Communities and Local Government

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Mrs Rachel Godfrey
Urban Initiatives
1 Fitzroy Square
LONDON
W1T 5HE

Our Ref:
APP/Z3635/A/10/2138983
APP/Z3635/A/10/2138982

29 November 2011

Dear Madam,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY LONDON IRISH HOLDINGS LIMITED
APPEAL A: LONDON IRISH TRAINING GROUND, THE AVENUE, SUNBURY-ON-THAMES, MIDDLESEX, TW16 5EQ, Application ref: 09/00841/OUT
APPEAL B: HAZELWOOD GOLF CENTRE, CROYSDALE AVENUE, SUNBURY-ON-THAMES, MIDDLESEX, TW16 6QU, Application ref: 09/00842/OUT

1. Following email correspondence from Spelthorne Borough Council dated 28 November 2011, the Secretary of State has taken action to correct two factual errors in his decision letter dated 24 October 2011 relating to the above application. The date at the head of the letter is incorrect and the reason given at paragraph 2 for the recovery of Appeal B is also incorrect. To correct these, the Secretary of State is required to use his power under section 56(2) of the Planning and Compulsory Purchase Act 2004 ("the Act") to issue a correction notice to delete, and replace where necessary, the following words from the decision letter:-

i) At the head of the letter, above the address: Delete the words "24 October 2011"; and,

Replace with the words "24 November 2011"; and

ii) In paragraph 2, 3rd sentence: Delete the words "Appeal B was recovered because the scheme involves proposals for residential development of over 150 units on a site of over 5ha which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.", and

Replace with the words "Appeal B was recovered because the scheme involves proposals for significant development in the Green Belt."

2. Under the provisions of section 58(1) of the Act, the effect of the correction is that the original decision is taken not to have been made and the decision is taken for all purposes to have been made on the date of this letter.

Jean Nowak
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Planning Central Casework
Zone 1/J1, Eland House
Bressenden Place London SW1E 5DU

Tel 0303 4441626
Email: pcc@communitites.gsi.gov.uk

3. A copy of this letter has been sent to Spelthorne Borough Council and all parties who received a copy of the decision letter.

Yours faithfully,

Jean Nowak
Authorised by the Secretary of State to sign in that behalf

24 October 2011

Mrs Rachel Godfrey
Urban Initiatives
1 Fitzroy Square
LONDON
W1T 5HE

Our Ref: APP/Z3635/A/10/2138983
APP/Z3635/A/10/2138982
Your Ref:2347/05 London Irish

Dear Madam,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY LONDON IRISH HOLDINGS LIMITED
APPEAL A: LONDON IRISH TRAINING GROUND, THE AVENUE, SUNBURY-ON-THAMES, MIDDLESEX, TW16 5EQ, Application ref: 09/00841/OUT
APPEAL B: HAZELWOOD GOLF CENTRE, CROYSDALE AVENUE, SUNBURY-ON-THAMES, MIDDLESEX, TW16 6QU, Application ref: 09/00842/OUT

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI, who held an inquiry between 7 and 23 June 2011 (and which was closed in writing on 21 July 2011) into your clients' appeals against the refusal of Spelthorne Borough Council (the Council) to grant planning permission for:

    - **Appeal A**: demolition of stand and clubhouse and erection of 194 residential units (of which 12 have associated workspace), a Care Home, site for a future health centre, construction of estate roads and the provision of new open space including a new neighbourhood park, in accordance with application Ref: 09/00841/OUT; and

    - **Appeal B**: demolition of clubhouse, driving range and other built structures on site and the development of 5 adult and 12 junior natural turf sports pitches, 3 of which to be floodlit and one to be a third generation (3G) artificial grass pitch, plus erection of clubhouse and parking for London Irish and associated landscaping to include creation of a lake, in accordance with application Ref: 09/00842/OUT.

2. The appeals were recovered for the Secretary of State's determination on 1 November 2010, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990. Appeal A was recovered because the scheme involves proposals for residential development of over 150 units on a site of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeal B was recovered because the scheme involves proposals for residential development of over 150 units on a site of over 5ha which would significantly impact on the Government's objective to secure a

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better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendations and dismisses both Appeal A and Appeal B even though, for the reasons given below, he disagrees with some of the Inspector's conclusions in respect of Appeal B. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. The Secretary of State is satisfied that an Environmental Statement was not required for Appeal A. In reaching his decision on Appeal B, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 in respect of that application (IR7 and IR430). He is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of Appeal B.

Matters arising after the close of the inquiry

5. Following the close of the inquiry the Secretary of State received three representations about the proposals which he has taken into account. As these did not raise any new matters that would affect his decisions, he has not considered it necessary to circulate them to all parties; but copies can be made available upon written request to the address at the foot of the first page of this letter.

Policy considerations

6. In deciding these applications, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In the case of these appeals, the development plan for the area in which their proposals lie includes the South East Plan 2009 (Regional Strategy – RS); the saved policies of the *Spelthorne Borough Local Plan (2001)* (LP); and the Council's *Core Strategy and Policies Development Plan Document* adopted in February 2009 (CSPDP). The Secretary of State agrees with the Inspector that the development plan policies most relevant to these appeals are those described at IR19. Other material considerations which the Secretary of State has taken into account include the national planning policy documents listed by the Inspector at IR20-21.

Main issues

7. The Secretary of State considers that the main considerations in these cases are those listed by the Inspector at IR270. The Secretary of State has noted that it is a fundamental plank of the Appellant's case that the two schemes are inextricably linked, albeit that the extent of the linkage is largely financial (IR271). The Secretary of State does not consider such financial considerations to be valid planning grounds

to be taken into account in determining these appeals. Nevertheless, for the reasons given at paragraph 27 below, he acknowledges that the terms of the section 106 Agreements as they stand depend on the implementation of both schemes and, for that reason alone, he agrees with the Inspector's conclusion at IR272 that a full conclusion cannot be reached on one appeal until the implications of the assessment of the second appeal have also been considered. This decision letter therefore follows the format of the IR in considering Appeal B before Appeal A and then drawing overall conclusions.

Appeal B

Inappropriate development in the Green Belt and effect on openness and visual amenity

8. The Secretary of State agrees with the Inspector at IR292 that, for the reasons given at IR275-291, the Appeal B proposal as a whole would be inappropriate development and therefore, by definition, harmful to the Green Belt and thus in conflict with saved LP policy GB1. However, the Secretary of State also agrees with the Inspector (IR301) that, for the reasons given at IR293-300, including his consideration of floodlighting and ball-stop fencing, the proposed development would, on balance, have a slight beneficial impact on openness to which a modest amount of weight should be attached in its favour. With regard to the impact on the visual amenities of the Green Belt, the Secretary of State agrees with the Inspector (IR307) that although, on balance, this would not be adverse, neither would it result in any significant improvement to the visual qualities (IR302-306). The Secretary of State therefore agrees that the matter of visual amenity is a neutral matter which weighs neither for nor against the Appeal B proposal.

Effect on the amenities of visitors to the adjacent cemetery

9. For the reasons given at IR308-320, the Secretary of State agrees with the Inspector's conclusion at IR321 that, although there would be likely to be occasions when visitors to the cemetery would be adversely affected by noise arising from the Appeal B proposal, this would only apply on a limited basis so that only a modest amount of weight should be attributed to this harm.

Other considerations, including the extent to which there are very special circumstances to outweigh the harm

10. The Secretary of State agrees with the Inspector (IR322) that, as the Appeal B scheme would constitute inappropriate development in the Green Belt and additional harm would arise from the noise to visitors to the adjacent cemetery, the onus lies with the Appellant to demonstrate why planning permission should nevertheless be granted.

11. With regard to the Appellant's claim that London Irish need to relocate to secure the long-term stability of the Club, the Secretary of State agrees with the Inspector that, for the reasons given at IR323-335, the lack of alternatives arises, at least in part, from the Appellant's preferences rather than from absolute constraints. He therefore agrees with the Inspector that this matter adds no weight to the case for Appeal B.

12. For the reasons given at IR336-344, the Secretary of State also agrees with the Inspector's conclusions at IR345-346 that, while there is no firm evidence to suggest that the golf club could easily reverse the trends of falling profits and falling

membership, that factor adds no material weight to the case for Appeal B. The Secretary of State therefore further agrees with the Inspector that, as the Appeal B proposal would simply replace the golf club with another sporting use, it would have a more or less neutral effect on the sporting use of Hazelwood which cannot be regarded as adding weight for or against the appeal proposal.

13. The Secretary of State agrees with the Inspector (IR347-348) that the more compact form of the proposed clubhouse and the reduction in the amount of ball-stop fencing in relation to the existing buildings and facilities under the proposed scheme add a moderate amount of weight in the proposal's favour in that they would have a slightly beneficial impact on openness (see paragraph 8 above). The Secretary of State also agrees with the Inspector's conclusions at IR 351 and IR360 that, for the reasons at IR349-350 and IR352-360 respectively, the benefits of providing a Centre of Excellence would go wider than simply providing benefits to the Club and its own members, with additional benefits thereby flowing to the local community. He therefore also agrees (IR361) that these considerations should weigh appreciably in support of the Appeal B proposal.

14. For the reasons given at IR362-364, the Secretary of State agrees with the Inspector that, as the need for the remediation of the Appeal B site appears to be dependent on the proposed development itself, this cannot provide any significant weight in support of the proposal. The Secretary of State also agrees with the Inspector that, for the reasons given at IR365-367, the proposed ecological improvements should be accorded a modest amount of weight in the proposal's favour. Finally, he agrees with the Inspector (IR368) that the concerns expressed by local residents that the proposed development would severely compromise their Human Rights are capable of being addressed through proposed mitigation measures.

Preliminary conclusion on Appeal B

15. Having regard to the arguments set out in paragraphs 8-14 above, and taking account of the Inspector's further reasoning at IR369-372, the Secretary of State agrees with the Inspector's preliminary conclusion at IR373 that, although there would be clear harm to the Green Belt through inappropriateness, this would be slight and outweighed by the benefits of the proposed scheme. He therefore also agrees that very special circumstances can be demonstrated to clearly outweigh the harm to the Green Belt and other harm, making the Appeal B scheme acceptable in planning terms on its own merits.

Appeal A

Effect of the proposal on protected open space within the urban area

16. The Secretary of State agrees with the Inspector (IR389) that, for the reasons given at IR374-388, if the Appeal B scheme were to be approved, such that the Appellant had no need for the Appeal A site to remain in its current use, then allowing the Appeal A scheme currently under consideration would not have an adverse affect on existing protected open space within the urban area and so would not be in conflict with CS policy EN4 in that regard.

The effect of the proposal on outdoor sports facilities

17. For the reasons given at IR390-392, the Secretary of State agrees with the Inspector's conclusion at IR393 that, assuming that the Appeal B scheme were to go ahead, the implementation of the Appeal A scheme (and the consequent loss of sports facilities) would not have an overall adverse impact on the provision of such facilities and so would not be in conflict with CS Policy EN4 in that respect.

Housing need and current planned housing provision

18. Whilst noting (IR394) that the Appellant has never made any case for the Appeal A proposal on the basis of housing need as the scheme is being put forward as enabling development to allow the Appeal B scheme to be progressed, the Secretary of State agrees with the Inspector that, for the reasons given at IR395-398, the fact that the Council is under no particular pressure to seek to provide or approve additional "windfall" dwellings weighs against the proposal, particularly as it would not be on previously developed land.

Affordable housing and the concept of enabling development

19. The Secretary of State has had regard to the fact (IR399-400) that CS Policy HO3, in line with other development plan policies for the area, confirms that the Council's target for affordable housing for each site is 40% of all net additional dwellings over the period to 2026 – implying a proportion of up to 50% in cases where the development comprises 15 or more dwellings. Against this, the Secretary of State notes (IR401) that the Appellant's offer amounts to no more than 10% of the total number of units proposed – significantly below the Council's target figure. This is because, as set out at IR402-403, the Appellant sees the affordable housing issue as a straightforward matter of economics and viability, requiring the bulk of the proceeds from the sale of the Appeal A site to "enable" the Appeal B proposal to proceed; whereas the Council considers that the site could provide some 35% of affordable housing and still remain a viable proposition. Like the Inspector, the Secretary of State sees no reason to disagree with the Council.

20. The Secretary of State also shares the Inspector's concerns at IR 404 about the principle and application of the concept of enabling development in this case. In particular, he agrees that there is no specific development plan support for either of the appeal schemes to weigh in the Appellant's favour (IR405); and nothing in CS Policy HO3 to suggest that viability issues relating to another site should be taken into account when considering the amount of affordable housing a particular site should deliver (IR406).

21. The Secretary of State also agrees with the Inspector (IR407-409) that there is clearly no "place" or "heritage asset" to be protected or preserved in this case, with the primary purpose behind the two appeals being to provide significant benefits to the Club itself by, in effect, diverting a "public subsidy" away from affordable housing as a means of providing the Appeal B facilities. Furthermore, the Secretary of State agrees with the Inspector's reasoning that little weight should be given to any need to increase the provision of rugby facilities within a 30 minute drive time of the appeal A site (IR410) or to the Appellant's assertion that there is a lesser need to provide affordable housing on a pure windfall site (IR411). Overall, therefore, the Secretary of State agrees with the Inspector (IR412) that a straightforward redevelopment of the Appeal A site would be capable of providing far more much

needed affordable housing than the Appellant is prepared to offer and would therefore be more closely in accordance with the requirements of the development plan and national planning objectives.

Other matters

22. For the reasons given at IR413-416, the Secretary of State agrees with the Inspector that the proposed Care Home and health centre would assist in producing a mixed development and that both these and the proposed live-work units add a modest amount of weight in the Appeal A proposal's favour. He also agrees with the Inspector's conclusion at IR422 that, for the reasons given at IR417-421, the Appeal A proposal would not have an adverse effect on the safety and convenience of users of the highway network in the vicinity of the appeal site.

Preliminary conclusion on Appeal A

23. For the reasons set out above, the Secretary of State agrees with the Inspector (IR423-424) that, although there would be no good reason, in open space terms, to oppose appropriate development on the Appeal A site so long as alternative sport and recreation facilities were being provided, there is no pressure on the Council to approve additional applications for large windfall housing proposals which fail to make provision for an adequate amount of affordable housing.

Overall conclusions for Appeal A and Appeal B taken together

24. For the reasons set out above and at IR426-427, the Secretary of State agrees with the Inspector that it is non-planning factors which are severely limiting the amount of affordable housing offered in the Appeal A scheme, while (IR429) the Appeal B scheme would be acceptable on its own. The Secretary of State takes the view that each appeal has to be considered on its own merits, especially in view of the fact that, as the Inspector says (IR427), the schemes apply respectively to two disparate and unconnected sites. The Secretary of State therefore sees no planning (as opposed to financial) reasons why they should be weighed together in the balance and, for that reason, disagrees with the Inspector's approach (IR428-429) of adding together the benefits of the two schemes and then off-setting them against the disbenefits of scheme A. However, although the Secretary of State is satisfied that the Appeal B scheme as it currently stands would be acceptable in planning terms, he also needs to be satisfied that it would be capable of implementation in its current form if he were to dismiss Appeal A; and this depends on the extent to which the planning obligations as they currently stand would still be capable of being fulfilled (see paragraph 27 below).

<u>Conditions</u>

25. The Secretary of State is satisfied that the conditions proposed by the Inspector in respect of Appeal B - which are set out in Appendix C to the IR (pages 104-109), and including the additional condition promoted by LOSRA), are reasonable and necessary and meet the tests of Circular 11/1995. However, he does not consider that, either individually or cumulatively, they would overcome his concerns about granting permission for Appeal B without Appeal A. He also does not consider that, either individually or cumulatively, the proposed conditions in respect of Appeal A (IR pages 99-104) would overcome his reasons for dismissing that appeal.

S106 Undertakings

26. The Secretary of State is satisfied that, were he to consider it appropriate to grant consent for both Appeal A and Appeal B on their own merits in planning terms, the planning obligations set out in the two S106 Agreements (IR266-268) would be necessary and relevant to the proposed schemes and meet the tests set out in Circular 05/2005 and the CIL Regulations 2010.

27. However, as the Secretary of State can see no justification in planning terms for granting consent for Appeal A, and as the terms of the obligations relating to Appeal A and Appeal B are inextricably linked in the two Agreements, he considers that there would be no guarantee that those obligations necessary to secure the implementation of the Appeal B scheme as it stands could be fulfilled without a radical rewrite – in particular to ensure that the Appeal B scheme would still provide sufficient public benefit to justify the development on green belt land. Therefore, given that it is a fundamental plank of the Appellant's case that the two schemes are inextricably linked (see paragraph 7 above), the Secretary of State sees no point at this stage in seeking amendments to the planning obligations as it seems to him to be inevitable that that would require some modification to the Appeal scheme B proposals.

Overall Conclusions

28. Overall, the Secretary of State considers that the Appeal A scheme is not in accordance with the development plan and planning policy, particularly with regard to the low proportion of affordable housing proposed, and should therefore be dismissed. Furthermore, although Appeal B would be acceptable in principle in planning terms, given that the two appeals are inextricably linked financially, the Secretary of State concludes that it would not be capable of implementation on its own in accordance with the planning obligations as they currently stand. In particular, he is not satisfied that there would still be sufficient public benefit to justify the development of green belt land. He therefore concludes that the Appeal B scheme as it currently stands should also be dismissed.

Formal Decision

29. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations and hereby dismisses your clients' appeals against the Council's refusal to grant planning permission for:

- **Appeal A**: demolition of stand and clubhouse and erection of 194 residential units (of which 12 have associated workspace), a Care Home, site for a future health centre, construction of estate roads and the provision of new open space including a new neighbourhood park, in accordance with application Ref: 09/00841/OUT; and

- **Appeal B**: demolition of clubhouse, driving range and other built structures on site and the development of 5 adult and 12 junior natural turf sports pitches, 3 of which to be floodlit and one to be a third generation (3G) artificial grass pitch, plus erection of clubhouse and parking for London Irish and associated landscaping to include creation of a lake, in accordance with application Ref: 09/00842/OUT.

30. In respect of Appeal B, this letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decisions may be challenged by making an application to the High Court within six weeks from the date of this letter.

32. A copy of this letter has been sent to the Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak
Authorised by Secretary of State to sign in that behalf

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by David Wildsmith **BSc(Hons) MSc CEng MICE FCIHT MRTPI**

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

Date: 26 September 2011

TOWN AND COUNTRY PLANNING ACT 1990

SPELTHORNE BOROUGH COUNCIL

APPEALS BY

LONDON IRISH HOLDINGS LIMITED

Inquiry opened on 7 June 2011

London Irish Training Ground, The Avenue, Sunbury-on-Thames, Middlesex, TW16 5EQ

and

Hazelwood Golf Centre, Croysdale Avenue, Sunbury-on-Thames, Middlesex, TW16 6QU

File Refs: APP/Z3635/A/10/2138983 & APP/Z3635/A/10/2138982

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Appeal B - File Ref: APP/Z3635/A/10/2138982
Hazelwood Golf Centre, Croysdale Avenue, Sunbury-on-Thames, Middlesex, TW16 6QU

- The appeals are made under section 78 of the Town and Country Planning Act 1990 ("the Act") against refusals to grant outline planning permission.
- Both appeals are made by London Irish Holdings Limited against the decisions of Spelthorne Borough Council.
- For Appeal A, the application Ref 09/00841/OUT, dated 7 December 2009, was refused by notice dated 30 April 2010.
- The development proposed is demolition of stand and clubhouse and erection of 194 residential units (of which 12 have associated workspace), a Care Home, site for a future health centre, construction of estate roads and the provision of new open space including a new neighbourhood park.
- For Appeal B the application Ref 09/00842/OUT, dated 7 December 2009, was refused by notice dated 30 April 2010.
- The development proposed is demolition of clubhouse, driving range and other built structures on site and the development of 5 adult and 12 junior natural turf sports pitches, 3 of which to be floodlit and 1 to be a third generation (3G) artificial grass pitch, plus erection of clubhouse and parking for London Irish and associated landscaping to include creation of a lake.
- The inquiry sat for 11 days on 7 to 10 June 2011, 14 to 17 June 2011 and 21 to 23 June 2011 and was closed in writing on 21 July 2011. I made an accompanied visit to the appeal sites and surrounding area on 22 June 2011 and made further accompanied visits to other relevant locations suggested by the Appellant on 28 June 2011.

Summary of Recommendation: That both Appeal A and Appeal B be dismissed.

Procedural Matters

1. The Appeals have been labelled "A" and "B". In addition, the convention has been used throughout this Report of referring to The Avenue site as Site A and the Appeal A scheme as Scheme A. The Hazelwood Golf Centre (HGC) site is referred to as Site B (or sometimes just "Hazelwood") and the proposal for that site as Scheme B. For ease and brevity, "the Appellant", "London Irish" and "the Club" have been used interchangeably throughout this Report.

2. Both applications were submitted in outline. For Scheme A only access and layout are to be determined at this stage, whilst for Scheme B access, layout and scale are to be determined now. The applications were considered by the Council's Planning Committee in April 2010, with Scheme A being refused for a total of 9 reasons and Scheme B for 3 reasons. These reasons are set out in full in the Statements of Common Ground (SoCG) for each scheme (Core Document (CD)10.04 for Scheme A and CD05.02 for Scheme B).

3. Following these refusals the Appellant submitted a Post Refusals Additional Information Report (PRAIR – CD11.01), relating to both proposals, with the aim of reducing the areas of disagreement between the main parties. Following public consultation this PRAIR was reported to the Council's Planning Committee in February 2011 and this resulted in the Council modifying its position in respect of both proposals. Further details can be found in the respective SoCG, (including

the Highways SoCG – CD10.05 for Scheme A and CD05.03 for Scheme B). In summary, the Council's position at the start of the inquiry was that for Scheme A it was satisfied (subject in some cases to the imposition of appropriate conditions), with regards to matters of education, highways, archaeology, air quality and proposed layout. Its opposition to Scheme A was therefore limited to the following 4 reasons:

i. *The proposed development would result in an unacceptable loss of existing protected open space within the urban area which makes a significant contribution to the quality and character of the urban area by virtue of its size, both on its own and in combination with the adjoining urban open space, and its prominence, layout and position in relation to built development in the locality. The proposal is, therefore, contrary to Policies SP6 and EN4 of the Core Strategy and Policies DPD 2009.*

ii. *The proposal fails to provide an adequate justification in terms of housing need and current planned housing provision to set aside the Council's policy to protect existing sports facilities and protected urban open space. It is contrary to Policies SP6 and EN4 of the Core Strategy and Policies DPD 2009.*

iii. *The proposed development would result in an unacceptable loss of an outdoor sports facility for which there is a clear demand. It is contrary to Policies CO1, SP6 and EN4 of the Core Strategy and Policies DPD 2009.*

iv. *The proposal would provide inadequate affordable housing to contribute towards meeting the needs of the Borough and the applicants have failed to adequately justify why 50% of affordable housing cannot be provided on site. The proposal is, therefore, contrary to Policies SP2 and HO3 of the Core Strategy and Policies DPD 2009.*

4. For Scheme B, following consideration of the PRAIR, the Council was satisfied that the proposed changes to the land levels did not represent inappropriate development in the Green Belt and it also withdrew its objection to the proposal on landscape grounds. Subject to the proposal being considered on the basis of no spectator accommodation being included, the Council resolved to not pursue this aspect of its original reasons for refusal. Subject also to the imposition of appropriate conditions and a revised designation of pitches, the Council agreed to limit its objection on noise grounds to the impact on the adjoining cemetery, and indicated it would not sustain its objection on air quality grounds. Its opposition to Scheme B was therefore limited to the following 2 reasons:

i. *The proposal constitutes inappropriate development in terms of some elements of the clubhouse, the proposed 12m high fencing, floodlighting and extension to the car park. Consequently, it is not considered that very special circumstances of such weight have been advanced by the applicant to override the normal application of Green Belt Policy. As a result of its inappropriateness the proposals are, by definition, harmful to the Green Belt and contrary to saved policy GB1 of the Spelthorne Borough Local Plan 2001 and does not accord with Central Government Policy guidance as set out in PPG2 "Green Belts".*

ii. *In the opinion of the Local Planning Authority, the applicants have failed to demonstrate that the proposed use of the site as a "Centre of Excellence" with all its associated matches, training, events and general activities*

would not have an unacceptable noise impact in the use of the site, resulting in a detrimental and intrusive impact upon nearby amenities, in the vicinity of the site. The proposal is therefore, contrary to policy EN11 of the Core Strategy and Policies DPD 2009. (Note – it is agreed between the main parties that "nearby amenities" means the amenity of those using and visiting the cemetery and nothing else.)

5. It was agreed that other matters of concern could be addressed by suggested planning conditions, put forward jointly by the parties (Documents (Docs) JNT/5 and JNT/6), and by 2 separate Agreements made under Section 106 (S106) of the Act (Docs JNT/3 and JNT/4). The first of these was completed and submitted to the inquiry, with the second Agreement being submitted on 18 July 2011, after the inquiry had finished sitting but in accordance with an agreed timescale. I discuss these S106 Agreements and the suggested conditions later in this Report.

6. Appeals were lodged on 20 October 2010 and were subsequently recovered for determination by the Secretary of State by letter dated 1 November 2010. For Appeal A, the reason for recovery is that the scheme involves proposals for residential development of over 150 units on a site of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. For Appeal B, the reason given is that it involves proposals for significant development in the Green Belt. The Secretary of State did not identify any specific matters upon which he particularly wishes to be informed, so my Report concentrates on the Council's reasons for refusal, along with other matters of concern raised by the Lower Sunbury Residents' Association (LOSRA), who appeared at the inquiry as a Rule 6 Party.

7. Scheme B meets the applicable thresholds of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999 No 293), as amended, and the Appellant has submitted an Environmental Statement (ES – CD02.10-02.12). The PRAIR, submitted in October 2010 included a further report on the ES relating to site levels, noise and vibration and air quality (CD11.01). This further environmental information was advertised and further consultation responses were received (Doc LPA/12). The main parties agree that the scope of the submitted ES meets the requirements of the above Regulations and that the Appellant has assessed the significant environmental effects of the proposed development.

8. For Scheme B, 3 amended plans were submitted in February 2011. Details of the amendments are given in the Hazelwood SoCG (CD05.02). As the amendments are relatively minor I indicated, in line with the views of both the Appellant and the Council, that I would determine the appeal on the basis of these revised plans as I did not consider that to do so would be likely to seriously adversely prejudice anyone with a legitimate interest in the proposals.

9. Following a suggestion from the Council, made at the Pre-Inquiry Meeting (PIM), I visited The Avenue Training Ground whilst a match was in progress. This was on Saturday 9 April 2011 when the London Irish top amateur team (the Wild Geese) was playing. In addition, on the same day the ground hosted a benefit match between teams representing England Legends and Ireland Legends. Both parties made it clear that the nature of the events meant that this could not be considered a normal match day at The Avenue, but it was the only date possible for me to visit before the end of the season.

10. I visited both appeal sites and their respective surroundings on 22 June 2011, in the company of representatives of the Appellant, the Council and LOSRA. In addition, on 28 June, at the request of the Appellant and in the company of representatives of both the Appellant and the Council I visited 3 more distant sites, referred to in evidence by the Appellant. These were the training facility for Saracens Rugby Football Club at Woollam's Playing Fields at St Albans; Ashford Hockey Club at Stanwell, in Middlesex, which is sited alongside Ashford Cemetery; and Chelsea Football Club's training ground development at Stoke D'Abernon, Cobham, Surrey. All of these sites are in Green Belt locations.

11. My Report contains a description of the appeal sites and their surroundings; the gist of the matters agreed between the Appellant and the Council; the material points of the cases of the Appellant, the Council, LOSRA and interested persons; and my conclusions and recommendations. Copies of the proofs of evidence and statements of those witnesses who provided them are included as accompanying documents. Appendix A lists those who appeared at the inquiry. Appendix B contains a list of core documents and other documents submitted at the inquiry (referred to in brackets). Appendix C contains the conditions which I recommend should be imposed on any planning permission granted in respect of either appeal. Appendix D contains details of the scheme plans. Finally, Appendix E is a list of abbreviations used throughout this Report.

The Appeal Sites and their Surroundings

12. A full description of Sites A and B and the surrounding areas can be found in the respective SoCG (CD10.04 & CD05.02), with the site location plans being CD06.01 for Scheme A and CD01.01 for Scheme B. In brief, Site A comprises the existing London Irish Rugby Football Club training ground. It lies on the western side of The Avenue in Sunbury, approximately 0.8 kilometres (km) (0.5 miles) from Sunbury railway station. The site has a total area of some 6.4 hectares (ha), with the southern part being roughly rectangular and the northern half "L" shaped. There are a total of 3 floodlit pitches on the southern part and one unlit pitch on the northern part. In the middle of the site there is an existing 2-storey sports club pavilion with spectator seating overlooking the main pitch immediately to the south. The site currently accommodates 150 car parking spaces.

13. The site is surrounded by existing housing on the northern side (Pine Wood), the eastern side (The Avenue) and the southern side (Manor Lane). Adjacent to the "L" shaped part of the site is the Virgin Active Health Club (VAHC), with its parking areas to the north and east of the building. To the west of the site is St Paul's College (the main building is Grade 2 listed) with its associated buildings and sports grounds. The school driveway from Manor Lane forms the western boundary of the southern part of the appeal site. The site has 2 points of access, both from The Avenue. The main entrance, which also leads to the VAHC, is for vehicles and pedestrians, whilst an infrequently used secondary access, currently gated, lies to the north of this.

