, drawings and other supporting documentation can be viewed online: www.thurrock.gov.uk/planning. The planning enforcement files are not public documents and should not be disclosed to the public.

11. **Appendices to the report**

- None

Report Author:

Leigh Nicholson

Development Management Team Leader

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Agenda Item 8

Planning Committee 11.01.2018	Application Reference: 17/01270/DVOB
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Reference: 17/01270/DVOB	Site: Aveley Football Club Mill Road Aveley RM15 4SR
Ward: Aveley and Uplands	Proposal: Application for a Deed of Variation / Modification to the s106 legal agreement attached to planning permission ref. 13/01021/OUT (Outline planning application (with all matters reserved except access) for the demolition of existing buildings and redevelopment comprising up to 114 residential dwellings).

Plan Number(s):		
Reference	Name	Received
1475_0010	Red Line Boundary	19 th September 2017

The application is also accompanied by: <ul style="list-style-type: none"> Covering letter dated 14th September 2017 Viability Appraisal Remediation Costs 	
Applicant: Aveley Football Club Ltd & Persimmon Homes	Validated: 19 September 2017 Date of expiry: 14 November 2017
Recommendation: That the application to vary to s106 agreement as proposed is refused.	

This application is scheduled for determination by the Council's Planning Committee because it seeks to reduce the level of contributions secured by a legal agreement attached to an application that was previously approved by the Planning Committee.

1.0 DESCRIPTION OF PROPOSAL

1.1 This application is made pursuant to the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 and seeks to modify the s106 planning obligation attached to permission reference 13/01021/OUT. S106a of the Town and Country Planning Act allows for the modification or discharge of planning obligations where both the local planning authority and the developer wish to do so.

- 1.2 Planning permission ref. 13/01021/OUT involves the Aveley F.C site at Mill Road, Aveley and the description of development comprises:

“Outline planning application (with all matters reserved except access) for the demolition of existing buildings and redevelopment comprising up to 114 residential dwellings.”

Planning permission was granted on 17th March 2015 subject to conditions and following the completion of a legal agreement. Full planning permission for the provision of new football facilities at Belhus Park, on the northern side of Aveley bypass was granted on 2nd April 2014 (ref. 13/01022/FUL). Construction works on the new facility are substantially complete and the football club have been playing games at the new facility since the start of the 2017/18 season.

- 1.3 The s106 agreement associated with the outline planning application and dated 17th March 2015 placed obligations upon the then owner (Aveley FC Ltd) as follows:

- i. payment of a Mitigation Contribution of £522,000 (index linked) prior to commencement;
- ii. a review of contributions (“Belhus Park Contribution Review”) following completion of the replacement facility and prior to commencement of the redevelopment of the existing football club site; and
- iii. prior to the occupation of more than 70% of the new dwellings, to undertake a review of viability (“Additional Infrastructure Contribution Review”).

- 1.4 The Mitigation Contribution of £522,000 was not the full amount chargeable under the former Planning Obligations Strategy (£570,000). However, a financial viability review suggested that a figure of £522,000 was all that the development could sustain. However, as final build costs for the replacement football club were, at the time of determination, only estimates due to potential variation in remediation costs, the Belhus Park Contribution Review was intended to review the potential for further contributions based on final build costs. The Additional Infrastructure Contribution Review was a ‘standard’ viability review clause. It is notable that the residential development does not include any affordable housing.

- 1.5 In October 2016 Persimmon Homes Essex applied for a deed of variation (ref. 16/01463/DVOB) to the s106 agreement so that:

- a) an initial phase of residential development at Mill Lane would be permissible so long as this would not jeopardise Aveley FC completing the league season (2016/17) at the Mill Lane ground ahead of Club’s move to Belhus Park;
- b) demolition of the Mill Lane stadium and development on a second phase could be undertaken post Aveley FC completing the 2016/2017 league season at Mill

Lane; and

- c) that there is no residential occupation of the houses built at Mill Lane until the substantial completion of Belhus Park Ground. Thereby retaining a financial incentive to complete the new ground in a timely manner.

There was a resolution to approve this application under delegated powers in April 2017. However, at the time of writing the amended deed has not been completed.