14. The Appeal B site comprises the HGC, which is situated within the Green Belt off Croysdale Avenue in Sunbury, about 1.2km (just over ¾ mile) to the south-west of The Avenue. Part of Croysdale Avenue itself also falls within the appeal site which extends to some 21.7ha. On the eastern side of the site is an "L" shaped building which is mainly single-storey, but has a 2-storey element in the form of a tower with a pitched roof, rising to a maximum height of 8.5m. The building comprises a bar/lounge, green keeper's store, service yard, ancillary uses (such as

offices, kitchen and toilets), meeting room and a golf shop. A permanent marquee structure, used as a function room, is also part of the building. Further details of the extent and size of the existing facilities is given in the Hazelwood Planning Statement (CD02.02).

15. An open grassed driving range lies to the west of the clubhouse, with covered booths housed in a rectangular building some 125m long. This structure, which has floodlights mounted on its roof to illuminate the driving range, is attached to the western side of the clubhouse. Ball-stop fencing around the driving range is about 500m in length. The existing clubhouse building has a pitched roof and, excluding the 2-storey tower, is generally about 6.2m high. The driving range structure is a little lower, at about 5.5m high. To the east and south-east of the clubhouse is the car park for 125 cars and to the south of the clubhouse and car park there is a floodlit practice putting green. There is substantial planting to the eastern site boundary, alongside the car park and practice green.

16. The 9-hole golf course is laid out to the west of the driving range and extends generally to the site's western boundary. Ground levels are slightly undulating at about 0.8m to 1.6m above the general site levels around the greens, tees, and bunkers, and between the fairways. The site also includes a lined lake and there is semi-mature tree planting between and around the fairways. Vegetation surrounds the site on most of its boundaries, with dense, high hedges to the north-western and western boundaries and lower, occasionally "gappy" hedges along the remainder of the northern boundary and along the southern boundary. The north-eastern site boundary is adjoined by dwellings within Sunbury, whilst properties within Upper Halliford adjoin the south-western boundary.

17. For a short distance the Upper Halliford Conservation Area has a common boundary with the appeal site. A track runs along part of the northern boundary, with paddocks beyond, and a footpath known as School Walk runs along the southern boundary of the site, again with paddocks beyond. Sunbury Cemetery and allotment gardens lie to the south of the appeal site. The Grange Farm caravan park adjoins a short length of the site's northern boundary, with paddocks to its west and a lake to its east. Public Footpath 73, passes through the golf course in a roughly north/south direction, linking the south-eastern corner of this caravan park with the School Walk footpath, although its actual position on the ground differs from the route shown on the definitive map.

Planning Policy

The Development Plan

18. The development plan includes the South East Plan (SEP) "Regional Spatial Strategy (RSS) for the South East of England" (CD13.01); saved policies of the Spelthorne Borough Local Plan adopted in April 2001 (the Local Plan" - relevant extracts at CD14.04, CD14.05 and CD14.07); and the Council's Core Strategy and Policies Development Plan Document adopted in February 2009 (CSPDPD – CD14.01). Although the Secretary of State has signalled his intention to revoke the RSS through the Localism Bill, the SEP was part of the development plan at the time this inquiry was held and also at the time this Report was written.

19. For Scheme A, of particular relevance are CSPDPD policies SP6 (Maintaining and Improving the Environment); EN4 (Provision of Open Space and Sport and Recreation Facilities); CO1 (Providing Community Facilities); SP2 (Housing Provision); and HO3 (Affordable Housing). For Scheme B, of particular relevance

are CSPDPD policies EN11 (Development and Noise) and Local Plan policy GB1 (untitled but relating to the Green Belt).

National Planning Guidance

20. The SoCG also set out the relevant national planning guidance against which these proposals need to be assessed. Full details of the documents can be found at CD12.01 to CD12.20, but for Scheme A the most relevant are Planning Policy Statement (PPS) 1: "Delivering Sustainable Development" and its associated "Planning and Climate Change Supplement"; PPS3: "Housing"; Planning Policy Guidance (PPG) 13: "Transport" and PPG17: "Planning for Open Space Sport and Recreation", including its Companion Guide "Assessing Needs and Opportunities". For Scheme B the most relevant are PPG2: "Green Belts", PPS1, PPS7: "Sustainable Development in Rural Areas"; PPS9: "Biodiversity and Geological Conservation"; PPG13; PPG17 and PPG24 : "Planning and Noise".

21. Also relevant are Circular 11/95: "The Use of Conditions in Planning Permissions" (CD12.18); Circular 05/2005: "Planning Obligations"; and The Community Infrastructure Levy (CIL) Regulations 2010 (CD12.17).

Planning History

22. For Site A, the most recent planning history is given in section 5.1 of the SoCG (CD10.04). Of particular relevance is the grant of outline planning permission in May 2000, with subsequent details approved in August 2000, for the erection of a 3,700sqm leisure centre on land at The Avenue which was part of the London Irish site at that time (CD15.14 & CD15.15). This leisure centre now operates as the VAHC and is one of the locations I visited as part of my site inspection. The most recent element of planning history, prior to the current application, was the approval in June 2004 of the retention and use of the main stand for purposes associated with the rugby club, including the Rugby Academy and associated landscaping and improvements.

23. Details of a more extensive planning history relating to Site B have been included in the Hazelwood SoCG (section 5 of CD05.02). Dating back to 1980 there have been a number of applications approved for sporting facilities, culminating in the grant of full planning permission in February 1993 for the construction of a 9-hole golf course and the erection of a driving range, clubhouse and green keeper's store, with an access road and parking.

24. Also of relevance, and referred to frequently throughout the inquiry, is the application known as the Chelsea Village (CV) proposal, submitted in 2000 on behalf of Chelsea Football Club. It sought to redevelop the HGC to provide a football training academy to include 12 senior and small-sided grass pitches (one floodlit) an all weather floodlit pitch, ancillary training areas, landscaping and parking. The application also included a single-storey building with below-ground basement, to include indoor training facilities, treatment rooms, seating for 150 spectators and 2 staff flats in the roof space. This was refused planning permission in September 2001 and a subsequent appeal was dismissed by the Secretary of State in October 2002 (CD15.12 & CD15.13).

25. The most recent application, prior to the current proposals was for re-contouring, involving raising of ground levels and the addition of drainage measures for the driving range. It was withdrawn in February 2009 and therefore not determined.

The Appeal Proposals

26. The gross area of the Appeal A site is 6.4ha. Under Scheme A, outline planning permission is sought to demolish the existing stand and clubhouse and erect 194 residential units, together with a Care Home and a site for a future health centre. New estate roads would be constructed and adopted as public highway and new public open space, including a new neighbourhood park, would be provided. The open space provision of 5,657sqm in the southern part of the site, shown as OS2 on the plan at CD06.05, would satisfy CSPDPD policy CO3. The proposed neighbourhood park (area OS1 on the same plan) would provide an additional 5,914sqm. This would be open space over and above the policy CO3 requirement and would be available to serve the wider area.

27. The proposed housing would be at a net density of 35 dwellings per hectare (dph). In terms of housing mix the scheme proposes 90 apartments (39 1-bedroom flats and 51 2-bedroom flats), of which 12 would have associated workspace; 66 2-bedroom cottages; 16 semi-detached 3 and 4-bedroom houses; 22 detached 4 and 5-bedroom houses; and a 60-bedroom Care Home. 80% of the dwellings would be 1 and 2-bed units to comply with CSPDPD policy HO4. A total of 374 parking spaces would be provided, with 282 for the residential properties, 15 for the Care Home, 5 for a car club, 60 for the health centre and 12 for the workspace units). The proposals also include 217 cycle parking spaces. Further details of the proposal are given in section 4 of CD10.04.

28. Supporting documents submitted with the application included a Planning Statement (CD07.03), Design and Access Statement (CD07.04), Consultation Statement (CD07.07), Planning Supporting Statement (Environment) (CD07.12), Transport Assessment (CD07.06), Affordable Housing Statement (CD07.05), Design Codes (CD07.09) and a Sporting and Business Case, applicable to both Scheme A and Scheme B (CD02.03 & CD02.04).

29. For Appeal B, the overall site area is 21.72ha. The existing clubhouse, driving range booths and other buildings would be removed, and replaced with a new clubhouse which would be rectangular in shape, measuring 100m by 17.45m. It would have a total floor area of 1,745sqm and would be located on a north-west/ south-east axis. The accommodation within the clubhouse would comprise:

Facility	**Provided**	**Floor area - Gross External Area (GEA)**
Changing and coaching facilities	1 no Professional changing room; 3 no Amateur changing rooms; Staff and officials' changing room; Coaching and analysis area	362 (289 for changing rooms)
Fitness and Medical Suite	Ice bath and plunge pool; Gymnasia; Medical and physiotherapy facilities	364
Professional Facilities	Players' lounge and dining areas	155
Food and Beverage	Bar and dining areas; Kitchen and ancillary areas	410

Administration and Maintenance	Reception Area; Meetings rooms; Open plan and cellular ancillary offices; Shop; Storage, server area, staff toilets	221
Ancillary Requirements	Circulation and plant areas; Groundsman's shed and yard	233
TOTAL		**1,745**

30. There would also be a terrace area which would wrap around part of the building on its south-eastern and south-western (part) sides. The new clubhouse would be a maximum of 3.8m high and would have a gently sloping roof. In terms of floorspace, footprint and volume the proposed building would be very comparable with the existing buildings, as detailed below:

Table of Existing and Proposed Floorspace, Footprint and Volume			
	Floorspace (sqm)	**Footprint (sqm)**	**Volume (cum)**
Total Existing Buildings	1,803	1,739	6,642
Total Proposed Buildings	1,745	1,745	6,631

31. The proposed parking area would comprise 144 car spaces and 6 accessible car spaces; 2 to 3 coach spaces; 50 cycle spaces and overspill space for up to 100 cars. This overspill area would be formed of reinforced grass and would lie to the south of the main car park area. This compares with the golf club's current parking provision for 125 cars.

32. A total of 17 playing pitches are proposed, with all but 1 being grass. There would be 5 adult pitches, 1 of which would be an artificial third generation (3G) pitch, and 12 junior and mini pitches. Public footpath no 73 would be returned to its correct definitive map alignment and 1.2m high post and rail fencing would be positioned either side of it to deter dogs from entering the site. A total of 10 pitches would be positioned to the east of the footpath with 7 to its west. The 3 pitches nearest to the clubhouse would be full sized adult pitches with the central one being the 3G artificial pitch. These 3 pitches would be lit by a total of 12 lighting columns, each 15m high, in 4 rows of 3 alongside the pitches. The lighting columns would have 3, 5 or 6 lighting heads per column.

33. A further adult/under-18/under-15 grass pitch would be positioned immediately west of the 3 other large pitches, but this would not be floodlit. The grass pitch closest to the clubhouse would have a 1.2m high spectator rail surrounding it. The adjacent 3G pitch would be surrounded by low ball-stop fencing which would be 3m high along the ends and 1m high along the sides. Ball-stop fencing would be provided to the north and south of the easternmost adult pitch, near to the boundaries of the site. The SoCG refers to 2 lengths of fencing, each 105m long rising to a height of 12m, although the site layout plan, CD01.10, indicates the northern fencing would be 60m long and 6m high. At the inquiry it was agreed that similar fencing should be assumed for the southern side, rather than the retention of the existing, taller fencing indicated on CD01.10. I have therefore assessed the proposal on the basis of 2 60m lengths of 6m high fencing.

34. To the west of the reinstated footpath there would be 7 natural grass pitches – 2 for adult/under-18/under-15 use, 3 for under-11/under-12 use, 2 for under-9/under-10 use and 2 for under-7/under-8 use. Details of pitch sizes can be found in the SoCG (CD05.02).

Other Agreed Facts

35. In addition, the main SoCG and the Highways SoCG confirm other areas of agreement and disagreement between the main parties as summarised below:

Scheme A

36. Areas of Agreement

Housing. The proposed layout is acceptable (as shown on The Avenue Revised Proposed Masterplan at CD06.06) and would provide the basis for a well-designed scheme.
Density. The residential density is acceptable and would comply with policy HO5 of the CSPDPD.
Open Space. The scheme would provide adequate open space and would comply with CSPDPD policy CO3.
Design Codes. The design codes are acceptable and would ensure the proposed development respects the character of the area but provides its own identity. As such, it would comply with policy EN1 of the CSPDPD.
Impact on a listed building. The proposal would not have an adverse impact on the setting of the adjacent Grade II listed building (St Teresa's Convent), and would comply with policy EN5 of the CSPDPD.
Drainage. The proposal is acceptable in flooding and drainage terms and would comply with CSPDPD policy LO1, subject to the imposition of an appropriate condition.
Ecology/Conservation. The proposal is acceptable in ecological terms and would comply with policy EN8 of the CSPDPD, subject to the imposition of an appropriate condition.
Contamination. The proposal would comply with CSPDPD policy EN15 (Development on Land Affected by Contamination), subject to the imposition of a suitable condition.
Renewable Energy. The renewable energy requirements could be adequately secured by a condition and as such the scheme would comply with policy CC1 of the CSPDPD.
Parking. Adequate on-site parking would be provided.
Highways and Access. Subject to the implementation of highway and transport improvements agreed with Surrey County Council (SCC) as Highway Authority, matters of highways and access would be acceptable and there would be no conflict with policies CC2 and CC3 of the CSPDPD. A £75,000 contribution has been agreed towards traffic management and improvements to non-car modes of transport within the vicinity of the site. Details of these measures can be found at paragraph 3.16 of CD10.05.
Housing Supply. Spelthorne Borough has a 5-year supply of housing and an unmet need for affordable housing.

37. Areas of Disagreement

Reasons for Refusal. There is disagreement on matters relating to the loss of protected urban open space; the loss of an existing outdoor sports facility; housing need and the provision of an appropriate amount of

affordable housing.

Enabling development. The Council has accepted that the proposal at HGC is put forward as a related proposal and it is agreed that the acceptance of the Appellant's proposals on both sites would facilitate the development of sports facilities at Hazelwood. However the Council does not agree, without qualification, that the appeals are linked. It is the Appellant's case that the surplus value created by the proposed development at The Avenue should be used to fund the proposed development at HGC. However, it is the Council's case that the non-compliance of the proposed development at The Avenue with development plan policy, inasmuch as it would entail the development of a protected open space and a failure to provide an appropriate level of affordable housing, is unjustified in relation to the benefits associated with the proposed development at HGC.

Scheme B

38. Areas of Agreement

Loss of the Golf Course. No objections have been raised in relation to the proposals by Sport England, the Council's Leisure Services or the Surrey Golf Partnership. In addition it is agreed that the proposal would not result in the loss of a recreational/community facility. The proposal complies with policies CO1 and EN4 of the CSPDPD.

Proposed Use of the Site. The use of the appeal site for the playing of rugby or other outdoor sports would not represent inappropriate development in the Green Belt.

Existing Development. The presence of existing buildings and structures on the site is a material consideration in this appeal.

Highways and Access. The development would be acceptable in terms of traffic impact, access, sustainable travel and parking provision, subject to appropriate conditions and subject to appropriate provisions in the S106 Agreement, and would comply with policies CC2 and CC3 of the CSPDPD. A £50,000 contribution has been agreed towards traffic management and improvements to non-car modes of transport within the vicinity of the site. Details of these measures can be found at paragraph 3.16 of CD05.03.

Layout and Scale. Although the SoCG indicates that the layout and scale of the development are agreed between the parties to be acceptable, the Council made it clear in the Rebuttal evidence of Mr Job (Doc LPA/1) that this point had been conceded in error. The Council's position is that if some of the uses in the proposed clubhouse were not present, or occupied less space, the clubhouse would be smaller. The Council does not therefore accept the scale of the clubhouse. The Council also has concerns about the layout and scale of the overspill car park, the floodlight masts and the ball-stop fencing. I have therefore had regard to these matters in my assessment of the proposals.

Floodlighting. It is agreed that subject to an appropriate planning condition, the proposed floodlighting would not have an adverse impact on adjoining residential properties nor residential amenity. As such the proposal would comply with policy EN13 of the CSPDPD

Noise. Residential amenity would not be adversely impacted.

Impact on Conservation Area. The proposal would be acceptable in terms of impact on the adjoining conservation area and would comply with policy EN6 of the CSPDPD.

Public Footpath Network. The proposal would not adversely affect the public footpath network. As such it would comply with CSPDPD policy EN4.
Flooding and Drainage. The proposal would be acceptable in flooding and drainage terms, subject to an appropriate planning condition, and would comply with policy LO1 of the CSPDPD.
Ecology and Nature Conservation. The proposal would be acceptable in ecological terms, subject to an appropriate planning condition, and would comply with policy EN8 of the CSPDPD.
Contamination and Remediation. It is agreed between the Council and the Appellant that the potential risk from existing site contamination has been sufficiently assessed and the recommended measures to be undertaken on the site would be sufficient to safeguard future users from contaminated land. On this basis, subject to an appropriate planning condition, the scheme would comply with policy EN15 of the CSPDPD.
Renewable Energy. The Appellant has agreed to a planning condition to meet the requirement that 10% of the development's energy demand would be provided from on-site renewable energy sources. On this basis, it is agreed the scheme would comply with policy CC1 of the CSPDPD.
London Irish Teams. The Club regularly fields in excess of 30 teams comprising 1 x Professional Men's team in the Aviva Premiership; 1 x Professional 'A' (second) team in the Aviva A league; 1 x Academy Men's (Under 20) team; 1 x Advanced Apprenticeship in Sporting Excellence (AASE) team; 5 x Amateur Men's teams; 1 x Amateur Adult ladies' team; 1 x U18 girls' team; 1 x U15 girls' team; 1 x U18 boys' team; 2 x U17 boys' teams; 2 x U16 boys' teams; 2 x U15 boys' teams; 2 x U14 boys' teams; 2 x U13 boys' teams; 2 x U12 boys' teams; 2 x U11 boys' teams; 2 x U10 boys' teams; 2 x U9 boys' teams; 2 x U8 boys' teams; 2 x U7 boys' teams.

39. Areas of Disagreement

Green Belt. It is the Appellant's case that the proposed development would not constitute inappropriate development in the Green Belt. Should this not be accepted by the Secretary of State, the Appellant maintains that the proposed development would be justified by very special circumstances. In contrast the Council's case is that the following aspects of the proposal would represent inappropriate development in the Green Belt, for which very special circumstances to justify them have not been demonstrated: some elements of the proposed clubhouse (the fitness and medical suite (364sqm); players lounge/dining area (155sqm); bar, dining, kitchen areas (410sqm); administration and maintenance (221sqm)); the proposed fencing (60m of 6m high fencing adjacent to the northern boundary of the site); the proposed floodlighting (solely the visual impact of the lighting columns and their heads, and the spread of these columns across the site); and the operational development required to construct the proposed overflow car park together with the parking of vehicles on this space from Autumn through to late Spring.
Enabling Development. The same points apply under this heading as have been noted above in the case of Scheme A.
Noise Impact. The Appellant maintains that noise impact would be adequately mitigated and that use of the site as a rugby training ground would not affect residential or other amenity. The Council accepts that residential amenity would not be adversely impacted, but contends that there would be an adverse impact on visitors to the adjacent cemetery.

Cases of the Parties

The Case for the Appellant

The material points were:

40. These appeals are inextricably linked. The merits of one cannot be assessed without assessing the merits of the other and if either fails the Club's objectives fail and become unattainable. The justification for The Avenue proposals is primarily their role in enabling the Club to produce the funds required to replace its outmoded premises in The Avenue, which has been its home for about the last 80 years. These would be replaced with an up to date, modern facility at Hazelwood which would meet the needs and demands of the Club and the community that it serves at a local, regional and national level for many years to come. This link is formally expressed in the submitted S106 Agreements.

The Need to Move

41. London Irish is a very successful modern professional rugby club which is unique within the sport because unlike other contemporary professional clubs it has a strong commitment to the amateur game. Since turning professional in 1996 it has kept its professional and amateur sections together, with London Irish Holdings being the professional arm and the London Irish Amateur Rugby Football Club being the amateur arm. It moved the playing of its professional games and its matchday professional administration from The Avenue to the Madejski Stadium in Reading about 10 years ago. Last year the Club operated a total of some 35 teams and it has about 675 playing amateur members of whom about 470 are junior and mini-rugby members (under 16s). This is in addition to a professional squad of 38 players and an Academy that in total caters for over 150 young players aged between 12 and 18 years.

42. Its provision of rugby to the young, both in and out of school, is second to none, with as many as 750 child and young players participating in its festivals. It has a mature and highly successful outreach programme bringing sport to the wider community and especially the schools of the area and the region and is an exemplar of the way in which the modern rugby club can introduce sport to many who otherwise might have shown no interest in it. The continued success of London Irish in its amateur and children and young people's programmes is consistent with national policy aims with respect to the participation in sport and its associated benefits, that lie at the core of PPG17 policy (see CDO2.03, CD02.04, CD15.23, CD17.21, CD17.24 & CD17.25).

43. The standard and quality of the coaching offered by the Club is without parallel. It provides training for other coaches in the area with 3 professional coaches on the outreach team who also coach mini-rugby players on Sundays. The top professional coaches assist with the amateur sides so that they have some of the top amateur teams and players in the country. Overall the Club delivers over 1,900 hours of rugby coaching to local primary and secondary schools and local rugby clubs.

44. London Irish has been struggling with cramped and outdated facilities of poor quality at The Avenue for far too long. Its site of 6.4ha contains 4 full size pitches (3 floodlit) and an outmoded and inadequately-sized building. Mr Thomas, the Chairman of the Rugby Football Union (RFU), referred to the absence of the 'wow' factor that he associated with visiting the facilities of Harlequins or Saracens. He

considered The Avenue to be cramped, raised health and safety concerns, and questioned whether, with such facilities, London Irish would be able to grow or continue to encourage parents to bring their children. His concern was particularly with the junior and youth players.

45. Mr Fitzgerald echoed this concern, noting that the changing rooms are unfit for purpose, that dining rooms have to be used for changing at festivals, there are only 10 showers and, inappropriately, changing rooms have to be shared. Moreover the Club has to supplement its facilities by the use of porta-cabins and containers. There is insufficient indoor space to accommodate such things as theory sessions and reasonable social activities and this is not a place likely to attract top flight professional players, nor one to attract promising younger players into the game or to provide a pleasurable experience to amateur players or their volunteer coaches. The Club uses considerable ingenuity by borrowing as many pitches as it can from the neighbouring schools and in juggling the use of its limited facilities.

46. The Club has reached the point of no return, with the trials of accommodating the requirements of junior teams and women's teams becoming unmanageable. Teams are being turned away and pitches are worn out and hardened through over-use long before the end of the season (see page 37 of CD17.21). The pitches have been in such poor condition that play could not start on them in some seasons until the third week in October and even so, they have been worn out by Christmas. On a number of occasions the Club has had to ask opponents to reverse fixtures because The Avenue pitches were unplayable and it was touch and go whether the pitches would be acceptable for the 2011 mini festival.

47. Club witnesses indicated that participation and morale amongst members has been maintained because this appeal proposal is in the offing. It might be very different if the end of the era of "make do and mend" was not in prospect, with goodwill becoming exhausted by the delay. The Sporting and Business Case for replacement and updating of these facilities is overwhelming (CD02.03/02.04).

48. For some 5 years or so the Club has been looking for a replacement site. Given the strength and depth of local connections, Spelthorne or close proximity was the preferred area of search. The Council tried to assist in this search but in vain. Appendix 1 to the Sporting and Business Case (CD02.04) identifies some 17 other sites which have been assessed over this time. Much of Spelthorne is washed over by Green Belt and, inevitably, most of the candidate sites were within the designated Metropolitan Green Belt (MGB).

49. The Council and LOSRA have sought to downgrade the level of need, but in doing so they fall into the trap of encouraging a complacent attitude to the conditions provided for amateur and professional players of the game that typifies the English sporting malaise. The Council's case appears to be the assertion that if you have managed and prospered as a Club hitherto there is no need to move. A move would only be justified if the Club was "at crisis point" or the Academy could not continue. LOSRA says much the same and observes that in this area of Surrey there are plenty of other clubs that could provide for the players of London Irish if it were to decline or cease operation.

50. This is a wholly inadequate response to the needs of a Club that is providing for the quality and improvement of the game at a national level as well as making exceptional provision for the amateur game at a local and regional level and is also

providing a community outreach programme to hundreds of school age children within the Borough and the region. These players and these children and those devoted to providing them with a quality sporting experience deserve a better response. The Council, instead of washing its hands of the problem or suggesting that it is for London Irish to solve on a more appropriate site, should be engaging with the Club and taking positive steps to find a solution. That is what community partnership and the planning system should produce.

51. The option of split site provision, suggested for the first time in Mr Job's rebuttal evidence (Doc LPA/1), was pure speculation. He had not discussed it with the Club or its advisors; he had not sought the advice of the Council's own sports consultant (Mr Eady) and he had no plan or proposals to place before the inquiry. This option is anathema to the Club. Splitting activities between 2 or more sites is not feasible for both practical and economic reasons. London Irish's objective is consolidation and not dispersal and many sound reasons were provided for rejecting this as a viable option by the Appellant's witnesses. It was an issue considered in the Derby County FC Case, where it was rejected as not being in the best interests of the Club, not in the best interests of the students and not sustainable in terms of travel (see CD17.20 Appendix 9). The same applies here.

52. It would not offend RFU policy if the professional and amateur aspects of the London Irish family were split between 2 centres, but Mr Thomas pointed out that it would be a dreadfully retrograde step and instanced the decline in the sport in Australia after the professional game cut its links with the amateur clubs. The implication from the Council and others appears to be that sufficient space could be found for the amateur game at The Avenue, although this was not articulated. This option was not put to any of the Club's witnesses and it defeats the object of the exercise. But, more importantly, it would destroy the ethos of the Club that lies at the heart of its current success. That ethos is to promote joint use of facilities between the amateurs and the training facilities for the professional players for all those advantages of synergy that were explained to the inquiry. Little imagination is needed to appreciate the benefits of mixing well known professional players and coaches such as Mike Catt with young players and the boost that must give to the morale of these youngsters.

Why Hazelwood?

53. Hazelwood is, in most respects, an ideal replacement location. No better site exists and no other is suggested by the Council or LOSRA. It is located within Spelthorne Borough, close to the existing facility where it would be accessible to all current members and players. It is on a scale that could accommodate the number of pitches required, together with the necessary support facilities, all contained within a single purpose-built building instead of being spread over various buildings and porta-cabins as they are at The Avenue.

54. It is an existing sporting facility, in use for playing golf on a 'pay as you go' basis. In economic terms it is in a bad way and is demonstrably failing. Membership numbers have fallen from 258 in 2005/06 to 192 in 2008/09, as recorded in the Sporting and Business Case (see para 3.6 of Doc APP/2), and even though LOSRA disputes these figures, its own details also show membership numbers falling from 166 in 2006 to 94 in 2009 (CD17.33, App 4 Item 4). But failing or not, there is a wealth of competing golf facilities in the immediate area with sufficient spare capacity to take up the small number of golfers who would be displaced by the appeal proposals. The Appellant's Sporting and Business Case indicates that

within a 20 mile drive distance of Sunbury on Thames, there are at least 94 English Golf Union registered golf facilities, with 8 being within about 10km of the HGC (see CD02.03 para 5.1 and CD02.04 App 8).

55. Third parties expressed a preference for the golf use to continue because they preferred it in landscape terms to the appeal proposal or, for a few, they played or had played on the course. None of these subjective preferences have found their way into the reasons for refusal and they do not provide weighty objections to the proposal. Likewise the only challenge to the comprehensive case made by Mr Petherick, mainly from the information provided by the golf club's accounts (see CD17.21), to the effect that the golf club is failing and is presently propped up by the option payment of £250,000, was from the LOSRA witness Mr O'Keefe.

56. The fact that this evidence comes from a dismissed former employee of the golf club, with different opinions and views to those of the Club's current directors, demonstrates the Appellant's case. Although Mr O'Keefe produced evidence to show that he had made offers to purchase the golf club, a letter from one of the current directors, Mr Catley-Smith, casts doubt on the validity of any such offers (see App/2 App2). Furthermore, whilst LOSRA was able to produce letters of regret as to the loss of the course, from representative bodies of the sport, these came from those who had received an explanation of the circumstances from one side, usually Mr O'Keefe, and without even visiting the golf course.

57. The proposals for replacement of The Avenue facilities conform with CSPDPD policy CO1(a) and (c)(ii) and therefore ought to be supported by the Council on those grounds. The Club has sought the advice of Mr Petherick, an extremely experienced expert in the field and the Council has tested these matters in part by obtaining a report from a reputable sports consultant, Mr Eady (CD15.23). His conclusions were not reported to Council Members but were provided to the Appellant after pressure from a Freedom of Information (FOI) Act request. In short, he was persuaded by the Appellant's case on need and as a result he was not called as a witness by the Council, who prefer to rely on the evidence of its planning consultant on these matters of sport without any professed expertise or knowledge of the game.

58. Another important feature of Hazelwood is that it is not untouched open countryside but has been the subject of waste tipping operations and inept or inadequate restoration activity in the past and has then been developed as a golf centre. In other words, it is a site where a clubhouse on a similar scale with food and drink areas, function rooms and administrative space, is already present, together with ancillary features such as floodlighting and ball netting, all of which have hitherto been found acceptable by the local planning authority.

Green Belt Policy

59. The policy guiding the protection of the MGB is contained in PPG2 and there is nothing in the development plan that adds in substance to that advice. The function of this part of the Green Belt, in addition to maintaining openness, is to prevent the merging of Sunbury with Upper Halliford. In the CV decision, which involved a much bigger proposal than is proposed through Scheme B, it was described as "the narrow and therefore vulnerable neck of Green Belt between Sunbury and Upper Halliford" (CD15.13 para 10 and CD15.12 paras 83 and 209). Both of these functions need to be addressed in any assessment of the appeal proposals. The playing pitches are a recreational and sporting use that is, by

definition, not inappropriate in the Green Belt. Likewise it is accepted that the essential facilities required to support that recreational and sporting use would not be inappropriate development, as detailed in paragraph 3.3 of PPG2.

60. Although set administratively in the County of Surrey, Sunbury lies on the outskirts of London in an area where one would expect open land use, such as sport and recreation, to be directed to the edge of the built-up area. Here that land is likely to be designated Green Belt, but if a facility such as this is to be provided it is essential that it should be accompanied by the necessary built development to support it functionally.

61. What is properly to be regarded as "essential" is in issue. The Council accepts that part of the clubhouse falls in that category, as does that part of the ball-stop fencing which would be around the pitches. However, it does not accept that some parts of the clubhouse, the taller ball-stop fencing, the floodlight columns and the overspill car park are essential to support the sporting use.

62. The report to Committee (CD02.08) sought to disaggregate those items that are required to support the Academy of Excellence ambitions of London Irish from those which in its view are necessary to support playing rugby. The Council then went further and sought to argue that the proposed number of pitches and the intensity of the use of the site was excessive and then further reduced the scale of that which was necessary. Whilst this disaggregation may be justified in theory, there is no justification for restricting the amount of use of the site for outside sport and recreation, and Mr Job makes no such case for the Council.

63. The Council came to its view on these matters before it had the report from its sports expert, Mr Eady (CD15.23). He considered all the features that the Council questioned, to be essential. As to the disputed facilities in the clubhouse he concluded "It is also accurate to state that the facilities cited are essential for the sustainability of a Premiership rugby club and that catering, community/social areas and function rooms are essential to the sustainability of any club." He reached the conclusion: "In general, we would consider the proposal being put forward by London Irish Rugby Football Club (RFC) to be strong and justified". Mr Petherick demonstrated the need for these facilities (CD17.21 section 4.6).

64. The sporting use in question is on a large scale (17 pitches) and to a high standard. It is designed to provide facilities for a Premiership team to train and a very large number of amateur sides to train and play. It would also provide a community outreach resource to the schools (60 in the Schools Sport Partnership (Doc APP/2 App 6)) and allow the playing of other sports by the community. The facilities would provide a state of the art centre of excellence for the playing of rugby for the future. If the Club is to make an investment on this scale this is an appropriate ambition as, before development commences, the current RFU Model Venue 3 standard is likely to be changed to admit a new Model Venue 4 facility, as Mr Thomas noted in oral evidence.

65. It is more sensible to seek to provide all the facilities needed now, rather than be coming back with additional planning applications to provide an appropriate facility for a sustainable long term future of the Club. It is not just changing rooms that are essential to support the proposed use. The requirement is for the off-pitch facilities needed to provide the level of training and personal fitness requisite to play at this level as well as the necessary ancillary requirements for refreshment etc, commensurate with this level of sports use.

66. Moreover, it is not reasonable to have sport in the Green Belt on the urban fringe without providing car parking. This was the view taken by the Inspector in an appeal concerning Sunderland Football Club (see CD17.22 App 4, para 11.8). The Council does not object to the replacement of the existing car park, but does object to the overflow car park. This would use a reinforced surface to keep the grass intact and in reasonable condition and would only occasionally be in use. This is plainly a necessary or essential facility which could, in any case, simply be provided in an open field on grass without planning permission.

67. Ball stop fencing at the ends of the main pitch is also necessary, as is floodlighting, to ensure an adequate degree of use of the pitches, for reasons of safety and convenience and to take the site to the required category. All these features are recognised as both necessary and appropriate to other sporting facilities permitted in the Green Belt. It is notable that in its consultation response to the planning application SCC considered that: "The development as a whole would have less impact on the openness of the Green Belt than the existing site layout. In our view, the objectives defined in PPG2 are broadly fulfilled". A little later in the same response they conclude: "the proposals may be judged as appropriate within the Green Belt".

68. However, this debate as to appropriateness is unnecessary to the extent that it can be concluded that the features in dispute are justified by reference to the very special circumstances test derived from PPG2 para 3.2 which is to be applied to the proposals as a whole. When that is done it is clear that such elements are all necessary to provide for the needs of London Irish, as a locally based club, to continue to prosper and provide a national centre of excellence for this popular sport. To this should be added their necessity to enable the Club to maintain and expand its programme of community outreach, particularly to the young in this area. These important ambitions in the public interest can be achieved by a scheme that improves the openness and visual amenity of the Green Belt.

69. Whether they are inappropriate development in the Green Belt and are essential or not, the golf clubhouse, the driving range, the fencing supported on stanchions and the hard surfaced car park with its floodlighting all exist. This is a very important material consideration to input to the Green Belt policy equation. By reference to paragraph 3.8 of PPG2, the re-use of the existing clubhouse would not be inappropriate development if that were to take place. However all the above would be replaced in the appeal scheme. Moreover, the food and drink facilities proposed are not substantially greater than those serving the current golf club and the office and administration space is substantially less than that of the existing golf club.

70. Although of a similar area and volume to the existing, the appeal building would be substantially lower (CD17.14 para 6.10). There would be an overall reduction in the bulk of buildings on the site and the proposed clubhouse, with its compact shape and modern high quality design, would have a more pleasing appearance than the existing buildings (CD2.08 para 9.68). This would be beneficial to both the openness and visual amenity of the Green Belt. The removal of mounding and the long and ugly driving range and its associated ball-stop fencing, much of which is 12.5m high and supported on 28 stanchions would bring about significant benefit in both the reality and the perception of openness of the site (see Apps B, C and D in CD17.15). The proposals would significantly reduce the incursion of the built form westwards into the open Green Belt land which is the narrow neck that was identified as important in the CV decision (CD15.12 para 209).

71. In the report to committee, Council officers considered that the removal of the existing driving range building would result in a material improvement to the openness of the Green Belt which is a fundamental aim and, indeed, the most important attribute as defined in PPG2. They further noted that it would contribute to the first 3 purposes of the Green Belt as set out in para 1.5 of PPG2, namely to check the unrestricted sprawl of large built up areas, prevent neighbouring towns from merging into one another and assist in safeguarding the countryside from encroachment (CD05.01). Additional benefits would arise to the openness of the Green Belt by reducing the length and height of ball-stop fencing on site. Miss Hankinson demonstrated that the reduction would be some 4,450sqm in winter and 5,170sqm in summer through the use of demountable fencing (Doc APP/21).

72. Benefits would also arise as a result of the proposed removal of contaminated land and remediation. Currently the golf course suffers from uneven settlement of landfill, contamination, thin topsoil and poor drainage. With these poor ground conditions many of the site trees are not growing well. However, the proposed works to remediate the site and provide improved site drainage and improved soil conditions would help to support better planting. With the comprehensive landscape proposals, these measures would improve the visual amenity of the site and have the potential to increase its ecological interest (Doc APP/5).

73. The facilities proposed within the clubhouse have been justified in Mr Petherick's evidence and confirmed by Mr Eady's report (CD15.23). The clubhouse would be the headquarters and flagship of the Club and office staff would need to be close to the Club's principal assets namely, its players. Both Mr Petherick and Mr Fitzgerald addressed the need to provide adequate catering facilities for players and visitors and referred to the embarrassing quality of the existing provision at The Avenue. The fact that these facilities may be subsidised by ancillary use by Club members does not detract from the need for such a scale of facilities when the Wild Geese are playing or when a mini festival is under way. It must be remembered that the essential needs of sport have moved on a long way since PPG2 was drafted. Club rugby is a family game and appropriate facilities must be provided to encourage family use.

74. If the proposed floodlights are found to be inappropriate, it will be necessary to assess whether they would give rise to any additional harm. Miss Hankinson explained that there would be a net loss of 16 posts and columns through the appeal proposals (Doc APP/21). The floodlights would not give rise to issues of glare or light spill (CD05.02 para 8.11) and they would be seen as tall slender posts in the context of the tall slender goal posts as shown on the photomontage in Appendix D to CD17.15. This aspect of modern floodlighting on sports pitches has been remarked upon in other appeal decisions, such as those relating to Cambridge and Oakham, detailed in Appendices 10 and 13 to CD17.22.

75. Six of the 12 proposed 15m high light columns would extend further west than the site of the current driving range. Mr Job considers that the latter is not open countryside because of this structure and Miss Hankinson is not persuaded that the middle section of the golf course can properly be described as countryside. In any event, any adverse consequences to the Green Belt in this location arising from this feature would weigh against the proposals in the overall balance to be struck under the very special circumstances test.

76. The introduction of grass rings for the overflow car park would constitute an engineering operation, but this would not amount to inappropriate development as it would not interfere with openness or cause any encroachment on the countryside (see PPG2 para 3.12). Once completed the site would remain a grassed area, available for the parking of cars on an infrequent basis without the grass being worn away or becoming rutted. On a similar matter in the Sunderland FC decision referred to above (CD17.22 App 4, para 11.8), that Inspector commented that parked cars would not be permanent such that any harm to openness would only be slight. In any case the proposed condition to govern the use of this overflow car park is indicative of the infrequent basis on which it is likely to be used.

77. The needs of London Irish to meet the requirements of its important role in the development of the game, both as a successful Club and as a provider of sport to the community, have to be weighed in the balance when assessing whether there are very special circumstances that clearly outweigh the harm caused by the proposals. One is not looking for unique circumstances, the term is "very special". The fact that similar circumstances may have been identified in other cases concerning sports facilities as being very special does not detract from their special quality. Many of the features to which attention has been drawn above are special or unique to this site and this proposal. The decision maker is required to consider all the material circumstances as a whole when deciding whether they amount to very special circumstances that clearly outweigh harm in both the forms mentioned in the PPG2 test[1].

78. Although consideration of what matters amount to very special circumstances is ultimately for the judgment of the decision maker, Mr Edge has gathered the very special circumstances that the Appellant considers arise in this case under 10 headings in his written evidence (para 4.2 of CD17.19). These are (i) the need for London Irish to relocate; (ii) the lack of alternative sites; (iii) the existing established sporting and recreation use of Hazelwood; (iv) the established built footprint and existing facilities at Hazelwood; (v) improvements to openness; (vi) contributions to the development of rugby; (vii) benefits to the community; (viii) benefits associated with the re-use of Hazelwood; (ix) the long-term stability of London Irish as a rugby club; and (x) the physical improvement of the land.

79. Some of these matters are of significant public interest and attention is drawn to the parallels with the Sunderland FC decision (CD17.20 App 8 page 34). Attention is also drawn to the substantial net benefit in terms of openness and to Mr Job's acceptance that the proposals would cause no harm to Green Belt objectives and that the only allegation of harm to Green Belt purposes relates to the floodlights' alleged incursion into the countryside (Doc LPA/1 paras 1.2-1.4).

80. The consequence of replacing the golf club is real betterment in terms of the openness of the Green Belt in this location, in terms of its visual attractiveness and in the prevention of urban sprawl. This is to be compared with the CV proposal where a 45% increase in the building footprint was proposed, a 158% increase in the overall floorspace and an increase in built volume of 115% together with further development within the sensitive neck of Green Belt at this location separating Upper Halliford from Sunbury (CD15.12 para 83).

[1] Sullivan J in Basildon DC v FSS [2004] EWHC 2759 at paras 9 to 15 (also 2004 JPL 942)

Noise

81. It is common ground that if the use of the pitches is controlled by condition the proposals would not have an adverse impact on residential amenity. The layout of the pitches has been strongly influenced by the need to minimise the degree of noise and disturbance caused to those living near the site and those who are visiting the cemetery and this is a major distinction from the CV appeal. The pitches would be laid out "end on" to the cemetery and would be almost twice as far away from the cemetery, with spectators more than 3 times further away, compared to the CV scheme.

82. Interments only take place during certain week-day hours, when the pitches closest to the cemetery would only be used for training and by schools, not for any matches. The issue between the parties is therefore restricted to the noise impact on visitors to the cemetery at weekends and on Saturday afternoons in particular, under noise scenario 6b (CD17.17 App H)[2]. This would apply on about 15 weekends out of 30 in the season, when the Wild Geese have a home fixture. On those occasions the noise level at the nearest point of the cemetery is predicted to rise to 56dBL_{AeqT}, thereby exceeding the World Health Organisation (WHO) threshold of 55dBL_{AeqT}. The cemetery is set in woodland but it is not in a remote spot as there is a children's play ground on the boundary and a busy "horsey" site and a golf club next door. It is overflown by Heathrow aeroplanes for, on average, about a quarter to a third of the year, is influenced by traffic noise from the M3 corridor and is near to housing.

83. The WHO guidance for "Parklands and Conservation Areas" is that "Existing large quiet outdoor areas should be preserved and the signal to noise ratio kept low". In such circumstances, the WHO criterion is "Disruption of tranquillity" (CD17.17 pages 22-23). However, the fact that the cemetery is quiet at times does not automatically mean that this WHO criterion applies. The Council's noise assessment has employed the WHO criterion of 55dBL_{AeqT} (CD17.07 section 5), but the Appellant's witness, Mr Sharps, does not consider that the WHO criterion is an apt description of this cemetery, nor that this urban fringe location is a tranquil area in the technical sense of the term. Coming from a very experienced noise consultant this provides an important context for considering the conclusions of the CV Inspector on this issue.

84. There is agreement between the 2 main parties on the background and likely generated noise levels and it is also agreed that the WHO Guidelines provide a threshold value of 55dBL_{AeqT} below which annoyance can be assumed to be negligible. This threshold is used by both parties but with different emphases. It is common ground that the appropriate test derived from PPG17 is whether the proposals would result in a significant loss of amenity to those visiting the cemetery. In this regard the former DETR[3] commissioned research from the National Physical Laboratory (NPL) that concluded that "Exceedances of the WHO guideline values do not necessarily imply significant noise impact" and regards them as providing "a highly precautionary approach".

85. There is common ground that in the assessment of infrequent events it is appropriate to increase the threshold of the onset of significance to the recipient of the noise, and this chimes with advice in PPG24. Mr Griffiths for the Council has

[2] 2 games on pitches 1 to 3 with training on the 3G pitch (no 2)
[3] DETR - Department of the Environment, Transport and the Regions

produced his own semantic scale to assess these matters where the increase proposed on these busier Saturdays of about 8dB over background is termed a "slight increase" (CD17.08 App 2). This is to be compared with the CV appeal where noise levels were anticipated to increase by at least 10dB, over the then assessed ambient level, and to reach levels of 63dBL_{AeqT}.

86. The differences between these 2 highly experienced noise witnesses are narrow, with the area of greatest difference lying in the significance accorded to the results of comparative (before and after) assessments. Mr Griffiths relies upon this method but Mr Sharps points out that it suffers from 2 fundamental weaknesses. First, it depends upon what is taken as the base or ambient level for the purposes of comparison. In an urban fringe location such as Hazelwood this is not a steady state condition. The study uses the worst case, minimum 15 minute level for Saturday afternoon of 48dBL_{AeqT}. However, Mr Sharps identified readings nearer to 50dBL_{AeqT} (CD17.16 para 4.13) and the CV inquiry took 52dBL_{AeqT} as the ambient level.

87. At these levels the difference between ambient and generated noise is within the area of increases up to 5dB which the Council consider to be as acceptable and not significant (CD17.07 para 5.13). Moreover, when Heathrow is working on easterlies (something less than 30% pa on average) the ambient levels are between 10 and 12dB higher, so that there would be no problem caused by use of the appeal site in any event. The second flaw in this method is that there is no established standard against which to judge the significance of any increase. Mr Griffiths relied upon a semantic table of his own devising which, necessarily, cannot carry much weight and, like all such exercises, is arbitrary in character.

88. The Appellant therefore prefers the greater objectivity and authority that comes from use of the WHO threshold criteria which form the basis of the residential amenity levels used by PPG24. The decision maker should, however, be aware of the precautionary nature of these criteria and that exceedance, particularly at the worst case level of 1dB, is not indicative of an issue. The NPL interpretation of the WHO guideline values is that significant effects may not occur until much higher degrees of exposure. Mr Sharps indicated that "much higher degrees" was not specified but would be 3dB (minimum perceptible difference by PPG24) and 10dB (a doubling of loudness) with his view that 6dB is about right.

89. It is also of note that Mr Griffiths commented that the "potential to generate an unacceptable noise impact on visitors to the adjoining cemetery, especially during the weekend…should be taken into account when making an assessment of the other planning issues related to this appeal" (CD17.07 para 7.7). In other words, his view was that such noise impact should be seen as an additional material consideration to be taken into account, rather than saying it justifies an independent reason for refusal in its own right.

90. In summary, there are significant differences in noise terms between the appeal proposal and the CV proposal as already detailed above (see Doc APP/9). In addition, at the time of the CV proposal that part of the cemetery in use for burials (and thus likely to be most visited) was on the boundary with the appeal site whereas currently those parts in use for burials are identified as areas further away from the cemetery edge (see App 6 to CD11.01). Moreover, the landscape proposals should ensure that play is not seen from the cemetery. There would be weekends in the season when the site would be busy and noisy, but often with the sound of children at play. Not in itself something about which one would want to

object. There would be other weekends, especially those out of the season when the site would be absolutely quiet.

The Avenue

Open Space

91. The Avenue site forms part of the Core Strategy (CS) Protected Urban Open Space (PUOS) designations B3[4] and C9[5] that total about 17ha. Scheme A has to be assessed against policies EN4 and SP6 of the CSPDPD. EN4 is an up to date, policy fashioned by the Council and the CS EiP Inspector against the criteria of PPG17 (CD14.06 para 3.164). As a result it supersedes earlier Local Plan open space policies and introduces criteria against which proposals for development can be tested. The CS EiP Inspector indicated that if any sites shown as PUOS on the Proposals Map no longer satisfy the criteria, then they would not warrant protection under the policy. The policy seeks the retention of open space used for sport and recreation or having an amenity value where (i) there is a need for the site for sport and recreation purposes or (ii) the site as a whole is clearly visible to the general public from other public areas and its openness has one or other of the 2 attributes set out in the policy. The policy also allows exceptionally for development on part of such sites.

92. The whole point of the application is to make better provision for sport elsewhere within the locality so the first criterion above is plainly met. To retain The Avenue for other sporting use, if the Club was to vacate, would prevent the provision of the replacement facility since that depends upon The Avenue appeal proposals for its funding. In any case Spelthorne is generally well provided for in terms of outdoor sports facilities (CD15.24). The alleged Berkshire athletics interest in the site is the briefest document, unsupported by any evidence or any identification of the author's proposals (Doc IP/6). Moreover, Berkshire extends westwards some 56 miles from Sunbury, so this would hardly be a sustainable proposal or an accessible location for that county's athletes and no interest has been shown in the site by the Surrey equivalent organisation.

93. There is no public area outside the appeal site from which the whole site can clearly be seen, and this contrasts with other nearby PUOS areas such as the Cedars Recreation Ground on Green Street and the Lazards Sports Club on The Avenue. However, even if the site was needed, or was clearly visible from public areas, the exception test under sub-paragraph "g" would be met, if only by the quality of the relocated facility test that replaces the part of the site that would be lost to development. In addition, the whole of the open space in this part of Sunbury would not be lost. About 12ha of the combined allocation of B3 and C9 would remain as PUOS. The Council places considerable emphasis on the benefits of the appeal site from private views both from surrounding houses and obtained by visitors to the appeal site. These are plainly not public views for the purposes of PPG17 or policy EN4, although it is accepted that this matter can amount to a material consideration.

94. As far as neighbouring residents are concerned, considerable care has gone into preserving their existing residential amenity and designing the appeal proposals to reflect the character of the area (CD07.04 at para 4.61 and CD07.09). The

[4] Gaflac Sports Ground & London Irish RFC
[5] St Paul's School and St Teresa's Convent

boundary planting would be retained and enhanced and whilst neighbours' views would change, such change is commonplace within the urban area and would not be dramatic. Moreover, given the separation distances between properties, the absence of overlooking or overshadowing, the respect for privacy and the proposed quality of urban design and landscaping, the change would not be harmful, as was confirmed by Council officers in their report to Committee (CD07.10 paras 8.51-8.53).

95. Views within the site, for visitors to the Club or the VAHC, would change, but none of these have views of the whole site, as required by policy EN4 and therefore would not qualify for protection. Views of playing fields and run-down sports buildings would be replaced by views of well designed housing in a well landscaped setting and in the context of purpose designed and landscaped public open space. This could not be considered harmful or contrary to the public interest. The replacement of what at its highest might be referred to by the label "semi-public" space, with private housing and quality public open space, would involve a quantitative loss but substantial qualitative gain.

96. The visual amenity of the site from public viewpoints would be maintained by the retention of the boundary trees, which provide a backdrop to some of the housing on its boundaries, and improved by the proposed landscaping which includes extensive tree planting. The narrow, glimpsed public views down the 2 accesses would be retained and enhanced. Two new areas of public open space would be provided within the scheme (areas OS1 and OS2), totalling 1.16ha where no public open space currently exists. These areas of open space would frame all public views into the site and, together with the proposed tree planting and landscaping, would enhance the site and mean that the proposal would accord with proviso (e) to policy EN4.

97. Overall some 1.48ha or 23% of the site would be retained as open green space with the substantial and attractive oak tree on the site being the focus for one of the public open space areas. The residential development would be green and well landscaped and it is noticeable that the CS identifies green housing areas as PUOS, such as area D3 to the north of the appeal site and D4 to the east. There would be an amenity aspect to the residential development in any event so it is not an automatic assumption that the PUOS label would be removed from the site.

98. The site would have a new recreational value by reference to the 2 areas of new public open space, the on-site provision of a Locally Equipped Area of Play (LEAP) and the provision of a Multi-Use Games Area (MUGA) off-site at a location preferred by the Council. Whilst the latter may be required to serve the new community these facilities, together with the areas of public open space, would also provide facilities for the use of the wider community. The site's value for the playing of rugby would be lost, but that activity would transfer to Hazelwood and the S106 Agreement would ensure that this move has to take effect before the development on The Avenue could start. This would accord with criterion "g" to policy EN4 and with policy CO1.

99. Both of the provisos within policy EN4 relate to the loss of part of a site, but that cannot mean the "application" site, since the definition of that would depend entirely upon the scale of development proposed. In this case it is more consistent with the underlying policy objective to consider the whole contiguous area of PUOS comprised in areas B3 and C9. This approach was promoted by Miss Hankinson and accepted by Mr Job in cross-examination. It has the attraction of

being logical whereas the present splitting of the site into the 2 areas is a result of the accident of past ownership and does not relate to any particular features on the ground.

100. These linked proposals would result in the loss of an ailing golf facility of indifferent quality at Hazelwood, and the loss of a rugby facility of mediocre or declining quality at The Avenue. However, these losses would be more than offset by a sporting facility of excellence which would meet the needs of the area and region for generations to come. Although Mr Job disputed this in his rebuttal proof (Doc LPA/1), Council officers are frank on this issue in their Committee report on Hazelwood where they state that they would not want to lose sports facilities/open space, but that if the London Irish proposal was to go ahead, it would be an excellent sport facility and would compensate for the loss of the pitches on The Avenue site.

101. Policy SP6 of the CSPDPD is directed to maintaining and improving the environment of the area. In sub-paragraph (c) it extends its protection to areas of existing environmental character. That includes open space of amenity and recreational value. Thus, it is a general policy and requires application to the facts of the individual case in order to assess whether or not the proposal in question conflicts with its objectives. Since the appeal site is an area of open space, protected by policy EN4, this policy does not make any significant additional contribution to the debate.

Affordable Housing and Enabling Development

102. The issue concerning affordable housing is straightforward. The Club cannot fund the proposals from its own resources. This is not professional football and there is no state funding for new sports facilities away from the Olympics so enabling development is the only way by which the scheme as a whole can proceed. The mixed-use development on The Avenue would fund the infrastructure needs of that new community and the community gains in terms of public open space, LEAP and MUGA as well as paying for the scheme at Hazelwood. As Scheme B would need to be in place before development at The Avenue could start there would be a burden in terms of interest payments as well as the substantial capital costs involved.

103. Mr Edge's viability proof of evidence, which was unchallenged by the Council and LOSRA, indicates that the cost of the proposed development at Hazelwood would amount to a net present value of some £14.647 million. The total costs of the development at The Avenue, including this Hazelwood deficit of £14.647 million, would be about £51 million and the gross receipts from the housing and commercial development at The Avenue would be about £94 million on the basis of the viability model assumptions. These include meeting the various S106 obligations referred to above and also providing an on-site affordable housing contribution of about 10%, or approximately 19 small dwellings (or such other mix at the Council's discretion with the same gross internal floor area).

104. After allowing for the effects of interest charging and discounting, the developer's return, expressed as the internal rate of return for the development other than affordable housing, would be about £13.681 million. This would represent the minimum acceptable return of 15%. To provide the 50% of affordable housing sought by the Council under CSPDPD policy HO3 would require an additional subsidy in the region of about £5.9 million. This is unrealistic, given the need for the development to first meet the deficit of £14.647 million at Hazelwood, and

explains why the level of affordable housing is less than might ordinarily be expected of a housing scheme.

105. LOSRA produced a document from the Club entitled "Proposed Ground Move Members briefing paper June 2009" (Doc LOSRA/9). This included a reference to the use of the redevelopment to repay existing loans from members of about £9m, but there would be no repayment of those loans from the appeal proposals. Those loans would transfer over to Site B as the projected proceeds of The Avenue are earmarked in their entirety to the enabling of Scheme B and the provision of community benefits at The Avenue.

106. The public benefit from the proposals, and the need to fund them through enabling development, outweigh the harm to other policy interests that arise, although it is acknowledged that striking that balance in any given case is a matter of planning judgment for the decision maker. The need for enabling development is not exclusive to the repair of heritage assets, although that may be the most common context. There is no Government policy on this matter, but advice has been prepared by English Heritage. This may assist the decision maker by providing useful analogies, but it cannot be directly applied because there is no "place" or "heritage asset" in the sports context.

107. In this case the significance of the Club as a provider of rugby to the national game, to the amateur game, as a provider of quality sporting experience to the young and to schools is beyond question, such that the Club and its facilities is the "place" for the analogy with English Heritage guidance. The Club is the sole provider of the sport and for the sport within the Borough. Like many sporting providers it operates through the medium of a private members club. To survive it is essential that it devises and follows a business model and programme.

108. Most heritage assets are privately owned and the policy of English Heritage permits the provision of enabling development when it would otherwise be uneconomic for the owner to maintain the asset. That is because of the perceived public interest in securing the future of the heritage asset. Here the benefit to the game and to the community is clearly established. A minimum level of community benefit is secured through the S106 Agreement. What is being sought by way of enabling subsidy is no more than is required for the provision of the facilities. The rest of the gain derived from the development of The Avenue is being returned to the community by other routes, such as the provision of affordable housing, landscaped public open space, play facilities, a health centre and a Care Home. There is no suggestion that there is some other means by which the Club could provide the facility or some other business model it should follow that would reduce the need for enabling development.

109. The context for assessing the acceptability of the affordable housing provision is (a) that there was no serious challenge to any elements of the viability analysis provided by Mr Edge, (b) the offer has been increased to a level where the Club is accepting a real element of risk and (c) this is not the loss of affordable housing from an allocated site. The site is a true windfall and not an allocated site that could ordinarily be relied upon to provide any affordable housing, however large it may be as a housing site in Borough terms.

110. Evidence from the Council shows that there were 1,536 persons on the Housing Register as at 26 May 2011. The need across all priority bands for 1-bed units was 852 households, for 2-bed units was 448 households and for 3-bed units was

209 households (Doc LPA/9). By providing 19 affordable dwellings, comprising 8 No 1-bed flats and 11 No 2-bed flats, the scheme would cater for the 2 most needy bands. The affordable housing annual target from the Housing Needs Assessment (CD15.02), at 72 units per annum, has not been met in any of the last 5 years since the annual average rate of provision is 48 units net (CD15.01). As a result Scheme A would be of real benefit as 19 homes equates to 26% of the annual requirement and 40% of the annual average supply.

111. It is accepted that the 3-bed units would not be attractive to affordable housing providers, because of their size, but that is a result of designing a scheme to conform with local character and to reflect the desires of local residents. However the 1 and 2-bed units, whether flats or the smaller houses, have been designed with affordable housing in mind and Mr Campbell, himself an experienced policy advisor in this area, expressly took into account the current desire to drive up space standards for such accommodation. Finally, it should also be remembered that open market housing in the South-East region is a precious resource in its own right, with figures in the SEP being minimum targets not maxima (see policy H1 in CD13.01).

112. Scheme A would also provide for other community needs, such as care for the elderly and improved primary health care facilities, and these are all factors that weigh in the balance in favour of this mixed-use scheme. The proposed provision of the health centre is a response to local concerns, expressed in consultation, and is supported by the local General Practitioners (GPs). However, the Council has sought to play down the benefits of the proposed health centre by reference to an email chain which reveals that the PCT does not support the current proposals and has no immediate plans to replace the local GP surgery (Docs LPA/6 & LPA/14). These emails were responded to by Mr Martin (Doc APP/16). It is clear that the PCT would welcome the facility if it could be provided on a 'no cost' basis and a land swap has been suggested to achieve this if permission is granted for the scheme. The response of the PCT to the Council is therefore strictly correct at the present time but is far from the full picture. The Council acknowledges that a new health centre would be desirable in the area in principle (Doc LPA/1 para 1.27) and the likelihood is that the proposals would provide a welcome new health centre facility for the benefit of its own residents and those of the wider area, whether or not the PCT survives to commission the facility.

113. The Care Home would serve a recognised need as accepted by the Council (Doc LPA/1 para 1.27). In addition, the live work units have attracted no adverse comment. To the extent that the non-residential elements of the scheme are ultimately not provided should funding or other difficulties arise, the scheme would require amendment through a planning application. If the alternative use was residential development the opportunity could then be taken to increase the amount of affordable housing.