- 1.6 The current application seeks an amendment to the 'Mitigation Contribution' referred to at paragraphs 1.3 and 1.4 above. The applicant's reasons for applying for the modification are described below:

"Persimmon has purchased the Mill Road site at a set price from Aveley Football Club for the development of housing. Schedule 1 of the s106 Agreement related to that site requires a financial contribution of £522,000 to the local authority from the development.

The price received by Aveley Football Club for the Mill Road site is fixed, subject to any saving made in the s106 contribution sum. The costs of developing Belhus Park to provide the new football facility are significantly greater than expected. This is as a result of market forces within the construction industry and the condition of the ground bought from the Council for the new facility.

A revised viability assessment, including a review of the remediation costs, explains:

- The updated viability Assessment (Appendix 2) shows that the project was expected to be viable with a S106 payment of £522,000.*

The second tab demonstrates that, based on the same principles, the project is not viable, with a deficit of £1,064,000 (Appendix 3). This is due to a number of issues including the Club having to pay for the land, via Impulse Leisure, the increased remediation costs, as stated above and the increased construction costs.

- The remediation costs assessment (Appendix 3) shows the original costs were expected to be between £259,000 and £488,000. The figure of £448,000 was used in the original viability assessment.*

The updated remediation costs have been added to the table and based on the same principles as approved by the Council, show an actual cost of £546,000. This gives the figure of £98,000 as the difference quoted in the S106 addendum.

This application does not seek to reduce the S106 payment to a level that makes the scheme fully viable ... To work within commercial realities; the agreed sale price for Mill Road and to allow opening prior to the 2017/18 football season, the developers have taken a number of steps to reduce costs and thereby improve the viability.

They have value engineered the scheme; reduced the specification where possible; utilised the available contingency; and reviewed the originally agreed Finance Costs and the Developer's Profit. Consequently, the Club is seeking a reduction in the level of contributions of £210,480. This made up of two elements, firstly £123,480, which is to cover the increased remediation costs of £98,000 plus 5% Finance Costs and the 20% Development profit. The second is £87,000 which was the working capital in the cash flow, for the Club to pay for the relocation, fit-out, set up and marketing costs. In order to keep the project on programme the Club has had to find other monies which is going to put the Club's operation and business plan under a lot of pressure and will compromise the on-going sustainability of this community facility.

If the above reductions are agreed, then this would reduce the S106 payment to the Council, to be paid by Persimmon Homes in relation to the Mill Road development, to £311,520, while ensuring completion and the ongoing sustainable operation of the new Aveley FC community facilities."

2.0 SITE DESCRIPTION

- 2.1 The former Aveley FC site, known as Mill Field, is located to the east of Mill Road and south of the Aveley bypass (B1335). The site is accessed from Mill Road but does not have a frontage to this road. The site is roughly rectangular in shape with an area of approximately 2.5 hectares. The former club house, stands, seating areas and terraces for spectators have now been removed from the site.
- 2.2 Two-storey semi-detached and terraced dwellings in St. Paul's Close (constructed in the mid-1970's) adjoin the site to the west. Similarly, two-storey dwellings in St. Michael's Close (built in the late 1980's) adjoin the site to the south. To the east of the site is the Aveley village extension residential currently being developed by Persimmon Homes. Two-storey dwellings in this development adjoin the site. To the north of the site on the northern side of the Aveley bypass and the associated road verges are dwellings in Nethan Drive.
- 2.3 Following the acquisition of the site by Persimmon Homes a temporary construction access have been formed at the north-eastern corner of the site onto the bypass. Construction works for the residential redevelopment have commenced.