Other matters

114. Despite the objections raised by LOSRA and other interested persons, SCC as local Highway Authority is satisfied with the proposed junction improvements, as set out in the S106 Agreements and the evidence of Mr Tricker (Docs JNT/3, JNT/4, APP/1 and CD17.23). With particular reference to the proposed improvement to the Staines Road East/The Avenue junction, this does not seek to solve all existing traffic problems or congestion, but rather is intended to ensure that the junction would operate no worse than the present day situation. The improvement has been

assessed with an industry-standard junction modelling program and SCC considers this assessment to be satisfactory, as detailed in the SoCG (CD10.04).

Conclusions

115. National policy gives a high priority to the promotion of sport to improve the health and well-being of the community. Accordingly, there is a compelling case in the public interest to facilitate the relocation of the London Irish family from its present wholly inadequate and outdated facility in The Avenue to a new centre of excellence at Hazelwood from where it can continue to flourish to the benefit of the game generally, to the benefit of its young and amateur players and to the wider community it serves. The Club has been seeking a solution to this problem upwards of 5 years without any credible alternative solution being identified to the proposed relocation to Hazelwood.

116. The Council would prefer that this exercise had been pursued through the CS process. However, the Council was fully informed of the Club's predicament and its proposed solution in terms of enabling development in June 2005 in the course of the Issues and Options consultation and in December 2005 as part of a private meeting (App 5 to Doc APP/2). No site was suggested by the Council and the Club's problems were not introduced to the evidence base for the Plan. It is perfectly legitimate for the Club to pursue its case via the procedures established by the Town and Country Planning Act 1990 as it has done at this inquiry. Further delay or expense in resolving this issue is not to be contemplated.

117. The Green Belt related matters of dispute at Hazelwood concern the extent to which harm would be caused to the "open countryside" character of the site and the extent to which elements within the clubhouse can be argued to be essential. The Appellant's case is that the proposed rugby facilities are as much essential facilities for sport and recreation in the Green Belt as those permitted on a similar basis for the benefit of football clubs and football academies, set out in the evidence. If the decision maker should disagree there exists a broad body of material considerations in support of the proposal that collectively amount to very special circumstances that clearly outweigh the limited harm the proposals would cause to the Green Belt through inappropriateness and otherwise.

118. Amongst the other harm is the extent to which use of the site would disturb visitors to the neighbouring cemetery. The noise levels predicted in this case are substantially less than those found unacceptable in the CV appeal. The worst case (at the cemetery boundary) would be just 1dB above the threshold where one begins to examine impact. That noise level would reduce within the cemetery and would only arise on some of the 15 afternoons in question and not at all when Heathrow is working on easterlies. In view of the above points the very special circumstances test of PPG2 paragraph 3.2 would be satisfied.

119. The development at Hazelwood would be enabled by the provision of housing on the Club's current site at The Avenue, which is part of a much larger area of protected urban open space. The loss of the sporting facility would be remedied by the provision of the new site of excellence at Hazelwood. There would be a compensatory provision of public open space at The Avenue. The proposals comply with the criteria of CSPDPD policy EN4 which is the local expression of national policy in PPG17. That housing would be of a high quality of design and layout and complement the area. There would be no loss of neighbouring residential amenity. Other public benefits would flow from the proposal.

120. Inevitably less affordable housing would be derived from The Avenue scheme than would be the case if it was not part of an enabling development proposal. However this is not a situation where there is a choice. The amount of enabling development necessary to achieve the scheme is the minimum sought and no more affordable housing can be met if the project is to proceed. In any event, the Council would be equally opposed to the residential development of The Avenue site without the enabling element. There is no prospect whatever of the site coming forward to offer the full 35% affordable housing which it could theoretically provide were it not to enable the Hazelwood scheme. The enabling element is satisfactorily secured through the proposed S106 Agreement and 19 affordable homes would be provided as a result. These would meet an identified need as would the open market housing proposed.

121. For all the above reasons the Appellant requests that the Secretary of State grants planning permission for these 2 proposals.

The Case for the Council

The material points were:

Appeal Site A

The effect of the proposal on existing protected open space

122. The Avenue site of some 6.4ha lies within the urban area of Sunbury and is in active use as a rugby training ground for the Appellant. Under Scheme A the site would be subject to a mixed development comprising mainly housing, with all but 18% being developed out, or 23% if incidental space around buildings B and C is included. This would reduce the current amount of open space by some 5ha and the site would be dominated by its built elements, even allowing for the proposed landscaping. 4ha of the appeal site currently lies within the 8.9ha PUOS site B3 and 2.2ha lies within the adjoining 8.1ha PUOS site C9. Both of these areas are as detailed within Appendix 1 of the Council's CSPDPD (CD14.01) and are shown on the Proposals Map of this up to date development plan, adopted in 2009.

123. The 4 rugby pitches currently on the site would all be subject to development. The only undeveloped areas would be an on-site amenity space of some 5,657sqm (OS2 - see CD06.06), together with a proposed neighbourhood park of some 5,914sqm (OS1) to the east of the VAHC. The Appellant contends that the proposals would result in an increase of 1.16ha of accessible open space, although The Avenue SoCG (CD10.04) acknowledges that 5,657sqm of this (the OS2 area) is needed to meet the standard open space development requirement which would apply to any development.

124. There would be a very significant loss of PUOS if the current proposals were to proceed and this weighs very heavily against them, as the protected status of the site is longstanding. As part of the wider open space area it has been consistently protected by the Council, firstly under policy EV31 of the 1991 Spelthorne Borough Local Plan (see CD14.07/08), and then by policy BE14 in the 2001 Local Plan. The 2001 Local Plan Inspector appraised part of the current appeal site as having clear value both for adjoining residents and users of the adjoining open land. These comments apply to the present proposals with equal force (CD14.09 and para 11.4 of CD17.02).

125. The site has clear amenity value in breaking up the continuity of the built-up area and this test is expressly carried forward within paragraph 10.23 of the supporting text to CSPDPD policy EN4. This has been acknowledged as a legitimate element of public value in applying policy EN4 and is independently an element of public value in considering the application of PPG17. In addition, 2 appeal decisions in the 1990s protected parts of the wider B3 and C9 area (CD15.17/18).

126. Part of the land owned by London Irish, previously owned by St Paul's School, was lost to the VAHC development, permitted in 1999. This development was justified in order to "provide the funds to maintain the amateur Club" and "secure the future use of the site for predominantly outdoor recreation combined with the potential for wider community use" in a manner which had "minimal impact on the general openness of the site" (CD15.14). The associated S106 Agreement secured rugby use and an element of school and other club use (CD15.16). In other words there has been one bite at the cherry, whereas the present proposals might better be described as close to total consumption.

127. The VAHC proposal was assessed by Council officers to have minimal impact on general openness (CD15.14) with the building being placed close to the existing St Paul's College building, and circumstances have not changed dramatically since that time. The site would not perform the function of breaking up the continuity of the built-up area if this proposal was to proceed. The north-western quadrant of the PUOS contains many existing school buildings and the appeal proposal would result in the existing openness in the north-eastern and south-eastern quadrants being greatly diminished.

128. After the VAHC scheme was implemented the Appellant viewed its use of The Avenue site in positive terms (Appendix 5 in CD17.03), but began to signal its intentions for redevelopment in the lead up to the Local Development Framework (LDF). This was not pursued as it could have been and there has been a failure to effectively promote the needs of the Club to relocate and the need to redevelop the existing ground in order to meet those needs, as policy aspirations. It would not have been necessary to know the precise relocation site or other matters of detail, such as viability concerns and the implications for affordable housing provision, for them to have been promoted in policy terms.

129. In a plan-led system the failure of the Club to promote this proposed relocation through the development plan process is important for a number of reasons. Firstly, The Avenue site is the largest single housing site application received by the Council since 1974 and secondly the proposal is put forward as being of public and community benefit as a whole. This is on the basis of one development site providing a financial subsidy for another (elsewhere) which is presented as being over-ridingly desirable for the area.

130. The case is put that enabling development is inevitably not in accordance with the development plan, but this is not accepted. In other enabling cases put before the Inquiry the development which is being "conserved", or otherwise enabled, is itself recognised as being highly desirable within the development plan. To promote such an objective is accordingly a matter for the LDF and there is no good explanation why this has not been done in this case. If it had been so promoted, the Club's aspirations could have been tested in the context of other competing considerations within the LDF in a way that would have engaged spatial planning and community vision.

131. For this first main consideration, CSPDPD policies SP6 and EN4 both need to be satisfied. Moreover, whilst consideration of PPG17 has informed the evolution of policy EN4, a purposive view should be taken of "public value" having independent regard to the words of PPG17 in their own right. For the avoidance of doubt it is not accepted that any site should be required to be so clearly visible "as a whole" to the "general public" in order to meet the policy objective of protecting interests of public value identified in PPG17.

132. The Appellant seeks to persuade the Secretary of State to permit the loss of the open space afforded by the appeal site from within a community and locality that values it. The assessment of Miss Hankinson subjects the site to a very detailed landscape appraisal which seeks to diminish its importance. However, the space being protected is urban open space and the value of the site has to be understood in this urban context. Although Miss Hankinson sought to attack policy EN4 on the basis of it being a landscape designation, this is clearly not the policy's function. Nor is PPS7 relevant here, as was suggested by the Appellant, as Sunbury is not a rural area. This is evidenced in the spatial description given within the CSPDPD (CD14.01, paragraphs 2.2-2.3).

133. Policy EN4 has twin objectives, to safeguard valuable urban open space and provide for open recreational uses. It is agreed that criteria "a", "b" and "c" are not relevant to this proposal, but that criterion "d" is (CD14.01). It is also accepted that the appeal site is not in the general public domain, but this does not mean it has "zero public value". Assessing whether an existing urban open space is of "public value" is no more or less a matter of landscape expertise than a matter of opinion for an urban designer or a planning expert, especially in this case where the inherent landscape value is not the point in issue.

134. Part of the appeal site is expressly identified within Appendix 1 to the CSPDPD (CD14.01) for protection as a Private Sports Ground (Site B3) and, by definition, is therefore not public space with public access. The remainder of the site is identified for protection as School Grounds (Site C9) and is only going to have public access to the extent that this is consistent with its use as School Grounds. PPG17 Annexe para 3(vi) makes clear that open spaces can perform multiple functions and says, of visual amenity, "even without public access, people enjoy having open space near to them to provide an outlook, variety in the urban scene or as a positive element in the landscape". The appeal site is such a space.

135. Notwithstanding the private status of the land there is currently a significant level of access to and appreciation of the appeal site. This includes the views from the members and visitors to the London Irish Club and the views of members and visitors to the VAHC. In this latter case it should be noted that the VAHC contains licensed, unrelated businesses to which the public apparently have full access. In addition the appeal site can be seen by the school community of St Paul's College and also by those sections of the general public that has access out of school time to the facilities of St Paul's College (See Appendix 1 to Document LPA/1). As such the level of access to various sections of the community is numerically so significant that it clearly is a matter of public value.

136. Although these matters were accepted by Mr Campbell for the Appellant, he argued that the land could become more private in the future. However, in terms of the level of access described above there is no evidence that the school use or VAHC use is likely to change in the future. The Council recognises that the appeal site is not prominent to the public view, nor of particular value by virtue of its

layout. But its open and undeveloped position and character in relation to built development and in conjunction with remaining parts of the PUOS is of considerable value and development of it would be a significant and weighty loss.

137. Policy EN4(d)(i) is breached because the site is used for sport and recreation and there is an evident need for it now by the Appellant. Although it is the Appellant's case that these facilities would be re-provided at Hazelwood under Scheme B, this proposal for relocation is contentious and is not supported by the Council.

138. The final part of policy EN4 allows, as an exception, for development on part of a site subject to certain criteria. The Appellant appears to suggest that the current proposal to develop 82% of the site meets this requirement. This cannot be so. Some of the open space provided within the development of the site simply meets development control requirements (9%) and leaving that aside this is not partial site development on any reasonable interpretation. Indeed if the Appellant is right this would be so of development of 90% or even 99%.

139. At the inquiry the Appellant argued that the "part" being referred to in the exceptions element of the policy should be seen as part of a PUOS as a whole. However, this does not reflect its written evidence, provided by Mr Edge, which clearly indicates that the part of the site being considered was the 77% or 82% of the appeal site, not the proportion of the wider PUOS (CD17.19 8.14 to 8.19). This was the way the Council had approached the permission of the VAHC scheme (CD15.14). Given that policy EN4 could apply to an unidentified site just as to an identified site in Appendix 1 it is submitted that the exceptional discretion within this policy clearly applies to an individual application or appeal site, not a PUOS site.

140. There is a further reason, specific to the current case, why this must be so. As already indicated, the appeal site comprises parts of 2 PUOS sites and, accordingly, the Appellant is not developing "part" of the site for the purposes of the exceptions policy on any sensible view of policy. This is a redevelopment scheme for the appeal site as a whole and does not qualify for consideration under the exception element.

141. Finally, under part (e) of policy EN4 the functional public value of the site is the present sports use which is valuable and should be protected (CD15.24). Under the appeal proposal this functional public value would not be improved. Moreover, the functional role of the site in breaking up the area would be diminished very significantly. The proposed public value in terms of widened public access to spaces OS1 and OS2 and within the more urban internal views of the appeal scheme would not be equivalent to those losses. The case under criterion "g" depends on Scheme B being permitted and in any event presupposes that permission should also be allowed under Appeal A which for the other reasons identified under Appeal A, it should not be.

142. It should be concluded that there are good reasons to continue to safeguard this protected urban open space and that the proposal does not accord with policy EN4 or PPG17.

Housing need

143. It is acknowledged that the Appellant's case is not predicated on housing need (CD10.03). However, the facts are that Spelthorne Borough has a 5-year supply of housing and an unmet need for affordable housing (CD10.04). The Council is

committed to meeting the housing need identified in its CSPDPD (CD14.01) and, despite the Government's intention to abolish the RSS, the Council's position on housing provision remains robust. The evidence and latest monitoring (CD17.09) shows that the Council is set to exceed its target of 3,320 dwellings to be built by 2026, without the appeal proposals. That target will be met 3 to 4 years early and exceeded by some 625 dwellings (CD15.01). Furthermore, as at 1 April 2011 the requirement of 775 dwellings for the years to 1 April 2016 will more than be met by a supply of 906 dwellings (117% of the requirement).

144. The soundness of the CSPDPD was assessed against this housing target of 3,320. This was not treated as a minimum, with any additional housing to be regarded as a bonus, as appears to be suggested as an appropriate approach by the Appellant. The Appellant's further suggestion that the Council should make unplanned for provision to meet a wider housing need outside its boundaries in the South East can carry little weight.

145. There is no housing need justification to set aside the Council's policy to protect existing sports facilities and PUOS. In any case, the application for 194 net additional dwellings would be the largest housing scheme in Spelthorne since its inception in 1974 and, in a plan-led system, it would be usual for such a site to emerge and be tested from within the development plan process. Furthermore, PPS3 continues to favour the development of previously developed land. The appeal site is largely open recreational playing fields and although it contains ancillary buildings such as the existing stand and clubhouse, such development is excluded from the definition of previously developed land within Annex B to PPS3. The status of this land therefore weighs against this windfall housing site.

146. Whilst not a point on housing need, this proposed mixed-use development would include a health facility, but the Primary Care Trust (PCT) as the current body responsible for making property investment decisions explicitly does not support the proposals. The reasons for this were identified and explored in evidence with Mr Brooks (see Docs LPA/6 and LPA/14) and in the cross-examination of Mr Martin (see Doc APP/16). The absence of such support raises a significant likelihood that such a proposal will simply not come forward. This dents the credibility of this element of the mix.

147. It should also be noted that no current policy EN4 site has been included within the housing land supply for 2006-2026. As the protection of such sites forms part of the spatial vision for the area, this proposal clearly runs counter to PPS3 paragraphs 69-71. This is demonstrably the case when the site is not allocated and where there is no housing need for it. Providing appropriate affordable housing as a form of public subsidy and enabling development, enshrined in the policies of the CSPDPD, is also part of that spatial vision which aims to meet the requirements of those in need of such housing. Indeed, the need for affordable housing is one of just 3 issues to which the CSPDPD "Vision" gives particular emphasis, the others being flood risk and air quality (CD14.01 para 3.2).

The effect of the proposal on outdoor sports facilities

148. The appeal site is in active use for a sport and recreation purpose and, at the time of the 2005 Assessment of Open Space, Sport and Recreation Provision in Spelthorne (CD15.24, para 7.32), it was rated as "high for both quality and accessibility and high level of usage". Furthermore, within the 2007 Playing Pitch Assessment and Strategy (CD15.20) an assessment was made of pitches identified

in "secured public use". This embraced any facilities owned, used or maintained by clubs or private individuals, which as a matter of policy or practice are available by large sections of the public through membership of a club or admission fees (pages 11/12 of CD15.20). Given the numbers of members of the London Irish Club this plainly continues to apply to the Club's pitches.

149. Within Appendix 2 of this Strategy 3, rugby pitches are identified at The Avenue as being in Community Use with 1 pitch at St Paul's College similarly identified. The Strategy identifies a deficit for junior rugby on a Sunday morning, although this is offset to some extent by a surplus of senior pitches. It should be noted, however, that the Strategy does not include within it the facilities of Staines RFC despite that club being identified as generating rugby demand in Spelthorne and offering 5 pitches by way of supply (see Doc LPA/13 and CD15.21 para 2.3).

150. The effect of allowing Appeal A would be the loss of outdoor sports facilities on a permanent basis. The effect of allowing both appeals would be an increase in rugby pitch provision but the loss of the existing golfing provision at Hazelwood. Overall there would be a net quantitative loss to sport. Whilst the basis of the Appellant's case is that it needs to change the land use in order to vacate the existing site, the market for the site within its existing land use has not apparently been tested (see para 11.20 of CD17.02).

151. The off site contribution of £50,000 towards the construction of a MUGA within Lower Sunbury, which has been agreed in the event of Appeal A being allowed, would meet the tests in Circular 05/2005 and Regulation 122 of the CIL Regulations. This contribution meets the requirements of the proposed level of housing development, irrespective of the pre-existing land use, as detailed in Appendix 9 to CD17.03. Any incidental wider benefit should not be regarded as a matter of weight in such circumstances (see para 5.3 of Doc LPA/1).

Affordable housing and enabling development

152. The affordable housing offer is 19 small dwellings or a mix of units of the Council's choice, up to 1,140sqm gross internal area (GIA). This amounts to about 10% in terms of dwelling numbers, but a lesser figure if based on total floor area of all proposed units. Contrary to the Appellant's assertions, the without prejudice discussions with officers and the views of the Head of Planning and Housing Strategy (CD16.01) show that the over-riding need for affordable housing being identified at an early stage was for 2 and 3-bed family houses, although flats were stated to be acceptable. The emphasis on securing a fully integrated scheme with this in mind was clear, but the Council's evidence, provided by Mr Scherer, shows that the units do not appear to have been designed with affordable housing size thresholds in mind.

153. A comparison of gross external area (GEA) and GIA shows that the proposed dwellings are above the Registered Providers' desired size (Doc LPA/8). This is most pronounced in relation to the 3-bedded houses and as layout is to be determined at this stage, this may have the effect of restricting the offer to the 1 and 2-bed flats which would be policy compliant in terms of mix, and would meet a level of need, but not the identified and most immediate need (Doc LPA/9). That said, it is accepted that the S106 Agreement attempts to maximise flexibility in terms of providing affordable units above the 2-bed thresholds.

154. It is the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive

communities. A central component in meeting this objective is that the appropriate mix and level of affordable housing provision should be made on site within larger schemes. The current offer falls far short of meeting that objective and does not accord with policies SP2 and HO3 of the CSPDPD, both of which indicate that the Council's target for affordable housing is 40% of all net additional dwellings over the period to 2026.

155. Policy HO3 indicates that the Council will seek to achieve its 40% overall target by negotiating for up to 50% on sites where the development comprises 15 or more dwellings or is 0.5ha or larger in size. It will seek to maximise the contribution from "each site", having regard to the individual circumstances and viability, including the availability of any housing grant or other subsidy, of development on the site. For the purpose of the application of this policy the site being referred to here is The Avenue. For the avoidance of doubt this excludes from consideration within this policy circumstances such as the development costs of developing expensive facilities within a much larger relocation site elsewhere. For the purposes of policy HO3, and in every respect, Appeal A and Appeal B cannot be considered as relating to a single site, as claimed by the Appellant.

156. Mr Scherer's evidence shows that it is viable for 35% affordable housing provision to be made on Site A. Policy HO3 embodies the "public subsidy" which it is policy for open market housing development to provide in "enabling" the provision of affordable housing for which there is a significant and high priority need and which is a significant issue in Spelthorne Borough. In this respect the up to date local policy fully reflects national and regional policy. It is the Appellant's case, however, that this public subsidy and form of enabling development should be overridden by its own financial needs. Indeed the Appellant claims that in this case "public subsidy" in the form of "enabling" development should be used to support its desire to relocate to another site (see paras 9.4-9.10 of CD17.19).

157. The affordable housing policies of the CSPDPD apply to windfalls just as they apply to allocations. Housing schemes that receive planning permission are all subject to policy requirements and it is skewed reasoning to suggest that a scheme that should make a contribution of 35%, to meet policy, should be regarded as less subject to that requirement because it has not been planned for. As the only housing need that can be justified in meeting needs that exist and are planned for is for affordable housing, the onus on any such windfall is at least as great as any allocation site which has been tested within the LDF process.

158. The Appellant's case is put on the basis of "enabling development", with the touchstone on this issue, as a matter of law, being R v Westminster City Council Ex Parte Monahan [1990] 1 QB at 87 (Tab 1 of Doc LPA/19). This concerned the future of the internationally recognised Royal Opera House. The case was defended by the City Council who, as Local Planning Authority, had resolved to grant planning permission on parts of the site for office development. This involved a departure from the development plan but was being pursued on the grounds that the balance of funds necessary to carry out the desired improvement to the Opera House was unobtainable by any other means. It is clear that there was very strong development plan support for the restoration and improvement of the Opera House.

159. It is plain that this proposal was considered to be a whole project that could be brought together so that it can be seen as "a coherent part of the city". It was acknowledged that the capacity for materiality of financial considerations was not

in dispute. Moreover, the capacity for composite or related developments being capable of being a material consideration was acknowledged. However, the present case, as a matter of fact and degree, is a long way apart from Monahan, especially as the current proposal before the Secretary of State is not a single scheme of development and the sites in question are not in close proximity.

160. The high water mark of cases on enabling development as a material consideration is that of Northumberland County Council v Secretary of State for the Environment and British Coal Corporation [1990] JPL at 700 (Tab 2 of Doc LPA/19). This is contextually far removed from the present case as it relates to a challenge by a Minerals Authority to the grant of planning permission on appeal by the Secretary of State pursuant to an application for an open cast coal-mine. It is clear, however, that the decision was taken in the context of development plan policy which accepted that the criteria for assessing an open cast proposal was the economic value of the coal in the support of deep mine production. In looking at potential materiality, weight and fact and degree the existence of the Structure Plan policy supporting the development to be "enabled" was pivotal.

161. The judgment in the Northumberland case referred to the case of Brighton Borough Council v Secretary of State for the Environment (Tab 3 of Doc LPA/19), to establish the proposition that a composite development project was not essential for financial considerations to be a material planning consideration. In fact examination of the judgment in this Brighton case makes it clear that what was being considered was housing development within unused school playing fields of a Preparatory School outside a conservation area. This enabling development was to cross-subsidise the upkeep of the adjoining Listed school buildings within the conservation area. In other words there was a clearly identifiable single site. This is a classic enabling case and both elements of the development were self-evidently taking place on land within the ownership of the Appellant. In some respects this situation is analogous to the grant of planning permission on the VAHC site at The Avenue (CD15.14).

162. Having reviewed these other cases, it is not disputed that the financial link between the 2 schemes now before the Secretary of State is capable of being a material consideration. But in evaluating that materiality, and the weight to be attached to it, there are a number of factors which need to be highlighted and understood in weighing up the Appellant's proposals, as detailed below. It is also of note, however, that there is no national guidance which supports the approach to "enabling development" being taken by the Appellant. Apart from the case law already referred to, the only guidance which the Appellant invokes, through Mr Edge, is that of English Heritage. The Council does not accept that the application of this guidance is appropriate in this case, where there is no "place" to be conserved and where the circumstances of London Irish itself constitute a major reason for these proposals (see Doc LPA/1 paras 1.20-1.23).

163. In terms of materiality, there is no physical contiguity between the 2 entirely separate and distinct sites. One site is in the Green Belt outside of Sunbury whilst the other is in the urban area and wholly different planning policies apply to each of the sites. The 2 sites are in different ownerships although the Appellant does have an option in relation to Site B. The distance between the 2 sites is about 1.2km (just over ¾ mile) and the developments are related only in the sense that one site provides the financial subsidy for its own replacement and improvement elsewhere.

164. Furthermore, the objective of re-developing the HGC is not part of the spatial vision for the area, identified through the policies of the LDF. Furthermore, the Council, as Local Planning Authority for the area does not consider either the "enabled" development or the "enabling" development to be desirable. No heritage or biodiversity asset is being conserved, rather the problems sought to be solved in the relocation of London Irish arise from the present circumstances of the owner as an expanding sports club. They are not related to the inherent needs of The Avenue site nor the inherent needs of the Hazelwood site.

165. As a result of these matters the case for enabling development over-riding development plan policy, in order to support a public subsidy which denies the provision of appropriate levels of affordable housing, is not a matter which should carry overriding or persuasive weight in this decision. The conclusion on the issue of whether the proposal makes adequate provision for affordable housing is that it does not do so and it therefore does not accord with policy HO3 of the CSPDPD (CD14.01). This weighs heavily against the proposal.

Appeal B

Inappropriate development

166. The Council has considered Appeal B against the restrictive policies applying to development in the Green Belt and regards the following elements of the proposal as inappropriate: firstly, within the proposed clubhouse, the fitness and medical suite (364sqm), the players lounge/dining area (155sqm), the bar dining and kitchen areas (410sqm) and the administration and maintenance areas (221sqm); secondly, the proposed ball-stop fencing; thirdly, the proposed floodlighting; and fourthly, the proposed car parking extension and parking on this area. For the avoidance of doubt, the Council does not allege harm to the landscape or inherent issues with design as such.

167. The issue between the parties relates to the interpretation of paragraph 3.5 of PPG2 which requires that "essential facilities" should be "genuinely required" for uses of land which preserve the openness of the Green Belt. Possible examples include "small changing rooms" for outdoor sport. PPG17 is also applicable to Green Belt locations, with paragraph 30 stating that development should be the minimum necessary and non-essential facilities (eg additional functions rooms or indoor leisure) should be treated as inappropriate development.

168. Under Scheme B the use of land would be the playing of rugby and, to some extent, other sport under the related community benefit provisions. These uses are not in issue. However, the Appellant's evidence also indicates that the proposed clubhouse would contain 2 dining areas (1 being shared with the bar, the other also a players' meeting area); a separate players' lounge; 2 gym areas (1 of which would be a rehabilitation gym); an analysis room; 4 separate office spaces together with a further meeting room within the administrative area; and a number of separate rooms within a medical wing (Appendix C to CD17.15).

169. The written evidence of Mr Petherick and other witnesses for the Appellant does not address the Green Belt test correctly. Elements which are desirable, or even in that sense essential in order to meet a standard of facility that could be described as a Centre of Excellence or a given "Model Standard", do not and cannot equate to essential facilities in Green Belt policy terms. By definition, the more the Club stretches to accommodate high specification gymnasia equipment, relaxation areas, treatment facilities and the like, the further away from the

"minimum necessary or essential" test this becomes. This is because the playing of sport can take place with support facilities at the minimum necessary level and, in Green Belt policy terms, it is not necessary for "high specification" state of the art facilities to be provided.

170. It might be the case that the business plan of London Irish identifies its "need" for such facilities in order to accommodate its aspirations as an elite Club and its perceived "ideal" to remain as a single Club with a professional and amateur arm, accommodated on the same site for training purposes. However, for playing purposes they already diverge, with the professional matches being played at the Madejski Stadium in Reading. This separation is evident to a greater extent elsewhere within the game of ruby union, as submitted evidence relating to such clubs as Wasps and Saracens indicates. Again, such a need, set in train by the business plan, does not equate to an essential facility and the minimum necessary in Green Belt terms.

171. The Council engaged a sports consultant, Mr Eady, to assess the London Irish proposal (CD15.23). This report is not, however, relied upon by the Council. It was disclosed well prior to the exchange of evidence, not only because of a FOI Act request, but also in order to inform the Inquiry and the Secretary of State of its contents and to avoid there being any mystery about it. The questions postulated and addressed in the report are aimed at determining whether the facilities proposed are necessary to meet a given standard, as opposed to meeting the PPG2 test. This latter matter is something that the Council always intended Mr Job to deal with. Insofar as Mr Eady's report strays into the essential facilities test the Council does not agree with it.

172. The Harpenden case referred to in the Sport England publication "Sport in the Green Belt" (CD15.22, page 17) is an example of staff facilities and meeting rooms being found inappropriate despite the claim being made that they were required in order to enable the Club to survive and operate efficiently (see para 12.8 of CD17.02). Moreover, the Inspector who considered the CV appeal, on the same site as is now the subject of Appeal B, adopted an approach to essential facilities that is more in keeping with the position of the Council (see para 201 of CD15.12 and paras 12.8-12.9 of CD17.02).