3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
13/01021/FUL	Outline planning application (with all matters reserved except access) for the demolition of existing building and redevelopment comprising up to 114 residential dwellings	Approved – subject to legal agreement
15/01438/REM	Application for the approval of reserved matters (appearance, landscaping, layout and scale) following outline approval ref. 13/01021/OUT (demolition of existing buildings and redevelopment comprising up to 114 residential dwellings)	Approved
16/01463/DVOB	Application for a Deed of Variation / Amendment to the s106 legal agreement attached to planning permission ref. 13/01021/OUT (Outline planning application (with all matters reserved except access) for the demolition of existing buildings and redevelopment comprising up to 114 residential dwellings) comprising alteration to paragraph 2.1 to read: "the owner shall following completion of the Belhus Park Development [i.e. the new football stadium] undertake the Belhus Park Contribution Review and submit the review to the Council" and any consequential amendments to the s106 agreement	Pending decision

4.0 CONSULTATIONS AND REPRESENTATIONS

4.1 A site notice publicising the application has been displayed. E-mail correspondence has been received from a local ward councillor requesting that the Council to do everything it can, within procedure, to expedite the planning process.

5.0 POLICY CONTEXT

5.1 National Planning Guidance

National Planning Policy Framework

The NPPF was published on 27th March 2012. Paragraph 13 of the Framework sets out a presumption in favour of sustainable development. Paragraph 196 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The following headings and content of the NPPF are relevant to the consideration of the current proposals:

6. Delivering a wide choice of high quality homes.

Planning Practice Guidance

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains 50 subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Planning obligations
- Viability

5.2 Local Planning Policy

Thurrock Local Development Framework (2015)

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in 2015. The following Core Strategy policies apply to the proposals:

Spatial Policies:

- CSSP1 (Sustainable Housing and Locations);
- CSSP3: Sustainable Infrastructure) and
- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock)

Thematic Policies:

- CSTP1 (Strategic Housing Provision)
- CSTP9 (Well-being: Leisure and Sports)

- CSTP10 (Community Facilities)

Policies for the Management of Development:

- PMD5 (Open Spaces, Outdoor Sports and Recreational Facilities)
- PMD16 (Developer Contributions)

Focused Review of the LDF Core Strategy (2014)

This Review was commenced in late 2012 with the purpose to ensure that the Core Strategy and the process by which it was arrived at are not fundamentally at odds with the NPPF. There are instances where policies and supporting text are recommended for revision to ensure consistency with the NPPF. The Review was submitted to the Planning Inspectorate for independent examination in August 2013. An Examination in Public took place in April 2014. The Inspector concluded that the amendments were sound subject to recommended changes. The Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review was adopted by Council on the 28th February 2015.

Draft Site Specific Allocations and Policies DPD

This Consultation Draft “Issues and Options” DPD was subject to consultation commencing during 2012. The Draft Site Specific Allocations DPD ‘Further Issues and Options’ was the subject of a further round of consultation during 2013. The Planning Inspectorate is advising local authorities not to continue to progress their Site Allocation Plans towards examination whether their previously adopted Core Strategy is no longer in compliance with the NPPF. This is the situation for the Borough.

Thurrock Core Strategy Position Statement and Approval for the Preparation of a New Local Plan for Thurrock

The above report was considered at the February 2014 meeting of the Cabinet. The report highlighted issues arising from growth targets, contextual changes, impacts of recent economic change on the delivery of new housing to meet the Borough’s Housing Needs and ensuring consistency with Government Policy. The report questioned the ability of the Core Strategy Focused Review and the Core Strategy ‘Broad Locations & Strategic Sites’ to ensure that the Core Strategy is up-to-date and consistent with Government Policy and recommended the ‘parking’ of these processes in favour of a more wholesale review. Members resolved that the Council undertake a full review of Core Strategy and prepare a new Local Plan.

Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a 'Call for Sites' exercise. It is currently anticipated that consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document will be undertaken in 2018.

6.0 ASSESSMENT

6.1 The background to the case is set out above. The extant s106 agreement places obligations on the owner in relation to:

(i) *payment of a mitigation contribution of £522,000 (index linked) on or before commencement –*

this financial contribution was secured pursuant to the Planning Obligations Strategy (POS) operated by the Council at the time when the planning application was determined. The POS set a discounted standard charge of £5,000 per dwelling to be used to mitigate the impacts on social and physical infrastructure from the residential development. In this case, the development of 114 dwellings generated a requirement for a £570,000 contribution. However, at the time when the application was considered, the applicant's viability assessment concluded that a contribution of £522,000 could be sustained. In addition, because of viability considerations, the residential development does not include affordable housing.