173. By the use of the example of "small changing rooms", paragraph 3.5 of PPG2 makes it clear that the size of the facility to be provided is of central importance. The Council has accepted the changing rooms, which incorporate showers, and has also accepted toilets, separate officials' changing rooms and staff changing facilities. Ground maintenance storage has also been accepted. However, the remaining facilities are not the "minimum necessary", "essential" or "small" by any understanding. As the CV application made clear, the fact that a particular size of facility may be regarded as desirable to meet the particular aspiration (whether Academy or Centre of Excellence, Model Venue 3+ or Model Venue 4) does not make it "appropriate" (see para 201 of CD15.12).

174. Moreover, the fact that the Club may have an existing facility which has been developed without any Green Belt constraint at The Avenue does not make it an essential facility for the purposes of Green Belt policy. Mr Edge, by reference to a collection of decisions including decisions by other Local Planning Authorities, suggested that the "essential" threshold was likely to lie somewhere between 3,000sqm and 11,000sqm. The Council submits that such a reading of Green Belt policy is simply unsustainable.

175. Mr Petherick accepted that the London Irish objective to provide excellent facilities to meet the Club's vision did not mean that such facilities were "essential" in Green Belt policy terms. He also accepted that providing a room to meet the full range of community and social functions (page 33 of CD15.25) as per RFU Model Venue 3 facility, goes well beyond what is essential in the Green Belt. In certain respects the proposal goes further still by seeking to provide a level of facility beyond Model Venue 3 level. For example, whilst gym facilities are identified as "possible" within current RFU facilities guidance (CD15.25), they are included in the current proposals.

176. The proposed level of administration accommodation also goes well beyond that envisaged in Model Venue 3 (see page 33 of CD15.25). It is intended to support a commercial and administrative element including corporate operations, events marketing, financial governance/control, communications, public relations and the Chief Executive. Those employees who will locate to the Madejski Stadium in Reading on match days will be located at Hazelwood otherwise. Similarly, the "requirement" for apprentices to have access to computer based study areas goes well beyond what should be considered "essential".

177. The ball-stop fencing proposed would be new fencing which, in PPG2 terms, would amount to new building. The evidence before the Inquiry does not support it as being essential. There is no ball stop fencing at The Avenue or at Staines Rugby Club and rugby can be played without such fencing. When pressed on this point Mr Petherick accepted that it was "preferable".

178. The 12 proposed 15 metre high floodlighting columns also go beyond what can reasonably be described as essential for the playing of outdoor sport. Almost inevitably appeal decisions submitted by the Appellant go both ways on this issue as inappropriateness will be determined as a whole, but floodlights are not associated with the countryside. The Council also considers that the replacement of grass with reinforced grass rings, to provide an overflow car park, would be a form of operational development which would be inappropriate development in the green belt (Doc LPA/1 para 3.4).

179. The evidence presented by the Appellant has conflated its ambitious plans for facilities at HGC with them being essential in green belt terms. Moreover, the needs of the modern professional sportsman and elite player are emphasised in terms of the application of modern sports science and training technique as a supplement to the playing of outdoor sports. However, this is so far away from the minimum necessary as to be absurd.

180. The only proper conclusion to reach is that the proposal as a whole would be inappropriate development in the Green Belt and, as such, contrary to PPG2 and saved policy GB1 of the Spelthorne Local Plan 2001. As a consequence, paragraph 3.1 of PPG2 applies. This states "inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

Openness and the visual amenities of the Green Belt

181. As a result of additional information provided by the Appellant in the PRAIR, the Council resolved not to pursue its original objection to the proposal in terms of landscape impact. The officers' report to this Committee pointed out that although

the site is open space of amenity and recreation value, and would remain so following the proposed development, it is not designated for any particular landscape value. The report comments that whereas the existing golf course is slightly undulating, the proposed landscape would be relatively flat, that most of the pitches would have goal posts and that there would also be some floodlighting structures. A lake and additional planting would also feature in the proposed layout. The report goes on to say that the surrounding area to the north and south is generally open and flat in character and that the existing planting on the boundaries of the site would be supplemented with additional planting and there will also be planting along the re-aligned footpath.

182. In summary the Committee decided that the proposal would result in the replacement of one slightly undulating landscape with a flatter landscape that would have additional planting and that overall there would not be a loss of an attractive landscape. It therefore resolved that this matter should not be pursued at the Inquiry and, accordingly, the Council's case is not concerned with visual amenity but rather with the protection of the Green Belt.

183. Openness and visual amenity are separate concepts within PPG2 and "visual openness", a term used by the Appellant, is not found within PPG2. The Council considers that the elaborate landscape assessment of Miss Hankinson relates more to visual amenity than openness. That said her assessment, which under-values the open elements of the present facility and over-values those associated with the appeal proposal, is not shared by the Council. As an example, the Council does not consider that the proposed decrease in the amount of permeable fencing would significantly increase the openness of the Green Belt, although a level of benefit in this regard is accepted.

184. The evidence of Miss Hankinson shows, and the Council agrees, that the floodlighting columns would have a moderate effect on the openness of the Green Belt and accordingly this development would not support the purpose of safeguarding the countryside from encroachment. In addition, the operational development associated with the overflow car park would not maintain openness and its appearance would be distinguishable from grass when absent of parked cars and clearly would not maintain openness when in use for parking. The anticipated use on week-ends is understood to be significant and would, for those periods, be clearly outwith Green Belt policy.

185. Over and above the harm associated with the proposals being inappropriate, these elements would diminish openness. It is clearly understood that the level of openness of the current clubhouse and facilities should be taken into account and it is the Council's position that this becomes relevant within the assessment of very special circumstances. In other words as the proposed clubhouse would not be larger than the buildings currently on site this, in itself, is a neutral point at best as no additional harm would arise compared to the current position.

Other considerations and very special circumstances

186. Improved Green Belt openness. In terms of the effect on openness, the footprint and volume of the proposed building would be almost identical to those of the existing buildings, such that the overall impact of the proposal, in these terms, would be neutral. It is, however, accepted that in reaching the view that no very special circumstances exist, Council planning officers considered that greater weight should be attached to the loss of the driving range building.

187. In the light of evidence submitted within the PRAIR (Appendix 5 to CD11.01) the Council is satisfied that the proposed adjustments to site levels would be "subtle" and would have an overall neutral effect in terms of openness. Isolated examples of mounding interfering with views, as highlighted by Miss Hankinson, do not detract from such differences being minor.

188. There would be a moderate reduction in openness from the proposed floodlighting, which has been shown to encroach further to the west than any current floodlights and any proposed by the CV scheme. The parking on the overspill parking area would be much more than marginal, although it would only occur periodically. The ball stop fencing to be removed would be of greater area than that replacing it, but the permeability of such fencing is such that the impact of this reduction has been overstated by the Appellant. In the balance, and viewed separately, the openness of the site as proposed would not be such as to contribute in a meaningful and sufficient way to very special circumstances.

189. London Irish's need to relocate. The London Irish Club comprises a professional and an amateur arm, with most of the growth which is generating a "need" to relocate being as a result of the success of the amateur Club which, in recent times, has grown significantly. Indeed, since the Sports Pitch Strategy (CD15.20) in or around 2007 the number of teams has increased from 24 to the present 35 or 36. Although this growth has occurred during a period when the Club has been contemplating a move, it has operated from The Avenue site fielding a large and increasing number of teams for many years. It has a thriving Academy, is meeting its commitments to field teams and has supported a team whose performance at elite level has improved in recent times, all whilst using facilities at The Avenue.

190. The Club has chosen, within its business plan, to keep the amateur and professional arms together. The fact that almost all other clubs have taken a different course demonstrates that this option is open. Indeed, this was accepted in cross-examination by a number of the Appellant's witnesses, even if it was not the preferred option. There is no evidence that the facilities at The Avenue are such that the professional or Academy status is at risk. Indeed the very opposite is the case. The Club no longer plays first team fixtures at The Avenue and does not propose to do so at Hazelwood. It has made use of the pitches at the adjacent St Paul's College, and occasionally other facilities for training.

191. Much has been made of the business plan which responds to the needs of London Irish Holdings as a business and the need to generate revenue from the facility. This lies behind the large social and catering areas proposed and also lies behind the need to accommodate a fair number of staff on site. These needs are as much part of the business case as the sporting case. These "needs" go beyond Model Venue 3 of the RFU National Facilities Strategy and are seeking to "raise the bar" beyond existing standards in sporting terms, whilst maintaining the "ideal" solution of keeping the amateurs and the professionals together.

192. The present facilities are clearly stretched and are challenged by the demands now placed on them. They may, if the Club continues to grow, be regarded as unsustainable "in the long term", as was stated by Mr Thomas under cross-examination. Moreover, the provision of 2 or 3 rugby festivals a year may well have generated needs which the present facilities are not meeting well. Nevertheless, the needs of London Irish as a private members' club and elite rugby club are being met from the current facilities. The Club has found ways to

adapt to changes in the recent past by playing first team fixtures elsewhere. There is no evidence that this will not continue if these appeals fail.

193. The Academy is thriving and there are no action points or reservations about the state of its current facilities within the most recent external review (Doc APP/18). The professional Club is doing well, attracting top players and playing its fixtures from a prestigious venue. Within the hierarchy on page 11 of the 2008 RFU National Facilities Strategy (CD15.25) the Club is very much at the top end and as far away from "at risk" as it could be.

194. It is clear that the Club regards the position of the Council to be complacent in identifying these matters, but in terms of assessing the extent to which they amount to very special circumstances they are important. This is a Club which acknowledges it has other options but does not wish to explore them. The refusal of planning permissions may force it to re-appraise. The needs or indeed choices of London Irish are not matters which amount to very special circumstances for the reasons explored in the evidence and further set out within the evidence of Mr Job (paras 12.22-12.33 of CD17.02).

195. Lack of Alternative Sites. The Council has not sought to criticise the Appellant's site search on the basis of its expressed criteria. If there is no alternative in Spelthorne Borough other options will need to be considered. These may include the disaggregation of facilities, possibly involving the continued use of The Avenue or a further widening of the area of search, and could also include a separation between the amateur arms and the professional arms of the Club. Whilst Mr Martin and Mr Fitzgerald distanced themselves from such options they acknowledged that they were options. There is no clear evidence before the Inquiry that these matters have been fully explored in terms of financial feasibility or relocation options. This is perhaps understandable, given that the Club is "committed" to its existing plans, but if the appeals fail it may well have to explore such options more fully.

196. The established sporting and recreational use on site. The retention of a sports use at the HGC is not a matter of significance in Green Belt terms and speculation as to the future of the Club, absent the present proposal, is not considered by the Council to amount to a very special circumstance in the present case. The Council's position is that any sporting use, which itself would not amount to inappropriate development in the Green Belt, would not be opposed. Furthermore the Council relies on the views of Mr Job that Site B does not amount to land in need of rescue (see para 12.49 of CD17.02).

197. The removal of existing buildings and structures. The removal of existing buildings and structures would clearly be a consequence of the appeal proposals. However, any net improvement in visual appearance terms (as distinct from openness which is in issue) would have to be tempered by the recognition that PPG2 does not draw a distinction between new buildings on a site which already has buildings and one that does not (CD17.02 para 12 .36). Overall, however, this is not a matter that could be said to make a contribution of weight to very special circumstances being found.

198. Benefits to rugby football generally. Although maintaining and improving participation at London Irish would result in benefits for rugby union, there are significant sporting benefits under current circumstances, and these are not under any direct or immediate threat of removal. The general benefits take place

against the back-drop of a number of providers of rugby facilities within a 30 minute drive time, identified by Mr Petherick in the context of proximity of members to the current facility (CD17.21 para 2.15). This includes high level Academy facilities at Harlequins and Wasps, confirmed by Mr Petherick under cross-examination, and the many other successful clubs with decent facilities such as Teddington, identified by Mr Fitzgerald and Mr Pettifor. In other words the wider area is well provided for.

199. More immediately, Staines RFC is just across the Spelthorne border and also meets needs within the Borough. Having state of the art facilities which "raise the bar" as Mr Thomas puts it would confer some additional benefits in terms of consolidation and/or enhanced participation and retention by London Irish, but in terms of wider benefits for rugby this has been less obviously quantified. It is not considered that this is a weighty contribution to very special circumstances.

200. Benefits to the local community. It is not disputed that the appeal proposals would provide for some wider participation in rugby by the local community, in terms of use of the 3G artificial pitch and other facilities. However, in terms of the public use elements of the S106 Agreement (see para 11.3 of CD05.02) there is likely to be an overlap with current community coaching programmes. Moreover, the 3G pitch benefit needs to be seen in light of recent 3G additional capacity in Spelthorne Borough at the Matthew Arnold School in Staines. In addition, the use by schools over a 25 week period, whilst supported by a minibus subsidy, is not meeting any reported deficit for schools' rugby facilities, as opposed to junior club deficiency of London Irish itself (see the Council's Playing Pitch Strategy 2007 - CD15.20 pages 23/24).

201. A range of evidence has been submitted regarding where London Irish Club members live. At the time the matter was first put before the Council the information was that contained in paragraph 2.3 of the Sporting and Business case (CD02.03) which indicated that 65% of members were from within Spelthorne and 92% within a 15 minute drive time. Other evidence before the Inquiry does not support this position, with recent research by the Appellant showing that 69.41% of members live within the TW and KT postcode areas, or have a drive time of less than 30 minutes. Information from the RFU indicates that 49.7% live in the TW postcode area and 22.7% within KT postcodes giving a combined total of 72.4% (see para 2.15 of CD17.21 and para 5.1.3 of Doc APP/2). However, evidence submitted by LOSRA indicates a lower figure still.

202. This has all proved to be strangely impenetrable when it really should have been a relatively easy matter for the Club to provide clear information on this matter. Although the Council's Leisure Services department see benefit in the proposals, in planning terms the Council considers that the benefits do not justify the costs and harm when the wider view is taken.

203. The enhanced appearance of the site. The Council accepts that the proposed clubhouse would be more compact and more pleasing in appearance than the existing buildings, and that weight can be attached to this. However in overall landscape terms the proposals are relatively in balance and this accords with the view taken by Council officers, following the submission of further material in the PRAIR. LOSRA and the Appellant have competing views on this but it is submitted that the Council has taken the correct view of the situation, namely that the landscape of one recreational use is no better than that of another in this context (see para 12.45 of CD17.02).

204. Decontamination of the site & improved site ecology. The site is proposed to be restored in a manner that would render it safe to play rugby as this proposed use has additional requirements that are not necessary for the current golfing use. However, it has not been suggested that the site is unsafe for existing users (golfers and walkers) in its present state. Indeed the Design and Access Statement states that the levels of contamination are not high enough to result in a significant risk to health (CD07.04 Section 4.6). This is reinforced in the Non-Technical Summary of the ES, which makes it clear that extensive desk studies and intrusive ground investigations over a number of years have confirmed that contamination of the golf course is not severe (CD02.10). The claimed advantages in these circumstances are therefore not matters to which any significant weight can be attached (see para 12.47 of CD17.02).

205. Moreover, the claimed ecology advantages have been subject to some contrary ecology expert evidence from LOSRA which has been responded to by yet further adjustments to the proposals, as detailed in Document APP/5 and the Site Planting Plan No D123273/PP/001 Revision D which it contains. However, in the Council's view any level of perceived advantage in terms of the ecology interest of the site would not be such as to amount to a very special circumstance.

206. The effect on the amenities of visitors to the nearby cemetery. The noise evidence shows it likely that there would be an adverse impact on visitors to the cemetery, as a result of noise levels exceeding the WHO guideline of 55dBL_{AeqT}. The Council's consultants had identified a number of methodological errors in the original ES, which included a failure to take appropriate base-line data, under-estimated the character of the noise from rugby training and matches and failed to make any assessment of the noise impact on visitors to the cemetery (CD17.07 pages 6-7). Subsequent work has addressed those matters (albeit not satisfactorily in relation to the cemetery), but it was not an auspicious start.

207. The submitted evidence has shown that the cemetery is very well used at times when rugby matches would be played, on Saturday and Sunday afternoons (CD17.07 paras 6.13/14 and Appendices 6 and 9 to CD17.08). A number of noise predictions for various scenarios of pitch use have been agreed between the parties (see Appendix 8 to CD17.08) with Scenario 6b dealing with the period 1400hrs-1700hrs on a Saturday afternoon, when it is assumed that 2 amateur matches would be taking place at the same time as training is taking place on the 3G pitch. This level of activity is predicted to increase noise levels by 6-8dB and provide a combined noise level at the closest point in the cemetery of 56dBL_{AeqT}. At this time it has been accepted that the majority of games being played would be adult games.

208. The noise environment is one that "should reasonably possess a good degree of tranquillity, the peace and quiet advocated by the Council" as stated by the Inspector in the CV appeal (CD15.12 para 252). Noises such as shouts, whistles and cheering would be clearly audible in all parts of the cemetery and perceived as "a stream of peaks". This would introduce a new source of noise into the existing noise environment. Such impacts would be significant and have the potential to cause disturbance.

209. The Appellant's critique, presented by Mr Sharps, does not undermine these robust conclusions. Moreover, there are a number of reasons why the evidence of Mr Griffiths should be preferred. Firstly, Mr Sharps' assessment is based on a fundamental misquoting and factual error in relation to the contents of an e-mail

from a colleague of Mr Griffiths. This significant error was not erased simply because he spotted and accepted it. Furthermore, Mr Sharps' written evidence was not wholly accurate in its treatment of PPG24 and the significance of 55LAeqT in planning terms, as he misplaced the case in noise exposure category (NEC) A as opposed to category B, although he later corrected his error in oral evidence and in cross-examination.

210. Mr Sharps acknowledged the utility of the thresholds in the WHO Guidelines, but then sought to undermine the importance of crossing the threshold. Not all of that analysis was fair as it included reframing the words used in the NPL report by omitting the word "necessarily" from the passage "exceedances of the WHO guideline values do not necessarily imply significant impact" (see CD15.07 and Doc LPA/3 paras 1.14-1.15). Mr Sharps also failed to refer to relevant guidance in the WHO document, acknowledged as relevant to this site in the CV appeal (see CD15.12 and CD15.13 and also Doc LPA/3 paras 1.16-1.17). Further, he expressed views which run clearly counter to those of the Inspector in the CV case, with whom he disagreed.

211. Although Mr Sharps made reference to Ashford's Sports Club as supportive of the current proposals (CD17.16 para 5.41), he failed to make clear the very significant differences between that case and Scheme B, as detailed in paragraph 1.24 of Doc LPA/3. Furthermore, within his written evidence he provided no robust explanation for concluding that the noise emission levels at the cemetery would be a minimum of 10dB different from the levels in the CV proposal. The noise emission levels from the pitch at CV were found to be 58dBL_{AeqT} at the cemetery as opposed to 56dBL_{AeqT} in the current proposal. This is a difference of 2dB not 10dB. Moreover, this was assessed in the CV case against a background level of 52dBL_{AeqT} which amounts to a 6dB change. It is, however, accepted that the evidence presented to the CV Inspector indicated that there would be a higher emission level of 63dBL_{AeqT} from the stand, which is 7dB higher than that predicted under Scenario 6b (see Doc APP/9).

212. Mr Griffiths has made allowance within his assessment for the number of occurrences under Scenario 6b to arise 15 times a year, far more than would normally be associated with an infrequent annual or bi-annual occurrence. It would not accord with guidance in Circular 11/95 to impose a condition advising visitors not to visit the cemetery during matches, and no such approach is endorsed anywhere in PPG24 or Circular 11/95. The simple step of providing noise attenuation fencing has not been taken because the Appellant does not wish to add to the difficulties of its Green Belt case. The evidence of Mr Griffiths was that he regarded the potential for noise disturbance to be significant and that mitigation would accordingly be required.

213. The conclusion is that the proposal has the potential to cause noise disturbance to visitors to the cemetery. This is a material harm which weighs against the proposal. Moreover, given that this is an unacceptable impact which could be addressed by attenuation measures but has not been, it justifies refusal under policy EN11 of the CSPDPD (CD14.01).

Conclusion on very special circumstances

214. The LDF process has not been fully engaged in by the London Irish Club and Scheme B is without policy support. The proposal amounts to inappropriate development in the Green Belt and the harm by reason of inappropriateness and

other harm, including harm relating to noise to visitors to the cemetery, is not clearly outweighed by other considerations. There are therefore no very special circumstances to justify the development.

Conclusions and planning balance

215. Scheme A and Scheme B are put forward as a single scheme of development, incorporating "enabling development". The profit from Scheme A would be applied to the costs of Scheme B, and the facilities to be built by Scheme B would replace and improve upon those that would be lost as result of the grant of permission for Scheme A. The Council does not accept that this form of enabling development should be approved. In planning terms the relationship is tenuous and lacks proximity.

216. There is no physical connection between the 2 sites which are separate and distinct planning units. One lies within the Green Belt outside of Sunbury whilst the other is in the urban area and wholly different planning policies apply to each of the sites. Furthermore, the sites are in different ownerships, although the Appellant does have an option in relation to Site B. There are 2 separate and distinct schemes of development which are related only in the sense that one site would provide the financial subsidy for its own replacement and improvement elsewhere. The objective of enabling the development of Site B is not a stated development plan policy. The objective of using Site A as a site for redevelopment in order to fund Scheme B is not a stated development plan policy. Neither the "enabled" or the "enabling" sites are supported by the spatial vision for the area, contained within the up to date policies of the Spelthorne LDF.

217. In any case, the problems sought to be solved in the relocation of London Irish arise from the present circumstances of the owner, as an expanding rugby club, rather than from any inherent needs of The Avenue site or the Hazelwood site. The Council does not consider either Scheme A or Scheme B to be desirable development, nor does it consider that any benefits to be derived under Scheme B justify the disbenefits under Scheme B and very clearly and overwhelmingly do not justify disbenefits under Scheme A.

218. Scheme A is a proposal which is not in accordance with the development plan and other material considerations have not been shown which justify a decision other than in accordance with the development plan. The proposal under Scheme B constitutes inappropriate development in the Green Belt and harm by definition would be done to the Green Belt by way of inappropriateness. In addition there would be harm to openness and an element of encroachment into the countryside contrary to the purposes of the Green Belt. There would be further harm arising from the unmitigated noise impact on the users of the cemetery having the potential to disturb visitors particularly on a Saturday afternoon. The other considerations put forward by the Appellant do not clearly outweigh the harm identified by the Council and therefore a case of very special circumstances has not been demonstrated.

219. For all the above reasons the Council considers that both appeals should be dismissed

The Case for LOSRA

The material points were:

Appeal Site A

220. Previous Applications by the Appellant. LOSRA is a properly constituted residents' association which can legitimately claim to be a democratic voice of Lower Sunbury Residents. Together with the local community it has always enjoyed a happy relationship with London Irish although there have been moments of tension, confined exclusively to the previous development intentions within The Avenue site. Of particular significance is an application in April 1999 which included the construction of a leisure centre and 16 houses. The Spring 1999 LOSRA newsletter reported the Club as saying that without the income from the development the future of the amateur Club would be in doubt.

221. The replacement of the existing stand, clubhouse and changing rooms also formed part of this application, but following local opposition the housing element was withdrawn and a further application submitted in the Autumn of 1999. After the sale of the land for the development of the VAHC, (which was constructed in 2002) a further application was made to retain the stand, and the replacement clubhouse and changing rooms did not proceed. The search for alternative premises for London Irish actively began in 2001, but it is unclear when it was first realised that there was a need for expansion. None of the Appellant's witnesses were able to provide clarity on this point. The question therefore remains open as to whether there was an interval between the decision to sell part of their land for development and London Irish's realisation that the remaining open space would be insufficient for their future requirements.

222. LOSRA has remained largely silent about the Appeal A proposal at this Inquiry but nevertheless supports the Council in its opposition to the proposals for The Avenue, especially with regard to the viability of the proposed Health Centre. In contrast to the Council, however, LOSRA has serious concerns about the implications for traffic and transport, as detailed below.

223. Traffic and Transport. Although the Appellant maintains that traffic queuing in the morning peak periods is a fact of life, this does not make it acceptable, nor does it mean the prospect of a further increase in traffic density should be simply accepted. Evidence from Mr Tanna-White, a long term resident of The Avenue, has detailed the daily effect of traffic congestion backing up from Sunbury Cross, along the Staines Road East (the A308) and the resultant queuing in The Avenue.

224. LOSRA has surveyed traffic flows from The Avenue into Staines Road East and considers that the proposed changes to the layout of the junction would do nothing to alleviate the increased traffic volumes which would inevitably result from the development. No evidence was submitted to rebut the LOSRA survey which showed that fewer than 1 in 33 vehicles turn right from The Avenue into Staines Road East. The proposed right turn pocket in The Avenue was only introduced following Highway Authority objections to the installation of traffic signals on the A308 and it is questionable, therefore, whether the currently proposed solution is nothing more than a fudged compromise.

225. Further concerns have been raised in writing by Mr Sexton, covering such matters as the impact of development-related traffic on the existing traffic situation; the

proposed Travel Plans; parking provision on site; access to the appeal site itself and the proposed health centre; compliance of the proposals with the Disability Discrimination Act 1995 DDA); and access to public transport facilities. On this latter point the Appellant contends that the Public Transport Accessibility Levels (PTALs) are not applicable as the area does not fall within Greater London. Whilst this is true, no convincing evidence has been submitted to suggest that access to public transport is therefore adequate. Significantly the Appellant provides no evidence that the capacity of existing bus services would be capable of accommodating an increased number of passengers should the optimistic predictions be realised. In view of all these points the proposal should be considered to be contrary to Policy CC2 (Sustainable Travel) of the CSPDPD.

Appeal Site B

226. Landscape. The Planning Committee was unanimous in its refusal on grounds of loss of an attractive landscape when the application was first considered, but agreed not to proceed with this reason following the submission of the PRAIR. However, LOSRA utterly rejects the submission, made in the PRAIR, that CSPDPD policy SP6c is not applicable to Hazelwood because the site is not an "area of landscape value". LOSRA maintains that this reason for refusal is still valid, and Mr Watts put this case with the authority of a long term resident and represented the views of the community. By contrast Miss Hankinson for the Appellant provided a clinical and highly academic analysis, arguing for a change back to a rectilinear landscape of yesteryear. However, Vicarage Farm, which lies to the south of the golf course, is the only remaining example of rectilinear landscape in the immediate vicinity and is therefore atypical, not typical as she implies.

227. Miss Hankinson referred to The Countryside Agency's Landscape Character Assessment Guidance for England and Wales (CD15.04), but not to paragraphs 2.11–2.13 dealing with "The Role of Objectivity and Subjectivity". These make it clear that there is an element of subjectivity involved in assessing landscape character and value and that there is scope for a wide range of stakeholders to contribute to this characterisation. This evidence was provided by Mr Watts, and was not rebutted. LOSRA does not share the Appellant's view that the Hazelwood site at present scores poorly against Natural England's landscape quality and value criteria. It should be noted that Miss Hankinson has not assessed the proposed use against these criteria. Had she done so LOSRA maintains that the rugby pitches would score considerably lower than the existing use.

228. The designer of the golf course talks about the "enhancement of the landscape" and describes the landscape concept as being "that which is typical in the Thames Valley – grassland interspersed with copses of indigenous trees and attractive areas of seed head rough. Plant species within the landscape design were carefully selected in close liaison with the conservation Department of the Local Authority and Wildlife Trust" (see Appendix 4, Item 1 to CD17.33). The Appellant takes no issue with this description.

229. Miss Hankinson's view that the site may appear acceptable, but in practice is not, is that of an academic viewing the site from within the narrow confines of her discipline. This approach was also evident in her comments regarding the footpath which crosses the site. Local residents value its informal and open character, but her view was simply that the footpath would revert to what it had been when it probably ran along a hedgerow dividing fields. She had to accept that her research had not extended to users of the footpath, but instead had relied on the

consultation exercise carried out by the Appellant. However, there is no evidence from the details of the public consultation that residents' views of this footpath were specifically addressed.

230. In contrast to the Appellant's view, LOSRA contends that the Golf Course succeeds as a physical and visual environment and as a habitat, despite the technically poor way it was treated. As such it is not a "poor quality environment". Moreover, although it is acknowledged that the site would retain a large-scale, green recreational character, golf and rugby are very different uses in the context of the character of the area. Golf has an informal, semi-rural character, while rugby has a regimented, formal, more suburban character, inconsistent with its surroundings.

231. Finally, Miss Hankinson states that the existing form of development on the Hazelwood site is visually unremarkable, and considers that the development's permanent restoration of the inherent quality of all open land of the site would be a substantial benefit. Mr Watts, an Oxford geography graduate representing the views of a community of residents who have frequent, sometimes daily access to the site could not disagree more. LOSRA maintains that the Appeal B proposal fails to satisfy the requirements of policy SP6(c) of the CSPDPD.

232. Viability of Golf Course. On this matter 2 quite different viewpoints were put to the inquiry. The first was given by the LOSRA witness, Mr Tom O'Keefe, a 30% shareholder in the golf club and a member of the Professional Golfers Association (PGA) who has had a career in golf course management spanning 28 years. For the last 5 years Mr O'Keefe has been employed in the production of financial viability, performance, operation and business plans for 9 different golf courses in the South East of England. He has made offers in the past to purchase the golf club from the other shareholders but these offers have not been accepted (see CD17.32 paras 5.4-5.8). He also told the Inquiry that in the event of this appeal succeeding he, as a 30% shareholder in the Company, would still be a winner but that his preference would be to see the Golf Course realise its full potential now and into the future.

233. Mr O'Keefe put forward alternative figures to those submitted by the Appellant and maintained that current problems with the state of the golf course are attributable to the way in which the existing directors have managed the facilities (see CD17.32-17.33). Indeed 2 of the photographs produced by the Appellant, which illustrated lack of simple and inexpensive remediation solutions, served only to reinforce this point. Competing national and regional trends in sports participation, for golf and rugby, were presented at the Inquiry but none of these statistics are specific to the Hazelwood site. In addition, the Appellant has referred to increased local competition but there have been no new golf facilities built in the local area. The golf course and driving range at the David Lloyd Centre at Hampton closed down in 2003 and the revised layout course re-opened in May 2004 but the driving range disappeared. Overall there has therefore been an actual net decrease in competition locally.

234. The second viewpoint came from the Appellant's witness, Mr Petherick, who stated that he has been involved in viability studies at some 50-100 golf courses in total, although it is not unreasonable to have expected a more precise figure than to the nearest 50 to have been forthcoming. It would also have been reasonable to have expected this breadth of golf expertise to have been reflected in the very full introductory paragraphs to his proof of evidence, particularly given its relevance to

this Inquiry. The fact that it is not is a conspicuous omission and calls into question his overall grasp of the subject matter.

235. Most significantly, the inquiry heard no direct evidence from the current directors of HGC, Messrs Higgs and Catley-Smith. Mr Petherick referred to some 20–25 meetings he has had with these current directors and indicated that from early on in their dealings he had become aware of the hostility that exists between them and Mr O'Keefe. Mr Petherick acknowledged that the current directors may have given him other than impartial advice and that he has no first hand experience from which to draw, not having joined the Club nor paid for a professional session. Since much of his evidence has been obtained from these current and conspicuously absent directors, its reliability and therefore the weight which should be attached to it must be questioned.

236. The Council's Leisure Services came to a premature view as to the future viability of the Golf Course based entirely on Mr Petherick's evidence and a supporting, though now discredited letter from the Surrey Golf Partnership (see Doc IP/7). If the Council been made aware of the views of the PGA, the Surrey Ladies' County Golf Association, the Director of Golf Development R&A, and the revised position of Surrey Golf; the views of the previous Managing Director, Mr O'Keefe, and the true geographic membership profile of London Irish, it would undoubtedly have come to a very different conclusion.

237. Mr Pettifor pointed out that the golf facility is open 14 hours per day during the week and 12–13 hours per day at weekends. This equates to over 4,750 hours per year, whereas the current proposal for 1,975 hours of community use of the proposed rugby pitches represents about 40% of that total. LOSRA maintains that the evidence put before the Inquiry substantially proves that the proposal for Site B would result in the loss of a recreational/community facility. This would be contrary to Policies CO1(c) and EN4(d)(i) of the CSPDPD.

238. Relocation of rugby at Hazelwood. LOSRA is unclear of the precise composition and number of amateur teams that London Irish claim to have. The Hazelwood SoCG (CD05.02) states that the Club regularly fields in excess of 30 teams, but if Professional, Academy and Apprentice teams are deducted from the stated figures it still leaves 31 teams from amateur men and ladies to U7 boys. Mr Fitzgerald mentioned 2 under-19 teams which do not feature in the SoCG, and an email from the Fixtures Secretary (CD17.33, App 6, Item 4) reveals that there is no under-18 team, and only 1under-17 team, 1 under-16 team and 1 under-15 team. In other words 4 fewer than those quoted in the SoCG or by Mr Fitzgerald.

239. As to pitch usage, on Mr Fitzgerald's evidence the amateur Club play 10 home matches requiring adult pitches at weekends. He stated that as few as 5 fixtures throughout the year would take place on a Friday nights, but this is in direct contrast to Mr Petherick's evidence which claimed that matches on Fridays would be played as a matter of course. No clear explanation was given as to how the 10 matches could be accommodated on Saturday and Sunday, with only 7 adult pitch uses identified over the weekend, thus leaving 3 unaccounted for (see Doc LOSRA/13). If the noise scenarios are to have any relevance, the congested fixture list for a weekend would require matches to be played off-site, thus negating the reason for moving from the Club's existing facility at The Avenue.

240. Temporary spectator stands have been a regular feature at The Avenue, and it was clear from the evidence of the Chairman of the RFU, that he expected these to

have featured in the appeal proposals. Such stands or temporary terraces may be erected without planning permission for a period of 28 days and the Appellant's noise expert agreed that spectators on stands would create a greater noise environment than those which had been measured hitherto.

241. The pitch use scenarios developed by Mr Petherick for the measurement of noise have not taken into consideration the 3 unaccounted for matches referred to above, nor have they conceded the possibility of the erection of temporary stands. This points to the need for a condition to control the possible use of temporary stands, if planning permission is granted, to ensure that the noise scenarios tested remain valid. If the noise scenarios are themselves unrealistic, then it must be concluded that 'harm' under the very special circumstances test of PPG2 has not been outweighed by other considerations and that the requirements of PPG2 have therefore not been satisfied.

242. London Irish Membership. Despite the presentation of various statistics which attempt to portray the Club's membership as being local, research by LOSRA via access to, and analysis of, the Rugby First database has indicated that only 21% of members may actually be described as "local". Neither the letter from Simon Winman of the RFU, presented in rebuttal evidence by Mr Petherick (Appendix 4 to Doc APP/2), nor any other evidence submitted, disproves the content of the letter provided to LOSRA by Mr Rob Drinkwater, then an RFU employee (see (CD17.33, App 6, Item 1). No satisfactory explanation has been given to explain why the same analytical exercise was not carried out by the Appellant, especially as the Chairman of the RFU confirmed that such analysis would be possible. The importance of sports facilities to the "local" area is alluded to by the Secretary of State following the CV appeal at this site (CD15.13).

243. Facilities for Schools. A significant majority of schools in the Borough would not use the proposed facilities (CD17.32), with only one school citing transport difficulties as the reason for not so doing. The schools might prefer to use afternoon and after school slots rather than morning slots (Doc APP/2, para 5.6), but there is no evidence that they actually intend to use the facilities. More weight should therefore be given to LOSRA's later schools survey (Items 5-6 of Appendix 6 in CD17.33).

244. Similarly the letter from Bishop Wand School (see Document APP/2), gives no clear indication of the possible take-up of London Irish facilities by schools in Spelthorne. The Appellant admitted that none of the 36 schools in the Borough had been contacted to discover their intentions first hand, apart from Bishop Wand, and the absence of any evidence of likely schools' involvement fails to satisfy the requirements of CSPDPD policy EN4(d)(ii).

245. Alternative Site Searches. The Appellant needs to satisfy the Secretary of State that a thorough and detailed alternative site search has been carried out. Should the criteria for that search change, then another search based on the new criteria would be required. LOSRA does not share the Appellant's view that once the option deposit was paid on the Hazelwood site in November 2008, it was unreasonable to expect the alternative site search to continue.

246. LOSRA's evidence, provided by Mr Pettifor, clearly indicates that different criteria have been applied throughout the site search process. For example, the site search information indicates that when Concorde Centre was being assessed, the need to accommodate a stadium was clearly part of the requirement. Similarly,

when a location at Kempton Park was being considered in 2006 it is apparent that re-location of the entire professional enterprise was being considered, together with a stadium and 5,500sqm of land. This is quite different to what was being sought at the time Hazelwood was identified as the site of choice.

247. Mr Petherick submitted a note of a meeting held in December 2005 between, amongst others, the Head of Development Control for Spelthorne Borough Council and London Irish executives (App 5 to Doc APP/2). A number of sites were identified by the Council as possibilities for re-location, but apart from Kempton Park, these further sites do not appear to have been captured in the alternative site search. In view of these points it is submitted that the test of "very special circumstances", required by PPG2, has not been satisfied in respect of the alternative site search.

248. Overall Conclusion. LOSRA wishes to point out that it enjoys rugby at The Avenue and also enjoys golf at Hazelwood; and that for the residents, Lower Sunbury is also their spiritual home.

The Case for Interested Persons Opposing the Proposals

The material points were:

249. **Mr Alan Pascoe,** a resident of Sunbury for over 30 years who has worked in the whole spectrum of sport, from the very top level to grass-roots programmes. Formerly a teacher & lecturer in Physical Education he has represented Great Britain in 3 Olympic Games and Captained the Great Britain Team. He was subsequently a broadcaster in sport and has headed the UK's leading Sports and Events Agency for over 25 years. He was the Vice Chair of London's successful bid for the Olympic and Paralympic Games and is a keen supporter of Rugby Sevens' inclusion in the Olympics. He has been involved with rugby at all levels and also created and launched the county's leading junior golf competition.

250. Currently Sunbury has 2 green spaces available for youngsters to play golf and rugby, but the London Irish proposals would not contribute to the aim of seeing more sport and similar activity as they would result in these 2 large recreational spaces being reduced to just one. Not long ago the Club sold off 2 or 3 playing pitches at The Avenue to allow the VAHC to be established, justifying this by stating that it could organise its operations without that land. This was generally supported as it resulted in an indoor multi-purpose facility available to all, but the Club now claims to need more space. The currently proposed development is nothing more than commercial property deal, run by a commercial operator who is using sport to a commercial end.

251. Only 4 sports have marginally increased their level of participation in recent years, and whilst the London Irish proposals would increase facilities for rugby they would wipe out another sports facility in doing so. Sporting success depends on access, and increasingly for young people there is a need for very local access. If these appeals succeed the only legacy would be an over-crowded residential development. This would be irresponsible for future generations.

252. Finally it should be remembered that in traffic terms Sunbury is an island with the river to the south meaning there are exits in only 3 directions. To the west traffic queues to get on to the roundabout with most of the traffic going over the restricted width of Walton Bridge; to the north traffic regularly becomes gridlocked, as a result

of the roundabout underneath Junction 1 of the M3; and to the east the queues going to Hampton, via the waterworks traffic lights are interminable.

253. An increased number of cars from the proposed development would regularly bring Sunbury to a complete standstill and further reduce air quality and the overall quality of life. If the London Irish plans are allowed to proceed they would put other people off from using other facilities in the town, such as the arts centre and other sports and recreation facilities. In addition the extent of the proposed development would create massive pressure on utilities, particularly the water and sewer system. In summary, for the sake of the young people in the town and the general quality of life, these appeals should be dismissed.

254. **Mrs Judith Perry**, a local resident from the Grange Farm Estate which abuts Hazelwood Golf Course. Grange Farm Estate is marked as a "Caravan Site" on old maps, but it has evolved into a permanent community of semi-retired/retired home owners. The shadow of London Irish now looms large over this peaceful, caring community and the surrounding area. Whilst it is acknowledged that London Irish have a presence in Sunbury this pales into insignificance when compared with the long-term input of Grange Farm residents, many of whom have made a significant contribution to the welfare of others in the local area.

255. The Appeal B proposal would result in considerable and prolonged disruption during the building works, and residents would suffer from extra traffic, lighting and noise pollution. In addition the prospect of hugely increased foot and bicycle traffic from rugby players, on the public right of way which crosses the golf club, would disturb the vulnerable, frail, elderly residents, especially at weekends. Furthermore, gardens and fields in the locality have suffered severe and prolonged flooding in recent years when the water table became abnormally high. Any disturbance to the toxic waste which lies beneath Hazelwood, caused by soil re-distribution, could have dire consequences for the Grange Farm Estate residents. Residents are also concerned regarding potential contamination of the pure water aquifer running under the Golf Course.

256. Local residents assert their Human Rights to the peace and quiet enjoyment of their homes and families which would be severely compromised if this development went ahead. The development would bring little discernible benefit to local people or the local area. The local community would not only lose a valued golfing facility but the land in question is also used by school children on nature trips, dog-walkers, ramblers and the elderly. In addition, disabled people and youngsters use this safe, traffic-free route between Upper Halliford and Shepperton to walk or cycle to Sunbury schools, shops and the Doctor. This wholly inappropriate proposal for Green Belt Land should be rejected.

257. **Mr Ian Robinson** a local resident who has lived in Sunbury since 1961. Over the years there has been continuous excessive development in the town and the London Irish proposals would more than double the population of The Avenue and would make life in Lower Sunbury intolerable. The proposal should be refused outright. The Highways Agency never seems to object to any local development proposals, but use of The Avenue is already extremely difficult due to the high density of traffic and parked cars. Local residents have sympathy with the current parlous finances of London Irish and do not want them to leave Sunbury, as they bring healthy sport to local youngsters. The Club is urged to use computer modelling to optimise utilisation of their existing facilities.

258. **Mr Gerry Cook** a local Sunbury resident for 35 years who lives not far from the London Irish ground. Whilst supportive of LOSRA and others who oppose the London Irish proposals, the views he expresses are his own, although he is sure that they are shared by a great many of the people of Lower Sunbury. A great deal of technical argument has been presented at the inquiry, but there are other important matters which need to be highlighted.

259. These proposals have nothing to do with the amateur Club or the "London Irish Family". London Irish Holdings Limited is more than 90% owned by a small group of Irish businessmen who would like to take advantage of an attractive opportunity. The Avenue site is valued by the District Valuer at around £15 million. In reality it might well be nearer £20 million. If houses are built on the site it could be worth about £80 million. However, the key issue is not The Avenue, but rather the Hazelwood site, where the kind of facility that is being proposed would probably be the biggest rugby complex in Europe, if not the world. London Irish Holdings Limited seeks to realise the maximum value from The Avenue site and also obtain a valuable stretch of Green Belt.

260. Green Belt land is diligently protected at present, but before the recession builders and developers were trying to get Green Belt protection relaxed. Eventually, maybe in 10 years or so, given enough lobbying and a government whose sympathies lean more towards business than the environment, Green Belt protection will soften and give way. That would be about the time that London Irish's contract to provide facilities for the amateur Club runs out. With the potential value of the Hazelwood site and the money made from The Avenue site, London Irish Holdings Limited can afford to wait.

261. However it may only be a year or so before London Irish decide that they do not really need all this land for rugby. After all, it is not a particularly good piece of Green Belt, just a lot of unsightly, overgrown pitches that are not worth protecting. Perhaps they would try a speculative planning application and chip away with successive applications until the Council's resolve dissolves and 'objection fatigue' sets in. Whilst these suspected motives may not be relevant in a strict planning sense, they are very relevant to the people of Sunbury who fear that the situation outlined above will become a reality. This is why it was felt important that this widely-held opinion got into the public domain at this time. For all the above reasons these appeals should be dismissed.

Written Representations

262. Just over 200 separate representations were submitted at appeal stage and can be seen at Document IP/7. All but 9 of these oppose one or both of the appeal proposals. The written representations add no materially different points to those raised by the Council, LOSRA and the interested persons who spoke at the inquiry. All other areas of concern are addressed either by the obligations in the S106 Agreements or by the suggested conditions, detailed below.

263. In addition, one of the intended witnesses for LOSRA, Mr Mark Sexton, was unable to attend the inquiry to present his written proof of evidence. This evidence, which I therefore treated as a written submission, can be found within CD17.31 to CD17.33. It should also be noted that a response from the Appellant to many of the matters raised by Mr Sexton can be found within the rebuttal evidence of Mr Tricker (Doc APP/1).

Conditions

264. Two separate schedules of conditions (26 for Appeal A and 31 for Appeal B), agreed between the Council and the Appellant as necessary to be imposed should planning permission be granted for one or both of these proposals, are set out at Appendix C. Reasons are given as to why each condition is considered necessary. Conditions 12, 13 and 14 suggested for Appeal A and conditions 10 and 11 for Appeal B are all Grampian style conditions, relating to off-site highway works, which would be secured through Agreements made under Section 278 of the Highways Act 1980, as detailed in the respective Highways SoCG (CD10.05 and CD05.03. All the suggested conditions accord with guidance in Circular 11/95.

265. In addition, LOSRA was of the view that if planning permission is granted for Scheme B, it would be necessary to impose an additional condition controlling the erection of any temporary spectator stands, to ensure that the noise scenarios remain relevant and valid. The Appellant questioned whether such a condition would be strictly necessary, but did not oppose its imposition.

Planning Obligations

266. As noted in the opening section of this Report, a number of the Council's original reasons for refusal were considered capable of being addressed by appropriate legal agreements. To this end a completed S106 Agreement, made between the Appellant, SCC as local Highway Authority and Education Authority, and a number of other parties (see Doc JNT/3 for full details), was submitted to the inquiry. This Agreement addresses such matters as highways provisions, an education contribution and the Travel Plans, with respect to both sites. Draft Heads of Terms were set out in the respective SoCG (CD05.02 & CD10.04), but in brief this Agreement's obligations cover the following (with all payments being index-linked):

    i. Prior to the commencement of Scheme A, the Appellant will pay The Avenue Highways Contribution (£75,000) to SCC;

    ii. Prior to the commencement of Scheme B, the Appellant will pay the Hazelwood Footpath Contribution (£40,000) and the Hazelwood Highways Contribution (£10,000) to SCC;

    iii. Prior to the commencement of Scheme A the Appellant will pay £200,000 of the Education Contribution to SCC; further elements of the Education Contribution will be paid prior to the 50th residential unit being occupied (£200,000) and the 100th residential unit being occupied (£200,000). The remainder of the Education Contribution (£38,392) will be paid to SCC prior to the 150th residential unit being occupied.

    iv. Prior to the commencement of Scheme A, the Appellant will pay The Avenue Travel Plan Auditing Fee (£6,150) to SCC;

    v. Prior to the commencement of Scheme B, the Appellant will pay the Hazelwood Travel Plan Auditing Fee (£6,150) to SCC;

267. A second S106 Agreement was submitted to deal with matters falling within the responsibilities of the Council, such as the provision of affordable housing and public open space; community use of the Appeal B development; and the linking of Scheme A and Scheme B. This Agreement can be found at Document JNT/4. In brief its obligations cover the following (with all contributions being index-linked):

i. The provision of Affordable Housing Units, comprising a mix of Affordable Social Rented Units and Affordable Shared Ownership Units to a total aggregate floorspace size not exceeding 1,140sqm (measured on a GIA basis). Expressing the affordable housing provision in this way would allow the Council to have some flexibility in the manner of provision, but in terms of numbers of units, the offer put forward in evidence by Mr Edge for the Appellant amounted to 8 No 1-bed flats at 49sqm each and 11 No 2-bed flats at 68sqm each. These 19 units equate to some 10% of the total proposed housing provision of 194 dwellings.

ii. A commitment to not carry out any development pursuant to a permission for Scheme A unless and until all the buildings and facilities authorised by any planning permission in respect of Scheme B have been brought into use and become operational;

iii. The payment to the Council of the MUGA Contribution (£50,000) prior to the 50th residential unit being occupied;

iv. Provisions for the Council to approve a scheme for the laying out and landscaping of the Public Open Space (including the LEAP), and for the subsequent transfer of the Public Open Space to the Council, if the Council so requires, together with the payment to the Council of a Play Equipment Maintenance Contribution (£14,000) and a Public Open Space Maintenance Contribution (£35,290);

v. Arrangements to make the Scheme B development available for use for sporting purposes by members of the public (including local schools) for an agreed number of Public Access Hours[6], together with the payment to the Council of £50,000 towards the cost of transporting children to and from schools within the area;

vi. Prior to the occupation of Site A, the Appellant will pay to the Council the sum of £5,214.10, to be used as a contribution to one or more projects within the Council's Air Quality Action Plan.

268. Should planning permission be granted the Council considers that these Agreements would make proper provision for planning contributions arising from the appeal developments and meet the requirements of Circular 05/2005 and Regulation 122 of the CIL Regulations (CD12.17).

[6] "Public Access Hours" are detailed in Appendix 1 of the S106 Agreement with the Council (Doc JNT/4). They amount to the following:

a. the provision of the floodlit 3G artificial grass pitch for community use on a "pay and-play"/club-booking basis for not less than 20 hours per week;

b. the provision of natural turf pitches and the 3G pitch for the use of local schools, as part of the London Irish proposed "Community Programme", for up to 27 hours per week over 25 weeks;

c. community coaching sessions on natural turf pitches and the 3G pitch and an increase in rugby coaching courses during holidays and out-of-school periods for children and young people living within Spelthorne, again as part of the London Irish proposed "Community Programme", for a minimum of 10 hours per week in term-time and an additional 10 hours per week for at least 6 weeks in the school holidays; and

d. during summer months, the Club would make the 3G pitch available for use by community groups and would also allow parts of the site to be used for the playing of Gaelic Football.

Conclusions[7]

269. The Council originally refused planning permission for Scheme A for 9 reasons [2] and for Scheme B for 3 reasons [2]. However, following further investigations and discussions with the Appellant, and a reconsideration of the proposals by the Planning Committee, the Council accepted that a number of its concerns could be addressed by means of appropriate planning obligations and conditions [3]. Two S106 Agreements were subsequently submitted and 2 sets of planning conditions were discussed at the inquiry and were agreed between the main parties [264-267]. Accordingly, at the inquiry the Council only maintained 4 reasons for refusal for Scheme A and 2 for Scheme B [3,4].

270. I have therefore concluded that the main considerations in **Appeal A** are:

    i. The effect of the proposal on existing protected open space within the urban area;
    ii. The effect of the proposal on outdoor sports facilities;
    iii. Whether the proposal provides an adequate justification in terms of housing need and current planned housing provision to set aside the Council's policy to protect existing sports facilities and protected urban open space;
    iv. Whether the proposal would provide an adequate amount of affordable housing;

    Whilst for **Appeal B** the main considerations are:

    i. Whether some elements of the proposal would constitute inappropriate development for the purposes of PPG2 and development plan policy;
    ii. The effect of the proposed development on the openness and the visual amenities of the Green Belt;
    iii. The effect of the proposed development on the amenities of visitors to the adjacent cemetery, with particular reference to noise;
    iv. If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

271. It is a fundamental plank of the Appellant's case that these 2 proposals are inextricably linked, with the proceeds from the proposed redevelopment of the Club's existing training ground at The Avenue being needed to "enable" the Club to develop the HGC site into a new training ground and rugby "Centre of Excellence" [40]. To a large extent, therefore, the linkage between these 2 proposals is financial and I discuss this "enabling" aspect of the proposals later in my Conclusions.

272. However, there is also a functional linkage as, put simply, the combined effect of these proposals would be to reduce 2 existing sporting facilities to one. The loss of the sporting facility at The Avenue falls to be considered under policy EN4 of the CSPDPD, but a key part of the Appellant's case is that the proposal should not be seen as at odds with this policy as the current use of The Avenue would transfer to the Hazelwood site to produce a facility that would provide greater value in terms of quantity, quality and accessibility [53]. If these points hold, it is clear that the

[7] References in superscript square brackets are to preceding paragraphs in this Report, upon which my conclusions draw.

acceptability of the Appeal B proposal needs to be assessed first. However, it is also clear that benefits and disbenefits arising from one proposal are also relevant in the assessment of the other proposal. In turn this means that a full conclusion cannot be reached on one appeal until the implications of the assessment of the second appeal have also been considered.

273. Some form of iterative process is therefore necessary. Accordingly I have undertaken an assessment of the Appeal B proposal first, considering this proposal more or less "in isolation", and reaching a preliminary conclusion. I have then undertaken a similar assessment of the Appeal A proposal, before re-visiting each preliminary conclusion in the light of the benefits and/or disbenefits arising from the other scheme. This has enabled me to reach final conclusions on each proposal which form the basis of my recommendation.

274. I turn therefore, to the considerations relevant to Scheme B, set out in paragraph 270 above.

Appeal B

Whether some elements of the proposal would constitute inappropriate development for the purposes of PPG2 and development plan policy

275. Paragraph 3.1 of PPG2 states that the general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them [60,180]. That said, paragraph 1.6 of PPG2 makes it clear that once Green Belts have been defined, the use of land within them has a positive role to play in fulfilling a number of objectives, including to provide opportunities for outdoor sport and outdoor recreation near urban areas. As with the current golf use, the use of Site B for the playing of rugby would not be at odds with this Green Belt objective. This is common ground between the main parties [59,168].

276. It is, however, primarily with regard to the proposed buildings sought to support the proposed rugby use that the views of the parties differ [39,69,166-176]. Paragraph 3.4 of PPG2 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of a number of specified purposes. These include essential facilities for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it, such as outdoor sport and outdoor recreation. Further clarification is provided in paragraph 3.5 which explains that possible examples of "essential facilities" include small changing rooms or unobtrusive spectator accommodation for outdoor sport [59,63,65,73,117,167].

277. In terms of national planning guidance, PPG17 is also of assistance, with paragraph 30 indicating that planning permission should be granted in Green Belts for proposals to establish or to modernise essential facilities for outdoor sport and recreation where the openness of the Green Belt is maintained [167]. It goes on to state that development should be the minimum necessary and non-essential facilities (eg additional function rooms or indoor leisure) should be treated as inappropriate development [167]. At the local level, saved policy GB1 from the Spelthorne Borough Local Plan 2001 echoes PPG2 guidance, and adds no further matters of relevance to this appeal [180].

278. There are already a number of buildings on the site, serving the current golf club use. The most substantial of these, located at the eastern end of the site, is a largely single-storey clubhouse containing a bar/lounge, store, ancillary uses such

as offices, kitchen, toilets, meeting room and a golf shop. A permanent marquee structure, which is used as a function room seating up to 120 people is attached to and accessible from within this main building [14]. Many of these facilities do not appear to be essential to the playing of outdoor sport. There is also a fairly substantial, brick-built green keeper's store/maintenance shed and service yard which lies close to the clubhouse, to its south-east. In addition a further building, some 125 metres long, containing covered, open-fronted booths, runs east/west to the west of the main building serving a grassed driving range [15].

279. Under the Appeal B proposal, all of these existing buildings would be demolished and replaced with a single, rectangular, single-storey building with a slightly smaller footprint than the total for the existing buildings [30]. It would be more compact in form than the existing buildings, and this has implications for openness, a matter which I discuss in more detail under the second main consideration, below. However, the issue of inappropriateness is separate to any considerations of openness or visual amenity, and in both PPG2 and PPG17 terms it hinges on whether or not the facilities to be provided can rightly be considered as essential for outdoor sport or recreation [59,167].

280. Some elements of the proposal clearly fall squarely within this "essential" category, such as changing and showering facilities. Storage for sporting equipment and facilities for a groundsman and grounds maintenance equipment could also be considered as essential for the playing of outdoor sport. However, many of the other facilities, such as gymnasia, medical and physiotherapy areas, bars, dining and function areas, and meeting rooms, offices, study areas and a retail area cannot be considered as essential for outdoor sport or recreation, even though they may be seen as necessary components of a rugby Academy, a RFU Model Venue 3 or a sporting "Centre of Excellence" [64,173].

281. It is this latter point which, in effect, highlights the difference between the main parties. Understandably, the Appellant is seeking the range of facilities which it considers necessary to provide for its whole operation and existence as a joint professional/amateur rugby club. Indeed in closing submissions for the Appellant it was stated that the clubhouse would be the headquarters and flagship of the Club [73]. It is clear that such a Club and such an operation would need administrative facilities to deal with promotional and business aspects and that if players, coaches, Academy attendees, and administrative staff would need to be on site throughout the day, then it is also understandable that catering, meeting and relaxation areas would also be necessary [45,63]. However, these facilities go well beyond what could be considered as essential to the playing of sport in PPG2 and PPG17 terms [169,175].

282. In this regard I have noted the assessment and findings of Mr Eady, the independent sports consultant commissioned by the Council to assess the Appeal B proposal [63]. Mr Eady supported the Appellant's case, commenting that in his view the facilities cited would be essential for the sustainability of a Premiership rugby club and that catering, community/social areas and function rooms would be essential to the sustainability of any club. Overall he reached the conclusion that the proposal being put forward by London Irish RFC was strong and justified [63]. However, whilst these comments cannot be disputed, it is of note that none of the 7 points that his Report seeks to address, set out on its first page, include any reference to PPG2 or indeed the Green Belt.

283. The Report does state that the key question to which the Council requires a response is whether the scale of facilities proposed is essential in the Green Belt, but there is no reference within the Report to PPG2 or PPG17. It is therefore difficult to say with any certainty whether Mr Eady's conclusions took such national planning guidance into account. As noted by the Council, the questions postulated and addressed in the Report appear to be aimed at determining whether the facilities proposed are necessary to meet a given standard (Sport England Guidance and the RFU Facilities Strategy), as opposed to meeting the PPG2 test [171]. This may well be the reason why the Council did not rely on Mr Eady's Report and did not call him as a witness, but rather presented evidence on this matter through Mr Job.

284. As a result, I take the view that the elements detailed in paragraph 280 above do not conform to national guidance in PPG2 and PPG17 and therefore constitute inappropriate development. This view is supported by other evidence put to the inquiry, notably the Sport England publication "Sport in the Green Belt", referred to by the Council [172]. This details an example where staff facilities and meeting rooms were found to be inappropriate despite the claim being made that they were required in order to enable the club in question to survive and operate efficiently. Moreover, the Inspector who considered the CV appeal, for a larger proposal on this same Hazelwood site, also concluded that many of the facilities proposed in that case, such as gymnasium, hydrotherapy pool, classrooms, administrative offices and canteen, were inappropriate in Green Belt terms [172].

285. The Council maintains that the proposed ball-stop fencing and floodlighting should also be seen as inappropriate development [61,166]. The definition of a "building", in Section 336 of the Town and Country Planning Act, includes any structure or erection and this fencing and the 12 proposed floodlights therefore need to be assessed against paragraph 3.4 of PPG2. The fact that ball-stop fencing already exists on the golf course, most noticeably around the driving range [15], cannot be taken to demonstrate acceptability in Green Belt terms, although it does provide some weight in the proposal's favour, as I detail later in these Conclusions.

286. The Appellant argues that ball-stop fencing is necessary for reasons of safety and convenience, and to take the site to the required category [67], but has separately taken the view that the provision of such fencing should be regarded as preferable rather than strictly necessary [177]. It is clearly the case that rugby can be played without such fencing, as is evidenced by the fact that none exists at the Club's current training ground at The Avenue. In view of these points it cannot be said that ball-stop fencing is an essential facility for outdoor sport and recreation. It therefore has to be considered as inappropriate development in this case.