(ii) *Belhus Park Contribution Review –*

In summary, this obligation requires that following completion of the replacement football facilities a review of the costs is undertaken to assess whether it is viable for further POS contribution to be made, in view of the £48,000 shortfall referred to in (i) above.

(iii) *Additional Infrastructure Contribution Review –*

This obligation requires that no more than 70% of the dwellings can be occupied before a review of the financial viability of the residential development is undertaken to establish whether further contributions can be made under the POS (to a maximum figure of £48,000 – taking in the contribution at (i)).

6.2 Put simply, the residential development of the Mill Road site (114 dwellings) generates the requirement for a financial mitigation payment under the POS. The development of replacement football facilities on land north of the Aveley bypass is not "commercial" development, as defined by the POS, and would not have required obligations to mitigate its impact. However, because at the time when

both planning applications were being considered the precise costs of providing the football facilities were not known, part (ii) of the obligation provides for a review of the costs of providing the facility to establish whether the POS shortfall in (i) can be 'made-up'. Item (iii) of the agreement is a standard viability review clause for the residential development in order to assess, prior to the completion of the dwellings, whether the viability of the development has changed to a position where the POS shortfall can be made-up. Items (ii) and (iii) are therefore mechanisms to assess whether the POS shortfall of £48,000 can be recovered.

- 6.3 It is notable that the Belhus Park Contribution Review (ii) includes the following wording at Schedule 1 (2.4) of the agreement "*where the Belhus Park Contribution Review Outcome demonstrates that it is viable for the Owner to provide additional financial contribution for infrastructure to the Council in accordance with the Council's Planning Obligations Strategy then the Owner shall pay to the Council the Belhus Park Contribution*" (emphasis added). The s106 agreement does not include a scenario where the mitigation payment is reduced as a result of the costs associated with providing the replacement facility.
- 6.4 In any case the applicant has submitted an updated viability assessment (i.e. a table of development costs dated February 2017) for the replacement football facilities. This enables some comparison between the predicted development costs (November 2013) and final development costs (February 2017). Although the full details of the figures are commercially sensitive and cannot be replicated in full, the salient points from the comparison are:

Belhus Park costs – replacement football facilities

- 6.5 The November 2013 estimate predicted a 'surplus' of c.£522,000 after development costs were subtracted from the income generated from the sale of the Mill Road site with planning permission for residential redevelopment. This figure forms the mitigation contribution pursuant to the POS.
- 6.6 The predicted income to the football club from the sale of the Mill Road site with planning permission for residential redevelopment increased from c.£6.17 million (November 2013) to c.£7.5 million (February 2017) – a difference of £1.33 million.
- 6.7 Costs associated with 'Land Acquisition' at Belhus Park increased significantly from the November 2013 estimate of £50,000 to c.£1.03 million. This increase includes new unspecified costs comprising "Flying Club" and "Agents Fees". At the time when the planning applications were presented to Committee in 2014, the football club's viability model assumed that the Council (as freeholder of the Belhus Park site) and Impulse Leisure (as leaseholder of the Belhus Park site) would relinquish their interests at no cost to the football club. At the time of the Committee the

negotiations with the freeholder and leaseholder were ongoing. However, the football club was eager for the planning applications to be determined before the costs associated with land ownership were settled. It can be concluded that the football club’s assumption that the Belhus Park site could be acquired for nil cost was incorrect.

6.8 ‘Construction Costs’ i.e. the physical works to provide the football facilities increased from an estimated c.£3.9 million (November 2013) to c.£5.2 million. The November 2013 estimate was broken-down into constituent elements (drainage, services, access works, remediation, hardstandings, landscaping, clubhouse, stadia and pitches) totalling c.£3.7 million. The February 2017 figures do not includes a break-down and instead refers to an overall figure of c.£4.8 million. Unspecified costs comprising “fit out, fixtures and fittings”, “site security” and “ecology costs” totalling c.£136,000 are added as new items to the construction costs. It is accepted that the relocation of reptiles is a legitimate “ecology cost”, however the applicant’s ecology survey from 2013 acknowledged the potential of the site to support protected species (reptiles). It is therefore unfortunate that the November 2013 appraisal did not include a heading for ecology works. As the applicant’s February 2017 figures do not include a detailed break-down a direct comparison between projected (2013) and actual (2017) construction costs is not easy. Although the combined single cost of elements of construction are comparable as follows:

Item	2013 estimate	2017 cost
Infrastructure & drainage	c.£3.7 million	c.£4.8 million
Incoming services		
Site access & off-site highways		
Land remediation		
Car parking & hard pavings		
Clubhouse		
Landscaping		
Pitches		
Stadia		

6.9 Construction costs have therefore increased by c.£.1.1 million. Land remediation costs were originally estimated to be between c.£260,000 and c.£488,000, although the 2013 appraisal assumed the higher estimate. The applicant now confirms that actual remediation costs were c.£546,000.

6.10 It is worth noting that the internal layout and accommodation of the clubhouse building (with an estimated build cost of c.£1.6 million in 2013) has changed since the 2014 permission. The original permission (13/01022/FUL) provided for a single-storey clubhouse of c.1,002 sq.m. gross internal area providing both

'football-related' and 'social-related' accommodation. In summary, the original approval provided home, away and officials' changing rooms and up to 4 further other changing rooms. 'Social' floorspace principally comprised a function room / members bar of c.280 sq.m. floorspace. In 2015 the applicant was granted permission (ref. 15/00238/CV) to vary a number of the original planning conditions, including the internal layout of the clubhouse. This revised consent increased the internal floorspace of the clubhouse through the introduction of a viewing platform, board room etc. within a mezzanine at first floor level. This revision would undoubtedly add to construction costs. However, this revision was at the applicant's volition and not a planning requirement. The 2015 revision also increased the amount of 'social' floorspace within the clubhouse through the reduction in 'other' changing rooms from 4 to 2 and the introduction of a multi-function space and an outside space for a marquee adjacent to the members bar / function room.

- 6.11 Information available on the football club's dedicated 'Parkside' web-site notes that the clubhouse is a venue for functions (weddings, birthdays, corporate events etc.), with accommodation for between 12 and 200 people within 3 rooms ('The Boardroom', 'The Millers Lounge' and 'the Parkside Suite.'). Although it is not unusual for football clubs to hold social events, it is clear that the club have increased the amount of 'social-related' floorspace compared to purely 'football-related' floorspace. The build and fit-out costs of these changes would arguably be higher, although in the longer term the football has more floorspace which has the potential to earn income in addition to hire of the all-weather pitch.
- 6.12 Project costs and application fees associated with the replacement football facilities are broadly similar between the 2013 estimate and the 2017 actual costs. Development finance costs have increased, reflecting the higher construction costs, and the developer's profit has also increased (although the % profit remains unchanged).
- 6.13 In summary, the costs to Aveley FC of delivering replacement and improved football facilities have increased largely as a result of land acquisition costs and increased construction costs. Although the income to the football club generated from the sale of the Mill Road site also increased from the original 2013 assessment. In essence, the applicant is seeking a reduction in the mitigation costs for the residential development at the former football club site on the basis of the increased costs associated with constructing the replacement facility. It is worth emphasising the fact that the new facilities are open and available for hire and that the football club started playing at the new ground at the start of the 2017-18 season.

7.0 CONCLUSION

- 7.1 In drawing conclusions on the current application, it must be remembered that it is the residential development of the Mill Road site that generates the requirement for a mitigation payment. Therefore the s106 agreement is 'attached' to the Mill Road site (13/01021/OUT). At this stage there is no suggestion that the viability of the residential development is in question and it is only the viability of the replacement football facilities which is promoted by the applicant in support of the application. As above, it is the residential development which generates the mitigation payment, not the football facilities. Although the s106 agreement refers to the replacement facilities, this is in the context of reviewing final building costs for the facility to establish whether the POS shortfall can be recovered. There is no provision in the agreement to reduce the mitigation payment as a result of increased costs for the replacement football facilities. The fundamental planning purpose and aim of the s106 agreement is to ensure that the impacts of the residential development on education provision etc. are mitigated. To reduce the mitigation payment because the football club has encountered additional costs serves no planning purpose as the pressure on infrastructure from the residential development remains unchanged. To this end, the Council's published Pupil Place Plan (2017-21) predicts the two primary schools closest to the site (Aveley and Kenningtons) will continue to be over capacity in future years. Consequently, the mitigation contribution will be required to address the new demands on already over-subscribed local primary school provision.
- 7.2 For these reasons it is considered that the already negotiated contribution is demonstrably required. Fundamentally it is the residential development which generates the s106 mitigation payment and to reduce this payment as a result of the costs of providing the replacement football facilities serves no planning purpose. Therefore it is recommended that the application to vary the s106 agreement is refused and the obligation remains unchanged.