287. For similar reasons the proposed floodlighting columns also have to be seen as inappropriate development as there is no dispute that outdoor sport can be played without floodlighting. That said, it is self-evident that the presence of floodlighting would extend the periods in which sport could be played, and I acknowledge that floodlighting has been considered acceptable at a number of other Green Belt locations, as evidenced by details submitted to the inquiry [67,74]. However, the presence of such structures in Green Belt locations does not point to their inherent acceptability in such locations, but rather that they have been considered acceptable as part of the overall balancing exercise which will have to have been undertaken for these other schemes.

288. In Scheme B a total of 12 columns are proposed, each 15m high, with 3 located either side of pitches 1-3, the closest pitches to the proposed clubhouse [32]. Six of these floodlights would, in general terms, lie within the area currently used for the golf driving range, whilst the remaining 6 would extend further to the west, into the more open area of the site [75]. The impact of these proposed floodlighting columns on the purposes of including land within Green Belts is explored under the next main consideration.

289. The Council accepted that the proposed changes to the levels of land across the golf course as a whole, would not amount to inappropriate development in the Green Belt [4]. However, it maintained its view that the operational development necessary to replace an area of grass with reinforced grass rings, in order to provide the overflow car park to the south-east of the proposed permanent car park, would constitute inappropriate development [39,66,184]. This engineering operation would fall to be assessed against paragraph 3.12 of PPG2 which explains that the carrying out of such operations would be inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

290. I saw similar areas of reinforced grass at my visit to the Chelsea Football Club's training ground development at Stoke D'Abernon [10] and in my assessment they were virtually indistinguishable from normal grassed areas. So, notwithstanding the Council's view that an area of reinforced grass shown in one of the Appellant's photographs did not look like "normal" grass [184], I see no reason why a fairly infrequently used area such as the overflow car park would appear unusual or out of keeping with its surroundings. Although I cover openness in more detail under the next main consideration, there is no suggestion that there would be any appreciable change in levels arising from this engineering operation and the openness of the Green Belt would therefore not be affected by the creation of this car park.

291. Moreover, as the overflow car park would be located immediately adjacent to a permanent car park, and eastwards of the clubhouse [31], there is no suggestion that it would encroach into the countryside or materially conflict with any of the other purposes of including land in the Green Belt, set out in paragraph 1.5 of PPG2.

292. Notwithstanding my favourable findings on this latter point, for the reasons given my conclusion on this first main consideration is that the Appeal B proposal, as a whole, would be inappropriate development in the Green Belt. Accordingly it would also be in conflict with saved Local Plan policy GB1. Paragraph 3.2 of PPG2 makes it quite clear that inappropriate development is, by definition, harmful to the Green Belt, and that it is for the Appellant to show why permission should be granted. It goes on to say that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I deal with other aspects of harm under the next 2 headings and then examine the other considerations put forward by the Appellant in support of this proposal.

Effect of the proposal on the openness and visual amenities of the Green Belt

293. Openness. Paragraph 1.4 of PPG2 states that openness is the most important attribute of Green Belts and although this is not defined in PPG2 it is generally taken to mean the absence of visible development. As noted above, there is

already built development on the appeal site associated with the current golf course use, in the form of buildings with a total footprint of 1,739sqm and a volume of 6,642cum [30]. Although generally low-rise, with the exception of the 2-storey tower element of the golf clubhouse, these buildings clearly impact on the otherwise open nature of this land at the edge of Sunbury. They have a somewhat disjointed and "spread-out" configuration, with a mix of building types forming the main clubhouse and storage/maintenance areas, and an elongated "finger" of golf driving booths which extends appreciably to the west [15].

294. Another noticeable feature of the current golf club operation is the ball-stop fencing, especially that which runs north to south across the appeal site at the western end of the driving range. Much of this fencing is 12.5m high and overall is supported by a total of 28 stanchions [69,70]. Whilst this fencing is relatively "see through" when viewed from some angles, it is nevertheless prominent in many views and, in my assessment, it currently detracts from the open nature of the area. Although some ball-stop fencing still forms part of the appeal proposals the total amount necessary would reduce by about 4,450sqm in winter and, through use of demountable fencing, by about 5,170sqm in summer [71].

295. It is the Appellant's case that this reduction in the amount of ball-stop fencing on the site, together with the removal of the long driving range building and the replacement of the existing clubhouse complex with a more compact building, would bring about significant benefits in terms of both the reality and the perception of openness of the site [70]. The Appellant also submitted evidence to suggest that improvements to openness would also be gained by the removal of mounds and banking on the golf course itself, and the remodelling of ground levels, which would remove some obstacles to longer views across the site [70]. In contrast the Council considers that the ground modelling would have little impact, and that as the proposed clubhouse would not be larger than the buildings currently on site, this should be seen as a neutral point as no additional harm would arise, compared to the current situation [185].

296. It is indeed the case that with a footprint of 1,745sqm and a volume of 6,631cum the proposed clubhouse would provide an almost identical amount of development to that which is currently on the site, but it would be in a much more compact rectangular form [70]. Put simply there would be gains and losses in terms of those parts of the site covered by buildings, and any assessment of the overall impact on openness ultimately comes down to matters of fact and degree. The new clubhouse would extend into the currently open area to the south of the golf club's main buildings, but this would be offset by the removal of the long, westward extension of the golf driving booths [15].

297. At present this driving range building, although relatively low, is still seen as a noticeable intrusion into what was described in the CV appeal as "the narrow and therefore vulnerable neck of Green Belt between Sunbury and Upper Halliford" [59,70,80]. It is this latter point which leads me to conclude, in terms of the buildings alone, that the proposal would bring about a slight improvement in the openness of the site as a whole. I note that this echoes the view reached by SCC in its consultation response to the original planning application [67].

298. The main parties both agree that there would be a moderate reduction in openness from the proposed floodlighting, particularly the 6 columns which would encroach further to the west than any current floodlights and any proposed by the CV scheme [24]. Furthermore, this encroachment into the more open countryside

would also have a marginal adverse impact on one of the purposes of including land within Green Belts, set out in paragraph 1.5 of PPG2. However, the slender nature of these proposed columns and the fact that they would be relatively few in number means that their overall impact would only be slight.

299. The Council acknowledges that parking on the overflow car park would only occur periodically, but nevertheless contends that on those occasions its impact would be much more than marginal [188]. However, I do not share this view. It is certainly not unreasonable to expect the parking of vehicles to be a normal accompaniment to outdoor sporting activity at an edge of settlement location such as this. Indeed the Council has raised no objection to the provision of the permanent car park which would accommodate up to 150 cars, together with coach and cycle parking [31].

300. The overflow car park, which would have capacity for 100 cars, would be sited immediately alongside the permanent car park, would not encroach further westwards than the clubhouse, and would only be used on an infrequent basis and for relatively limited durations. Moreover, unless specifically prevented by condition it would be open to the Appellant simply to rely on its ability to use the "28 day rule" under Part 4 of the Town & Country Planning General Permitted Development Order and park on an open grassed area in this location from time to time [66]. In view of these matters I do not consider that the impact of the proposed overflow car park on openness would be significant.

301. Taking the above points into account I conclude, on balance, that the proposed development would have slight beneficial impact on openness. I therefore attach a modest amount of weight to this matter, in the proposal's favour.

302. Visual Amenities. Turning to impact on the visual amenities of the Green Belt, the Council has made it clear that it does not pursue any objection in this regard [181]. However, LOSRA was strongly of the view that Scheme B should be opposed as it would result in the loss of an attractive landscape and would therefore be at odds with CSPDPD policy SP6 [226]. This policy does not refer specifically to "attractive landscapes", but states that the Council will seek to maintain and improve the quality of the environment of the Borough. Under criterion (c) it states that the Council will "protect and enhance areas of existing environmental character including sites of nature conservation value, areas of landscape value, the Borough's historic and cultural heritage (including historic buildings and Conservation Areas) and open space of amenity and recreation value" [19].

303. The golf course is a man-made landscape, constructed on the site of former gravel workings. It was designed fairly recently (1993) to produce a landscape which was typical of the Thames Valley [228]. The golf course does not benefit from any specific designation or protection, but it is clearly valued by local residents as an attractive amenity and recreation open space area [226-231]. As such I see no reason why the proposal should not be assessed against CSPDPD policy SP6.

304. I have noted LOSRA's contention that the Appellant has not fully taken account of the subjective views of local residents, nor undertaken any assessment of the proposed rugby pitch layout against Natural England's landscape quality and value criteria [227]. I have also had regard to the conflicting views regarding the most appropriate landscape form for this area, with the Appellant arguing for a return to a "rectilinear landscape of yesteryear", whilst LOSRA maintains that the much less

formal "grassland interspersed with copses of indigenous trees and attractive areas of seed head rough", is a far preferable option [230,231].

305. However, these points do not go to the heart of any assessment against policy SP6. The aims of the policy are to protect and enhance such areas, not necessarily to preserve them, unaltered, in their current form. This appears to me to be behind the Council's decision to not oppose this proposal on landscape grounds, as Committee Members accepted their officers' advice that the proposal would result in the replacement of one slightly undulating landscape with a flatter landscape that would have additional planting [181]. I share that view, because although not unattractive, as I saw at my accompanied site visit, the existing landscape does not contain any features of particular landscape significance. As a result I am not persuaded that the Appellant's description of the existing form of development as "visually unremarkable" is unfair [231].

306. Moreover, I saw at my visit that many of the site trees are not growing particularly well (attributed to poor ground conditions by the Appellant), and that in places the boundary hedgerows are either overgrown or "gappy" [16,72]. The nature of the landscape would clearly change under Scheme B, with a more "regimented" layout of formal sports pitches and fewer trees within the body of the site. However, there would be some fairly substantial areas of species-rich grassland, additional woodland and woodland edge planting, together with a strengthening of the boundary hedges and additional tree planting alongside the footpath which crosses the site from north to south [17]. Although there is opposition from LOSRA and local residents to the proposed re-alignment of this footpath, the evidence before me indicates that there is no formal support for its current route, which appears to have arisen as part of the golf course design without authorisation [17,32,229].

307. Having regard to the above points I conclude, on balance, that the appeal proposal would not have an adverse impact on the visual amenities of the Green Belt and that there would be no conflict with CSPDPD policy SP6. However, I am not persuaded that there would be any significant improvement to the visual qualities of the site as one acceptable landscape form would simply be replaced by another. As no significant benefit or harm would arise from this aspect of the proposal I see this as a neutral matter which weighs neither for nor against the proposal.

Effect of the proposal on the amenities of visitors to the adjacent cemetery, with particular reference to noise

308. A significant amount of joint work has been undertaken on the topic of noise predicted to be generated by the use of the rugby pitches, and its likely impact on nearby receptors [84,86]. These include occupiers of nearby residential properties and visitors to the adjacent Sunbury Cemetery. Insofar as the impact on residential occupiers is concerned, the expert noise witnesses agree that provided the use of the rugby pitches is controlled by planning conditions, with certain pitches only being used for training purposes and with restrictions on the amount of pitches in use at any one time, the noise impacts could be constrained to acceptable levels [39,81].

309. This means that at the inquiry the only remaining issue between the main parties on noise related to the likely impact on visitors to the cemetery. To assess this impact a number of "pitch use scenarios" have been agreed, covering different days of the week, hours of the day, and combinations of pitch use [82,207]. Although LOSRA has questioned the number of matches that can be played over a

weekend and the accuracy of the noise scenarios, its own document shows that 10 matches can be played over the Friday to Sunday period, with no more than 3 adult matches taking place at any one time [239]. This accords with the information used as the basis for noise predictions by both the Council and the Appellant, and I therefore see no good reason to doubt the reliability of the noise scenarios.

310. Interments only take place during certain week-day hours, when the pitches closest to the cemetery (Nos 1, 2 and 3, with No 2 being the 3G artificial pitch), would only be used for training and by schools, not for any matches [82]. On these occasions the maximum noise increase at the centre of the cemetery, where interments currently take place, is predicted to be just 1dB [88,118]. The parties generally agree that this would only result in a "slight effect", on the basis of a commonly used semantic descriptor scale, and would not give rise to any unacceptable impact. I agree.

311. The area of concern can, therefore, be narrowed down to just one particular noise scenario, (referred to as 6b), which covers the period 1400 hours to 1700 hours on a Saturday afternoon, when 2 amateur matches are taking place on Pitches 1 and 3, with the 3G artificial pitch being used for training purposes [82]. Pitch No 1 would be used by the Club's top amateur team, the Wild Geese and such occurrences are only anticipated to arise for a maximum of 15 Saturdays in any one season when the Wild Geese are playing home fixtures [82,118]. On these 15 occasions the predicted noise at the northern boundary of the cemetery (the closest point to the appeal site), would be 56dBL_{AeqT}, compared to a "without development" value of 48dBL_{AeqT}. This would amount to an increase of 8dB. At the centre of the cemetery the noise level is predicted to be 54dBL_{AeqT}, giving a rise of 6dB when compared to the "without development" situation [211].

312. The difficulty arises in how these increases should be assessed, as there is no formal guidance in relation to assessment criteria for visitors to cemeteries. The use of the cemetery is clearly a sensitive issue and I share the Council's view that it would not be appropriate or reasonable to attempt to restrict the use of the cemetery, dependent on whether or not matches or training is in progress [212]. The Council has expressed particular concern that the noise effects likely to be experienced by weekend visitors to the cemetery are predicted to be higher than the criterion that the Appellant's noise advisors have adopted when considering the nearby residential properties (levels of up to 55dBL_{AeqT} and no increase greater than 5dB) [87]. To my mind this is important, and weighs against the proposal.

313. This level of 55dBL_{AeqT} is referred to in both a WHO document and in PPG24 [82,209]. In the former it is used as a level that steady, continuous noise should not exceed on balconies, terraces and outdoor living areas, whilst in the latter an upper value of 55dBL_{AeqT} is recognised as a step change in community response, where "noise should be taken into account when determining planning applications". I have also been referred to research commissioned by the former Department of the Environment, Transport and the Regions (DETR) from the National Physical Laboratory (NPL) [84,88]. This concluded that "exceedances of the WHO guideline values do not necessarily imply significant noise impact" and regards them as providing "a highly precautionary approach" [210]. This point is acknowledged, but not necessarily accepted, by the Council.

314. For "outdoors in parkland and conservation areas", the WHO document does not give a guideline value but defines the critical health effect as being "disruption of tranquillity" and states that "existing quiet outdoor areas should be preserved and

the ratio of intruding noise to background sound should be kept low" [83]. Although the Appellant does not consider that the WHO criterion is an apt description of the cemetery, the Inspector who considered the CV appeal did accept this category as being relevant to the cemetery. Moreover he took the view that "cemeteries are a land use that should reasonably possess a good degree of tranquility, the peace and quiet advocated by the Council and others" [208]. I generally share this view, and consider that the upper WHO guideline value of 55dBL_{AeqT} is a reasonable figure to adopt in this case [82].

315. There is agreement between the parties that when assessing infrequent events it is appropriate to increase the threshold of the onset of significance to the recipient of the noise [85]. This reflects the advice of PPG24 that because of this feature of noise from sports activities it is reasonable to permit higher noise emissions levels than would be the case, for example, with industrial development. Adopting such an approach is reasonable in the particular circumstances of this case. The Council's noise witness has produced his own semantic scale to assess these matters. Using this scale the maximum increase of about 8dB over background, predicted for the 15 busier Saturdays, is termed a "slight increase" which is correlated to a "significant impact" [85]. However this approach is criticised by the Appellant on 2 grounds.

316. Firstly it is pointed out that the predicted increase is totally dependent on the base or ambient level assumed for the purposes of comparison. Whilst this is self-evident, the Appellant's case is that although 48dBL_{AeqT} has been accepted for assessment purposes, this is very much a "worst case" recorded over a minimum 15 minute period [86]. I agree that background or ambient noise levels will not be constant in an urban fringe location such as Hazelwood and in this regard I have noted that the cemetery is near to housing, has a children's play ground on the boundary and a busy equestrian-related site and a golf club adjacent [82].

317. Furthermore it is overflown by Heathrow aeroplanes for, on average, about a quarter to a third of the year [82]. These points undoubtedly have a bearing on the noise environment within the cemetery, and may prevent it from having the same sense of tranquillity that could be a characteristic of a more isolated setting than this urban fringe location. In addition I have noted that the Appellant's noise witness identified readings closer to 50dBL_{AeqT} and that the CV inquiry accepted 52dBL_{AeqT} as the ambient value [86]. All these points are relevant to an assessment of noise impact and I have therefore been mindful of them when coming to my conclusion on this consideration, as detailed below.

318. The second criticism relates to the fact that there is no established standard against which the significance of any increase can be judged. In this regard I acknowledge that both noise witnesses are highly experienced, but agree with the Appellant that the use of a "personally derived" semantic descriptor scale must, of necessity, be somewhat arbitrary in character and has to carry less weight than one which is widely and generally accepted [87].

319. Comparisons with the situation in the CV appeal were also brought to my attention [86,90]. In that case the Inspector concluded that football activities on the pitches closest to the cemetery would result in material noise disturbance for visitors to the cemetery. However, the Appellant points out that noise mitigation has been built into the current design as the pitches would be laid out "end on" to the cemetery and would be almost twice as far away from the boundary of the

cemetery, and spectators more than 3 times further away from the same point, as in the CV scheme [81].

320. Moreover, data submitted to the CV inquiry indicated that noise levels were anticipated to increase by at least 10dB over the then assessed ambient level and to reach levels of 63dBL_{AeqT} [85]. These are noticeably higher than the equivalent figures in the current case but I have noted that this figure related to noise from a proposed grandstand. This was highlighted by LOSRA who proposed that the erection of any temporary spectator stands should therefore be controlled by condition [241]. I agree that this would be necessary to ensure the noise scenarios remain valid and I have recommended accordingly.

321. In view of the above points it is the case that on those occasions when the Scenario 6b situation applies the noise level of 55dBL_{AeqT} would be exceeded within the cemetery, albeit only slightly, and that as a result visitors to the cemetery are likely to be adversely affected by noise arising from the appeal site. This points to a conflict with CSPDPD policy EN11 and has to weigh against the proposal. However, this situation would only apply for a limited number of week-end days during the year, and then only for a limited time duration of a few hours. Taken overall this lessens the severity of the harm. On balance I therefore only attribute a modest amount of weight to this harm.

Other considerations

322. I have concluded that the Appeal B development would constitute inappropriate development in the Green Belt and that additional harm would arise from the noise to visitors to the adjacent cemetery. In accordance with the guidance in both PPG2 and PPG17 the onus is therefore on the Appellant to demonstrate why planning permission should be granted [77,180]. To this end the Appellant has put forward a number of considerations under 10 separate headings which, together, it maintains amount to the very special circumstances necessary to clearly outweigh the harm described above [78]. I deal with these other considerations below, although in some cases I have grouped matters as they cover very similar topics. At the end of this section I also deal with other matters raised by interested persons [256].

323. <u>London Irish's need to relocate and the long-term stability of the Club</u>. From the submitted evidence it is quite clear that London Irish is a successful and ambitious rugby club [41]. Since turning professional in 1996 it has kept its professional and amateur sections together, albeit in separates companies, managed through a committee made up of Directors of London Irish Holdings (the professional arm) and Directors of London Irish Amateur Rugby Football Club (the amateur arm) [41]. This is the "London Irish family" referred to by many witnesses [52,115,259]. The professional team now plays its Premiership matches at the Madejski Stadium in Reading, where it has a long-term lease, but the professional players still train at The Avenue, which is also where the amateur team and Academy are based [41].

324. Information was provided in the Sporting and Business Case, and also in the various proofs of evidence, to demonstrate the difficulties the Club currently experiences with operating from The Avenue [44,45]. A variety of matters were highlighted, including the fact that pitches are often over-used, such that they deteriorate during the season and arguably become dangerous. This has seriously affected fixtures in the past and has thrown doubt over the holding of the rugby festivals [46]. Off-site pitches, both at the neighbouring St Paul's College and

elsewhere often have to be used to accommodate training and matches for what currently amounts to up to 36 teams and there are difficulties in terms of providing adequate changing facilities to accommodate ladies and girls' teams (particularly at the same time as male teams) [46].

325. In addition, the Appellant contends that there is an inadequate amount of indoor space to accommodate such things as theory sessions and reasonable social activities [45]. I saw at my site inspection that the existing facilities at The Avenue are fairly outdated and appear, in many respects, to be cramped. This is evidence, not least, by the fact that there are 2 porta-cabins in use on the site for office purposes, together with a number of large, metal containers which are used for storage [45].

326. These difficulties, and others, have led the Appellant to argue that the size of the existing site prevents expansion and that the Club is therefore looking to relocate. Although Mr Robinson urged the Appellant to use computer modelling to optimise use of the existing facilities [257], this was not elaborated upon, and there is nothing before me to suggest that the Appellant has not been creative in trying to accommodate all its existing, operations (apart from the playing of professional matches) at The Avenue. The fact that the existing site and facilities are cramped and inadequate for the ambitions and aspirations of the Club is not disputed. It does, however, call into question the reasoning behind the sale of land which now houses the VAHC, which received planning permission in 2000 [22,250].

327. But be that as it may, the fact remains that the Club finds itself operating from inadequately-sized and outdated facilities. As a provider of rugby opportunities for its own members, but also for the local community, the current constraints are a genuine cause for concern and it is quite understandable that the Club is seeking to find a way whereby it can continue to grow and serve the local community. The community outreach aspect of the Club's activities is impressive [42,43,50,64], and I deal with it separately under the benefits to the community, detailed below.

328. It is also clearly the case, however, that such a move would benefit the Club itself, in terms of its players, staff and supporters. The fact that the move would be relatively local would retain the existing community cohesion, be beneficial for the local community and would also provide benefits in travel and hence sustainability terms [48,53,68]. Benefits would also arise as a result of the expanded and improved facilities within the proposed clubhouse and also from the increased number of pitches which could be kept in better condition by the additional rotation opportunities which would be available [32,33,64]. I accept that such an investment, once made, would provide the Club with an enduring solution to its accommodation problem and thereby provide a stable platform for its longer-term existence.

329. In view of the above points I conclude that the Appellant's case for a need to expand and update its existing facilities is persuasive and that there would be clear advantages to the Club arising from the proposed move to the Hazelwood site. The establishment of a larger training ground and a "Centre of Excellence" would ensure that the amateur and professional arms of the Club could remain together [41,52]. Furthermore, I acknowledge that the potential for amateur players (both senior and junior), to mix with professional players, including internationals, and top coaches, is likely to have spin-off benefits for these amateur players and for the Club as a whole [52]. This matter weighs heavily in the proposal's favour.

330. The lack of alternative sites for relocation. It is apparent that the Appellant has undertaken an extensive site search, covering some 17 possible alternative locations [48]. Although the aim was to consider potential locations within about a 16km (10 mile) radius of The Avenue, the Appellant has commented that the paucity of suitable sites led to the search being conducted on a wider basis, with the furthest site being some 50km away from The Avenue, by road.

331. The search for alternative locations, on the basis of the Appellant's expressed criteria, appears to have been fairly exhaustive, although LOSRA was critical of the fact that a consistent set of criteria does not appear to have been used throughout the search exercise [245-246]. This appears to be borne out in the evidence relating to the Concorde Centre and Kempton Park, when a stadium appeared to form part of the search requirement, unlike at Hazelwood. That said, no party to the inquiry was able to point to any preferable site to Hazelwood.

332. Indeed the site search has not been criticised by the Council, which simply takes the view that if there is no alternative in Spelthorne Borough, and Appeal B is unsuccessful, then the Appellant will have to investigate other options, possibly further afield, or may need to re-visit ones already rejected [195]. Although clearly very unpopular with the Appellant, one such option could be the disaggregation of facilities to include the retention and improvement of The Avenue site together with the provision of additional capacity at another, as yet unidentified, location.

333. Whilst there is nothing before me to suggest that such an option would be feasible, it is equally the case that no firm evidence has been submitted to show that such an option has been fully investigated [195]. In view of the Appellant's strong opposition to such an option this is understandable, as it would go against the Club's ethos and its desire to consolidate rather than split the "family" [51,52]. Nevertheless, it was established at the inquiry that such an option would not offend any RFU policy or formal guidance, with opposition to it simply amounting to the personal preferences of the Appellant [52].

334. I have noted the arguments against a split site, referred to in the Derby County case [51], but matters such as sustainability and the welfare of students are dependent, at least to some extent, on how close together the elements of a split site may be. This is something which has not been placed before me for consideration and, on balance, I am not persuaded that these matters amount to strong reasons, in planning terms, why such an option should not at least be considered. Overall I share the Council's view that the full range of options does not appear to have been fully assessed, either in practical or financial terms [195].

335. It is quite clear that the Hazelwood site represents the Appellant's favoured location and it is understandable that once the option payment was paid in November 2008, the Appellant has not looked in any detail at other possibilities [194]. However, as the lack of alternatives arises, at least in part, from the Appellant's preferences rather than from absolute constraints, I am not persuaded that this matter should add weight to the case for the appeal proposal.

336. The existing sporting and recreational use at Hazelwood and the benefits associated with re-use of this site. The Appellant points out that the financial material submitted with the planning application shows that HGC is in poor financial health and takes the view that the outlook for the golfing use of the Hazelwood site is not good [54,55]. If present trends continue it maintains that the golf club use will cease, leading to a further downgrading of the site and a more

pressing need for an alternative appropriate Green Belt use with sufficient funds to regenerate and re-use the site.

337. The London Irish proposals represent a not inappropriate use in the Green Belt and the Appellant argues that the Appeal B proposal would provide a high quality new rugby facility which would fulfil the planning expectations of Green Belt Policy and the policy for sports development in PPG17 [42]. It is claimed that securing a viable, long-term use for Hazelwood would be beneficial as it would not only enhance the visual appearance of the site, but would also provide certainty about future use for the wider community in Sunbury as well as for members of the golf and rugby clubs.

338. However, it is self-evident that these latter points only come into play if there is indeed doubt about the continued viability of the current golf club, and a need to find an alternative use if it was to fail. The Council has no particularly strong views on this matter, pointing out that re-development of the golf centre is not an objective identified in the spatial vision for the area, nor a stated aspiration of the community [164]. There is, however, a significant difference of opinion regarding the current position and future viability of the existing golf club insofar as the Appellant and LOSRA are concerned. The Appellant referred to falling profits and declining membership numbers in recent years, whilst LOSRA's evidence, presented by Mr O'Keefe (a 30% shareholder in the golf club), was that with proper, experienced management Hazelwood can be a viable business [232-236].

339. Mr O'Keefe was the Managing Director at the golf club from December 2003 until December 2004 and claimed that he had the necessary experience, ability and a willingness to invest substantial amounts of money and time into the club to make it a great success. However, it is clear that there has been a serious falling-out between Mr O'Keefe and 2 other directors/major shareholders of the golf club [56,235]. This was apparent from the submitted evidence and also by the fact that neither of these other directors was called by the Appellant to give evidence (a matter highlighted by LOSRA) [235]. However, whilst I have had regard to these points I am not persuaded that they go to the heart of the relevant matters on this topic.

340. The LOSRA case was that many of the golf club's problems have arisen as a result of poor management and a lack of experience and relevant business credentials on the part of the current directors. Mr O'Keefe disputed various aspects of the information submitted by the Appellant, including the profit and loss figures for recent years, and put forward alternative figures of his own [55,233]. However, many of these points are disputed by the Appellant and the other directors and it is difficult to form a definitive view on this matter as it has not been possible to see the full source information upon which each side has drawn.

341. On this matter I have to prefer the Appellant's figures, and give more weight to them, as much of the Appellant's case is based directly on the golf club's audited accounts [55]. Moreover, although there was a disagreement about the number of golf club members, even on the figures accepted by LOSRA it can be seen that there has been a 44% decrease from 166 in 2005/6 to 94 in 2008/9 [54].

342. Mr O'Keefe stated that he had made several offers to purchase the golf club from the other directors/owners, but there is no offer currently on the table, with the last offer apparently being made some 2-3 years ago [56]. However, even in this regard the submitted evidence points to some uncertainty as to the robustness of

such offers [56]. Finally, although Mr O'Keefe indicated he had put a business plan forward to banks in 2004, nothing came of this and he submitted no current business plan proposals to the inquiry.

343. As the appeal proposal would result in the loss of the current golf club, LOSRA alleged a conflict with CSPDPD policy CO1, relating to the provision of community facilities to meet local needs [237]. One strand of this policy seeks to resist the loss of existing facilities, except where it is demonstrated that the facility is no longer needed or where the services can be provided in an equally accessible alternative location or manner. There is, however, no specific reference within the policy to the type of sporting and leisure activity to be provided and as one sporting facility (golf) would simply be replaced by another (rugby) if Scheme B was to go ahead, there would be no conflict with this policy.

344. LOSRA has disputed some of the details of the availability of other golfing facilities in the area, most notably with regard to the David Lloyd Centre at Hampton [233]. However, there was no substantive challenge to the Appellant's assertion that there are at least 94 English Golf Union registered golf facilities within a 32km (20 mile) drive distance of Sunbury, and 8 within about 10km [54].

345. On balance, and on the basis of the submitted evidence I have formed the view that the most accurate and reliable picture of the present day operation of the golf club is that presented by the Appellant, namely one of overall decline and a general lack of investment. Whilst this is no doubt due, at least in part, to the possibility of the currently proposed redevelopment under Scheme B taking place, it nevertheless appears to reflect the current situation. There is certainly no firm evidence before me to suggest that the golf club could easily reverse the trends of falling profits and falling membership, as claimed by LOSRA.