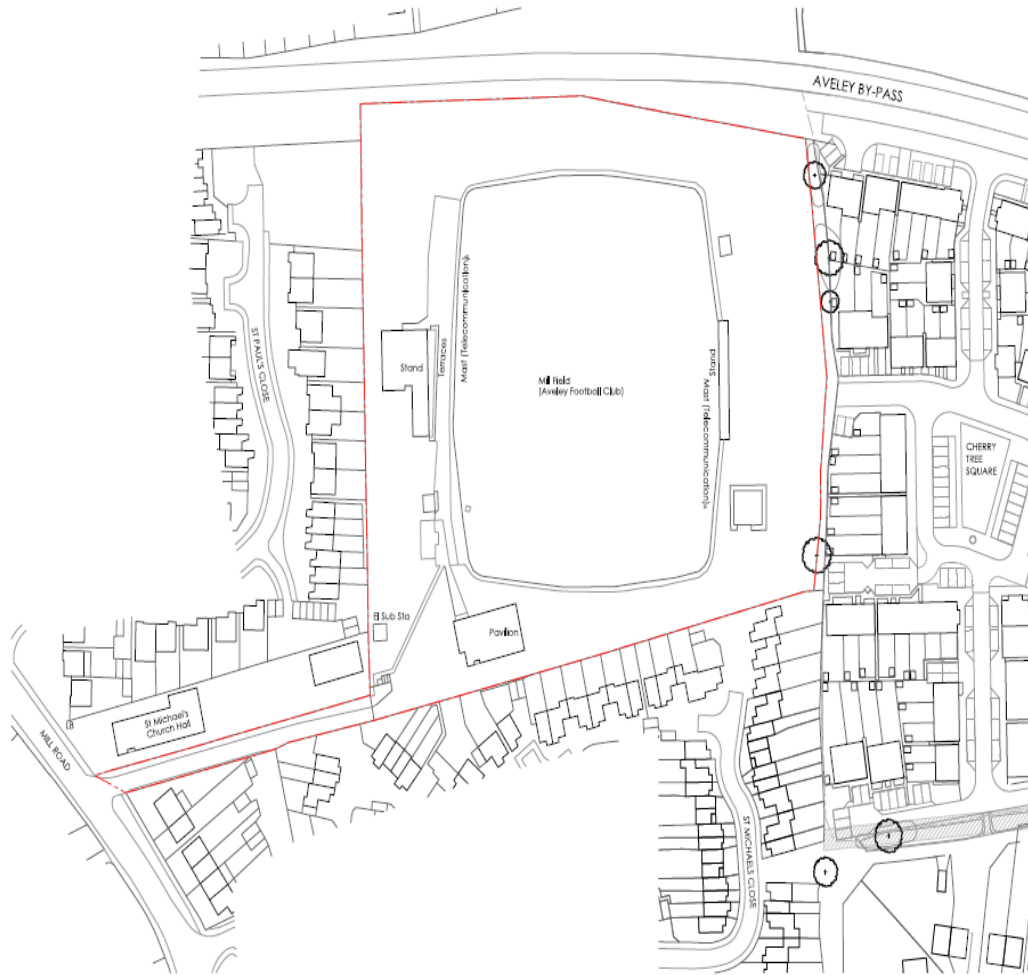
8.0 RECOMMENDATION

- 8.1 That the application to vary to s106 agreement as proposed is refused.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

www.thurrock.gov.uk/planning



NOTES
 Do not scale from this drawing. All information is to be checked on site for accuracy and Report any discrepancies and omissions to RMA Architects.



1475_0010
 Red Line Boundary
 1:1250 @ A3



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