346. But having reached this conclusion, I am not persuaded that this adds any material weight to the case for Scheme B. Whether the golf club is a thriving enterprise or in decline, the consequences of the appeal proposals going ahead would simply be to remove the golf club from the site and replace it with another sporting use. At best this could only be seen, in the situation I have described, as resulting in no material harm. In other words Scheme B would have a more or less neutral effect on the sporting use of Hazelwood, and this cannot therefore lend weight to the appeal proposal.

347. <u>The existing buildings and facilities on the Hazelwood site and benefits in terms of improved openness</u>. Under this heading the Appellant identifies a number of features of the current golf club use, such as the size of the existing clubhouse, the area of car parking and the extent and amount of floodlighting and ball-stop fencing, and compares each with the equivalent element of Scheme B. The Appellant's case is that none of the elements detailed above should be seen as inappropriate development in the Green Belt, but I have already come to a contrary conclusion, as detailed in paragraph 292 above.

348. Most of these features also have a bearing on openness, and again I have discussed this aspect earlier in these Conclusions (paras 293-301). For the reasons already given I conclude that there would be some modest, overall benefits in terms of improved openness, primarily as a result of the more compact form of the proposed clubhouse and the reduction in the amount of ball-stop fencing. These points add a moderate amount of weight in the proposal's favour.

349. The contribution to rugby – nationally, regionally and locally. The Appellant claims that the particular ability of the London Irish Club to encourage, support and train junior members to national and international acclaim through the proposed Centre of Excellence, should be seen as also adding weight to this proposal [68]. It argues that it would be in the national interest for facilities of this scale and quality to be promoted, in order to facilitate training of the highest quality so that rugby players of international acclaim could be encouraged and fostered through both the amateur and professional activities of the Club [40,50,68].

350. As already noted, evidence provided by witnesses for the Appellant has, indeed, shown that the Club is held in high regard nationally and internationally and that the professional players are powerful ambassadors for the game. I therefore accept that there would be benefits in terms of the promotion of the sport at local, regional, national and indeed international level if the Club was able to train at a site that could be termed a Centre of Excellence.

351. These matters are clearly of great importance to the Club itself, and as such attract some weight in favour of the proposal, although as this would be of a somewhat "personal" nature its overall value can only be limited. I do, however, share the Appellant's view that the benefits of providing a Centre of Excellence would go wider than simply providing benefits to the Club and its own members and these community benefits also weigh in the scheme's favour, as detailed under the next heading.

352. The benefits to the wider community. The Club already provides an extensive community outreach programme through such things as coaching and education [43], but this would be extended by means of "public access hours" if planning permission was granted for these proposals, thereby offering additional benefits to the wider community [64,68]. The details of these community benefits are given in the Hazelwood SoCG and would be secured through the S106 agreement with the Council [267]. In summary they would amount to:

    a. the provision of the floodlit 3G artificial grass pitch for community use on a "pay and-play"/club-booking basis for not less than 20 hours per week;

    b. the provision of natural turf pitches and the 3G pitch for the use of local schools for up to 27 hours per week over 25 weeks;

    c. community coaching sessions on natural turf pitches and the 3G pitch and an increase in rugby coaching courses during holidays and out-of-school periods for children and young people living within Spelthorne, for a minimum of 10 hours per week in term-time and an additional 10 hours per week for at least 6 weeks in the school holidays; and

    d. during summer months, use of the 3G pitch by community groups and use of other parts of the site for the playing of Gaelic Football [267].

353. These facilities would be made available on a reduced cost basis and there would also be an index-linked contribution of £50,000 towards the provision of a minibus for the transportation of children to and from Spelthorne schools [267].

354. The Council does not dispute these benefits, but points out that there is likely to be some overlap with current community coaching programmes [200]. However, whilst this may be the case to some degree, the proposed facilities at Hazelwood would clearly provide more than can currently be offered at The Avenue – notably

the floodlit 3G pitch. I acknowledge that there has been a recent increase in 3G capacity in the Borough as a result of a pitch at the Matthew Arnold School in Staines [200], but I see no good reason why this should lessen the value of the benefits on offer, as it would provide additional capacity and flexibility. The Council also comments that the value of any such benefits must depend to some extent on their take-up, which I agree is difficult to predict. Nevertheless, the proposal would offer improved facilities and clear opportunities for increased community use.

355. The Council has commented that the use by schools over a 25 week period would not meet any reported deficit for schools rugby facilities, based on a "Playing Pitch Assessment & Strategy" for 2007-2012 [200]. However, whilst this is still extant, it appears to be somewhat out of date as it only refers to London Irish as having 24 teams, whereas the Hazelwood SoCG reports that the Club currently fields some 35 teams [41]. As events have clearly moved on since December 2007, when this document was produced, I am not persuaded that it provides a good reason to reduce the weight to be given to this element of the proposed community use.

356. LOSRA also questions the value of the potential use of the proposed Hazelwood pitches and draws attention to a survey it conducted of local schools [243-244]. This indicates that London Irish does well at visiting schools within the Borough, but suggests that only 5 schools out of a total of 36 contacted would consider using the new pitches at Hazelwood. Of the schools which indicated that they would not use the proposed pitches, only 1 cited the lack of transport as the sole reason, although a further 6 schools also cited this reason, alongside others [243].

357. A somewhat different picture is given by the School Sports Partnership (SSP), which represents over 60 schools. A letter from the SSP indicates that joint working with London Irish over a number of years has resulted in valued links which have provided dedicated coaching, items of equipment and rugby festivals [64]. I acknowledge that the letter gives no firm commitment to use of the proposed pitches by the SSP, although there is the clear acknowledgement that if the proposals are successful then schools would have the opportunity of making use of the facilities which would be on offer.

358. LOSRA was critical of the number of hours on offer, maintaining that the 1,975 hours of community use of the proposed rugby pitches would represent just about 40% of the golf total, which was estimated to be over 4,750 hours per year [237]. This was based on the golf facility being open 14 hours per day during the week and 12–13 hours per day at weekends. However, it is unlikely that the unlit 9-hole golf course is playable for the whole stated 14 hours on weekdays or 12-13 hours per day at weekends throughout the year, although I accept that the driving range may well be. Furthermore, for the proposed rugby use, there would be a variable number of pitches available during the allocated hours, such that the number of people who could benefit from these community use periods would also be variable. For these reasons this comparison is not particularly helpful as like is not being compared with like.

359. Much was made of the local ties which the London Irish Club has with this part of Spelthorne and the fact that it has been based at The Avenue for some 80 years [40]. This historical association is presented as an important consideration why the Club sees Sunbury as its "spiritual home", and why it wishes to remain in the area. In this regard, emphasis was also given to the extent of local membership, with updated figures from the Appellant, submitted in evidence to

the inquiry, indicating that some 77% of staff and 69% of members have local "TW" or "KT" postcodes and live within the Borough or have a drive time of less than 30 minutes [201]. Although this information was challenged by LOSRA, who submitted a letter from a former RFU employee which suggested that only 21% of members may actually be described as "local", this letter was apparently written without RFU authorisation and was subsequently refuted by the RFU [201,242].

360. The most recent information from the RFU itself is that some 72.4% of London Irish members live within "TW" or "KT" postcodes. I share the Council's view that this exercise appears to have been made more difficult and convoluted than it need have been [202], but despite these criticisms the most reliable and up to date information set before the inquiry indicates that about 70% of London Irish members live sufficiently close to The Avenue to be legitimately termed "local" [201]. There would therefore clearly be some additional benefits to the local community from the Club remaining in the area as has already been noted above.

361. Overall, on the basis of the submitted information and the points detailed above, it seems reasonable to me to assume that clear, additional benefits would flow to the local community from this proposal and that these should therefore weigh appreciably in support of Scheme B.

362. The physical improvement of the land at Hazelwood. A further point put forward to support the proposal is the claimed benefit of making physical improvements to the site through the removal of contaminated land and remediation [72]. The Appellant's landscape witness commented that the golf course suffers from uneven settlement of landfill, poor drainage leading to ponding, thin topsoil and potential contamination and that with these poor conditions, many of the site trees are not growing well. The Appellant also points out that there would be additional benefits associated with improved site drainage and improved soil conditions, leading to better planting [72].

363. However, whilst these points were not disputed to any significant extent, the Non-Technical Summary of the ES makes it clear that extensive desk studies and intrusive ground investigations over a number of years have confirmed that contamination of the golf course is not severe [204]. Testing has only indicated 'hotspots' of contamination on site and localised groundwater contamination. There is nothing in the evidence before me to suggest that existing users of the golf course are at any significant risk from this contamination, and there does not therefore appear to be any great imperative to address the existing level of contamination, for the current site use [204].

364. This is not to say that the land would not benefit from remediation and mitigation measures. Such action would, of course, be necessary if the appeal proposal were to proceed, as direct contact with the ground by players occurs with rugby and the ground would also need to be disturbed to lay the proposed pitches. But as the need to carry out such remediation appears to be dependent on the proposed development itself, this cannot provide any significant weight in support of the proposal.

365. Improved site ecology. The SoCG for Scheme B makes it clear that insofar as the main parties are concerned, and subject to any appropriate and necessary conditions, the appeal proposal is acceptable in ecological terms, and complies with policy EN8 of the CSPDPD [38]. However, evidence submitted by LOSRA maintained that there was a need for more substantial biodiversity improvements

and habitat creation in order to provide sufficient compensation for the loss of the habitat mosaic within the site as a whole; to provide adequate biodiversity enhancement in accordance with local and national policy; and to maximise ecological connectivity in the landscape [205].

366. These points were accepted by the Appellant, who has responded by increasing the amount of rough grassland to be provided in a number of locations [205]. Under these revised proposals (which make no changes in principle to the scheme, and are therefore acceptable), amenity grassland would be replaced by rough grassland along the northern, southern and western borders of the site; in the vicinity of the proposed lake; alongside the footpath which runs north/south across the site; and adjacent to the cemetery [205]. The Appellant contends that these proposals extend beyond the strictly necessary mitigation and compensation, and therefore provide additional benefits by allowing for enhancement of these aspects of the proposal. This was not disputed by other parties.

367. However, as it has already been established, through the SoCG, that these further enhancements are not strictly necessary to comply with policy, there is no good reason why they should attract any appreciable weight. Nevertheless there is no dispute that these measures offer overall improvements to the scheme, so it is appropriate to accord them a modest amount of weight in the proposal's favour.

368. Human Rights. On behalf of herself and other local residents, Mrs Perry alleged that the proposed development would severely compromise their Human Rights to the peace and quiet enjoyment of their homes and families [256]. However, there is clear evidence before me that there would be no unacceptable impact on nearby residents from noise or light pollution [38]. Furthermore, although other impacts are alleged, such as potential contamination of the underlying aquifer, excessive use of the public right of way across the site and increased traffic [255-256], no firm evidence has been submitted to support these views. In any case, such matters would be capable of being satisfactorily addressed by the mitigation measures proposed through the ES and by the submitted S106 Agreements and the agreed conditions [264-267]. Accordingly they do not weigh against the proposal.

Preliminary Conclusion on Appeal B

369. Although a number of elements of the overall Appeal B proposal would not, on their own, amount to inappropriate development in the Green Belt, these cannot be separated from the development as a whole which does include some items which are non-essential in Green Belt terms. Accordingly I have concluded that Scheme B constitutes inappropriate development in the Green Belt and therefore is at odds with guidance in PPG2, as well as being in conflict with saved Local Plan policy GB1. As already noted, PPG2 explains that inappropriate development is, by definition, harmful to the Green Belt and makes it clear that Green Belts can also be harmed by development which prejudices their continued protection, or does not preserve openness, or by development which injures visual amenities. PPG2 also explains that in view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.

370. In this case, however, this assessment is not straightforward. As a matter of principle there is clear harm to the Green Belt through inappropriateness. But as noted earlier in paragraph 278, I am aware that the existing golf clubhouse contains some elements such as function rooms, indoor leisure facilities and a golf

shop which, in themselves, could be considered non-essential in Green Belt terms and therefore at odds with PPG2 and PPG17 guidance [14,58,69]. Whilst I do not know the full planning justification for these existing elements, they appear to constitute inappropriate development. However, in my assessment their presence serves to somewhat temper and lessen the weight which should be attributed to the harm arising from similar elements in the proposed clubhouse.

371. There would be a small amount of harm arising from the slight encroachment of the proposed floodlights into the more open countryside, but I have found that there would be no adverse impact to the Green Belt's visual amenities. Furthermore, in terms of Scheme B's effect on openness I have concluded that there would actually be a modest improvement, so this matter does not weigh against the proposal. The only remaining element of harm is that arising from noise to visitors to the nearby Sunbury Cemetery. My conclusions on this matter are that only a modest amount of weight should be attributed to this harm.

372. Offsetting the harm detailed above, there are a number of beneficial aspects to the proposal. Importantly there would be a small improvement to the openness of the Green Belt, as already mentioned. This attracts a modest amount of weight. A small amount of weight in the proposal's favour also comes from the proposed improvements and enhancements to ecology and biodiversity. The benefits to the London Irish Club itself, and to rugby in general, although somewhat parochial, would nevertheless contribute an appreciable amount of weight, overall, to the proposal and this is added to by the wide range of potential community benefits which would arise. I have not, however, found that other matters relied on by the Appellant should attract any particular weight.

373. In summary, having regard to the form and nature of existing development already on the site, it is my assessment that the overall harm in Green Belt and other terms would only be slight. As a result I conclude that on the balance detailed above, the benefits would clearly outweigh the harm which would be caused. Accordingly, if this was the sum total of benefits and disbenefits arising in this case I would conclude that very special circumstances had been demonstrated, sufficient to clearly outweigh the Green Belt and other harm and therefore make this proposal acceptable. In coming to this view I have had regard to the concerns raised regarding Human Rights, discussed above, but these do not outweigh my conclusions on the planning issues. However, the necessary linking of this proposal with Scheme A means that a final conclusion on Appeal B cannot be reached at this stage. I now therefore turn to consider Appeal A.

Appeal A

The effect of the proposal on protected open space within the urban area

374. The appeal site forms the eastern part of 2 areas of contiguous land, C9 and B3, shown on the CS Proposals Map as PUOS [122]. As evidenced by the first reason for refusal, the Council maintains that this PUOS makes a significant contribution to the quality and character of the urban area by reason of its size, prominence, layout and position in relation to built development in the locality [3]. It therefore considers that the loss of part of this area, as a result of allowing this proposal, would be unacceptable. Because of this the proposal is seen to be contrary to Policies SP6 and EN4 of the CSPDPD [19].

375. Policy EN4 states that the Council will seek to ensure there is sufficient open space which is well sited and suitable to meet a wide range of outdoor sport, recreation

and open space needs. It sets out a number of ways by which this will be achieved, and the main parties agree that criteria "a", "b" and "c" are not relevant to this proposal. However, criterion "d" explains that existing open space in the urban area used, or capable of being used, for sport and recreation or having amenity value, will be retained, provided a number of circumstances apply [133].

376. Again there is agreement that the only relevant provisos are firstly, that there is a need for the site for sport or recreation purposes; and secondly, that the site as a whole is clearly visible to the general public from other public areas and its openness makes a significant contribution to the quality and character of the urban area by virtue of its prominence, layout and position in relation to built development in the locality [91]. The Council also drew attention to the policy's supporting text, which indicates that one valuable role which areas of open space can play is in breaking up the continuity of the built-up area [125]. This supporting text states that PUOS sites over 0.1ha in size are shown on the Proposals Map and I understand that these have been carried forwards from the equivalent Proposals Map in the 2001 Local Plan, which at that time related to policy BE14 [124].

377. This policy was essentially the same as the current policy EN4, although it did not contain specific criteria against which the PUOS areas could be assessed. Importantly, policy EN4 itself does not state that the Council will seek to retain those sites shown on the Proposals Map. This situation has arisen because the Inspector who examined the CS for soundness in 2008 was concerned that changes proposed to the policy by the Council, at that time, would have introduced a presumption that the identified sites were all worthy of protection [91].

378. The Inspector considered that introducing such a presumption would not be appropriate as it would be unreasonable to protect any of those identified sites that did not satisfy the criteria which had now been introduced into policy EN4. The Inspector went on to say that if any identified sites no longer satisfy the criteria, then they would not warrant protection under the policy and it is this view which underlies the Appellant's approach to this matter [91].

379. It is clear that at the present time the Appellant needs the appeal site for sporting purposes. But the whole thrust of the Appellant's case is that Site A would not be needed for these purposes if Appeal B is allowed and the Club can relocate to Hazelwood. As my preliminary conclusion is that the Appeal B proposal is acceptable, it is reasonable to continue an assessment of Appeal A on the basis that there is no ongoing need, at least as far as the London Irish Club is concerned, for Site A to be retained for sport and recreation purposes. Although an email was submitted to the inquiry from the Chair of McCain Athletics Network, Berkshire, this only expressed an interest in the site in very tentative terms [92]. As Berkshire lies some distance to the west it is questionable how appropriate this site would be for an organisation based in another county, especially as no interest in the site has been shown by the equivalent Surrey organisation [92]. Accordingly I can give this expression of interest only very limited weight.

380. Continuing therefore, on the basis that Site A is not needed for sport or recreation purposes if Appeal B is allowed, it is necessary to assess the amenity open space value of Site A in policy EN4 terms. Firstly, however, it is apparent that the site, as a whole, is not clearly visible to the general public from other public areas as is required by this policy [93]. Despite the Council's assertion that this part of the policy should be interpreted flexibly [131], the fact remains that public views of the appeal site are limited to those along the 2 accesses, from The Avenue [96], with

further, limited views of the wider B3/C9 PUOS area possible from Griffin Way and The Ridings as I saw at my accompanied inspection. This contrasts noticeably with other nearby PUOS areas drawn to my attention, such as the Cedars Recreation Ground on Green Street and the Lazards Sports Club on The Avenue, both of which are much more prominent and visible in their respective street-scenes than is the case with the appeal site [93].

381. PPG17 specifically comments that open space can serve as a visual amenity, even without public access [134] and, as already noted above, the supporting text to policy EN4 indicates that one purpose of open space is to break up the built form of the urban area [125]. It is of note, however, that this purpose did not find its way into the policy itself. This omission weakens the weight to be applied to this purpose, especially as other policy references to "open space" (for example in policy CO3, which deals with the provision of open space for new development), clearly relate to publicly accessible open space areas [26].

382. The Council claims that the large number of neighbouring residents with views of the site, coupled with the views available to visitors to the London Irish Club, the VAHC and the adjacent school grounds, mean that the site has clear public value [131,135]. However, whilst these matters need to be taken into account, I am not persuaded that this aspect is of primary importance in policy EN4 terms as the appeal site is essentially private land with no formal public access, other than the right of way to the VAHC. This means that it cannot fulfil many of the functions normally expected of open space areas.

383. Furthermore, the limited visibility of the overall PUOS area from public viewpoints means that it does not make a significant contribution to the quality and character of the urban area. The most readily visible parts of this overall area – the St Paul's school playing fields seen from Griffin Way – would, in any case, be unaffected by the appeal proposal. It is the case that tall trees on the site form a backdrop to houses on the surrounding streets and I have no doubt that the openness of the appeal site is greatly valued and appreciated by those residents with properties backing onto it [13]. But many of these dwellings have fairly long gardens and this, together with the presence of significant numbers of generally mature trees and other vegetation around the northern, southern and eastern site boundaries, restricts and limits the extent of views of the site itself [94].

384. The above points indicate that the appeal site has limited public amenity value as open space. Therefore, if not needed for sport or recreation it would not meet the criteria of policy EN4 and would not be so important in open space terms as to justify the refusal of an appropriate development proposal. This view is reinforced, in the current case, by the fact that a significant amount of public open space would be provided as part of Scheme A [96,97]. Although about half of the proposed 1.16ha of public open space would be needed to meet the standard requirement for a development proposal such as this [123], a further 0.59ha would be new public open space in the form of the proposed neighbourhood park [26,97]. I regard the provision of fully accessible public open space through this proposal to be a benefit which adds some weight to the appeal proposal.

385. Furthermore, the area as a whole would become more publicly visible if the appeal proposal was allowed, as full public access would be available along the adopted highways and onto the newly created areas of public open space [96,97]. It would, in any case, be open to the Council to maintain the PUOS designation for this area as some such areas already appear to comprise wholly residential development,

such as area D3 some distance to the north of the appeal site [97]. Finally, whilst Scheme A would potentially change the outlook of neighbouring residents, there is no suggestion that there would be any unacceptable impact with regard to such matters as overlooking or overshadowing [94].

386. There was some debate at the inquiry as to whether or not the "exception" element of policy EN4 should come into play in this case and, if so, how it should be interpreted [93,99,139-140]. For the reasons already given it is my view that if the site is no longer needed for sport and recreation purposes, then there would be no over-riding justification for it to be retained as open space, unless it was more accessible than is currently the case. This exception should therefore not apply.

387. However, if a contrary view was taken it seems to me that it is the appeal site itself of which "part" should be considered, rather than the full B3/C9 PUOS area. I say this because policy EN4 itself makes no specific reference to the areas of PUOS shown on the Proposals Map and therefore can be assumed to apply to any area which meets the specified criteria, whether designated as PUOS or not. Clearly, sites which are not identified as PUOS would have to be assessed on their own individual merits and there is no good reason why a different approach should apply to a discrete site simply because it forms part of a larger, designated area. In any case, criterion "e" to policy EN4 makes reference to the "remainder of the site" being enhanced, and this would not make sense if this "remainder" was outside the control of the applicant/appellant, as is the case here if the whole PUOS area is considered.

388. In these circumstances the appeal proposal has to be seen as developing some 82% of the total site area, with just 18% being undeveloped as public open space [122]. The Appellant argues that this figure should be increased to 23%, by including incidental space around buildings B (apartments) and C (Care Home) [97,122], but regardless of which figure is used I am not persuaded that developing either 77% or 82% of the site is what the policy means by "part". As a result the proposal would be at odds with this aspect of policy EN4 if the site was considered to perform a useful, current function as open space.

389. In view of all the above points, and notwithstanding my findings on this latter matter, my conclusion on this first consideration is that if Appeal B was to be approved, such that the Appellant had no need for The Avenue site, then allowing Appeal A would not have an adverse effect on existing protected open space within the urban area. The proposal would therefore not be in conflict with policy EN4. Policy SP6, also referred to in the reason for refusal [19], is a strategic policy under which the Council will seek to maintain and improve the environment. It adds nothing new to the arguments detailed above and does not cause me to reach a different view on this matter.

The effect of the proposal on outdoor sports facilities

390. To some extent this matter is an extension of the considerations already dealt with above, but I have dealt with it separately as it was the basis of a discrete Council reason for refusal. As has been noted, Site A contains 3 floodlit senior rugby pitches on its southern part, and one unlit senior rugby pitch on the northern part, to the north of the VAHC and its car park [12]. The main pitch, directly in front of the grandstand, is essentially reserved for use by the Club's professional team for training and for use by the top amateur team (the Wild Geese) for its home

games. This leaves a total of 3 adult pitches available for "community use", as detailed within the Council's 2007 Playing Pitch Assessment and Strategy [148].

391. Taken in isolation, allowing Appeal A would result in the permanent loss of these outdoor sports facilities and would be in clear conflict with CSPDPD policy EN4. As detailed in paragraph 379, it is self-evident that while the London Irish Club uses The Avenue as its training ground these pitches are needed for rugby purposes. However, it is equally apparent that the whole objective behind the London Irish proposals is to replace the facilities currently available at The Avenue with bigger and better rugby facilities at Hazelwood. To this extent I therefore approach this part of the assessment of Scheme A in the context of Scheme B proceeding, in line with my preliminary conclusion on Appeal B and my assessment of the first main consideration, above.

392. I have already identified the fact that when both appeals are considered together there would still be a net loss of the existing golf provision at Hazelwood, such that current users and members of that facility would clearly be adversely affected. However, I have also noted that there appear to be a number of alternative golfing facilities within a reasonable distance of Hazelwood and there is no firm evidence before me to demonstrate that this loss would be unacceptable [54].

393. Assessed on the above basis, and for the reasons already given, I conclude that Scheme A would not have an overall adverse impact on outdoor sports facilities, and that there would therefore be no unacceptable conflict with policy EN4 of the CSPDPD in this regard.

Whether the proposal provides an adequate justification in terms of housing need and current planned housing provision to set aside the Council's policy to protect existing sports facilities and protected urban open space

394. Although this consideration has been included to closely reflect the Council's second reason for refusal, the Appellant has never made any case for the Appeal A proposal on the basis of housing need [37,143]. Indeed, the Appellant's Statement of Case makes it clear that the reason for refusal in this regard is seen as representing a misunderstanding by the Council of the 2 applications, which the Appellant repeats are inextricably linked [37,40]. The Appellant states that Scheme A is put forward as enabling development to allow Scheme B to be progressed, so that the Club can continue its substantial sports provision within the locality for future generations.

395. Nevertheless, it is the case that if this proposal was permitted it would be the largest housing scheme, in net terms, within the Borough since its inception in 1974 [129]. Whilst this is not a reason, in itself, to either support or oppose the proposal, it does help to explain why the Council views it with some caution as it would not be unusual to expect such a large development to be assessed and programmed as part of the development plan process. That said, the Appellant has pointed out that it is perfectly entitled to pursue this proposal through the planning application/appeal route [116] and this is not disputed. I have, however, also been mindful of the submitted evidence which demonstrates that the Council is well on target to exceed the provision of 3,320 new dwellings within the Borough for the period 2006 to 2026, as set out in tables accompanying policy H1 of the SEP [143].

396. The Appellant argues that these SEP targets are not to be seen as minima, especially as open market housing in the South-East region is a precious resource

in its own right [111]. This is borne out by the fact that the text of SEP policy H1 urges local planning authorities to work collaboratively to facilitate the delivery of the overall amount of additional dwellings identified. However, the latest housing trajectory clearly shows that the Council is not treating the SEP figure as a minimum provision, as the 3,320 figure is scheduled to be met some 3 to 4 years early, with an additional 625 dwellings predicted to be provided by 2026 [143]. Furthermore, as of 1 April 2011 the 5-year target of 775 dwellings to 2016 is on schedule to be more than met by a supply of some 906 dwellings [143].

397. These figures lead me to conclude that the Council is under no particular pressure to seek to provide or approve additional "windfall" dwellings. In any case, the appeal site does not fall within the PPS3 definition of previously-developed land [145]. This means that development of the site for housing would not accord with the priority location for such development, stated in PPS3 to be previously-developed land, in particular vacant and derelict sites and buildings. Whilst these points do not constitute a veto on the development of land like the appeal site, they certainly do not offer any support. In a plan-led system, this is an important point which weighs against the proposed development.

398. If there was a strong reason why the Council needed to provide additional general housing development, and it could be shown that this site is no longer needed for sport and recreation purposes, then the points detailed under this consideration would not be sufficient to prevent such development. In those circumstances any conflict with CSPDPD policies SP6 and EN4 would not be so significant as to warrant refusal for this reason alone. However, the points detailed above show that all these circumstances do not apply here, and this therefore weighs against the proposal.

Whether the proposal would provide an adequate amount of affordable housing

399. Policy SP2 of the CSPDPD is a strategic policy dealing with housing provision [19,154]. Its supporting text states that the affordability of housing in Spelthorne is a significant issue and that both the Surrey Structure Plan and the draft (at that time) RSS for the South East have a target that 40% of all new housing should be "affordable". It further states that this 40% figure is considered reasonable taking into account the level of housing need balanced with the need to maintain the viability of development.

400. The more detailed, local policy dealing with affordable housing is HO3 in the CSPDPD which confirms that the Council's target for affordable housing for each site is 40% of all net additional dwellings over the period to 2026 [154]. It explains that having regard to the circumstances and viability of each site, this will be achieved by negotiating for a proportion of up to 50% of housing to be affordable, on sites of 0.5ha or larger or where the development comprises 15 or more dwellings [155].

401. The Council has indicated that its over-riding need is for 2 and 3-bed family houses, although it acknowledges that flats would be acceptable in this proposed development of 194 dwellings [152]. However, despite the Appellant's assertions to the contrary, it seems as though the Council's expressed need has not informed the Appellant's offer, which amounts to just 19 affordable dwellings, comprising 8 No 1-bed flats and 11 No 2-bed flats [110,267]. As an alternative, and to reflect the Council's stated desire for 2 and 3-bed units the Appellant has indicated, in the S106 Agreement, that if planning permission is granted the Council could adjust

the affordable housing mix, to a maximum floor area of 1,140sqm (GIA) [152,267]. In simple numerical terms the offer amounts to about 10% of the total units proposed, but this would be somewhat less than 10% if based on overall floor area [152]. On whichever measure, the offer is significantly below the Council's target figure of 40% overall.

402. This is because the Appellant sees the affordable housing issue as a straightforward matter of economics and viability, stating that it simply does not have sufficient resources to develop the Hazelwood site in the manner desired and also provide the amount of affordable housing sought by the Council [102]. The viability evidence submitted by the Appellant, and not disputed by the other parties, indicates that the total costs of developing the Hazelwood site would equate to a net present value of some £14.647 million [103]. The Appellant maintains that this has to be covered by the sale of the land at The Avenue as it can draw on no additional sources of funding and it therefore needs to use the bulk of the proceeds from development of The Avenue site to "enable" the Appeal B proposal to proceed [102].

403. The total costs of developing Scheme A at The Avenue, including this Hazelwood deficit of £14.647 million, would be about £51 million and after allowing for the effects of interest charging and discounting, the developer's return would be about £13.681 million which the Appellant argues would represent the minimum acceptable return of 15% [104]. The Appellant further argues that to provide the 50% of affordable housing sought by the Council under CSPDPD policy HO3 would require an additional subsidy in the region of about £5.9 million [104]. Both main parties agree that even if none of the proceeds from The Avenue were needed to fund Scheme B, the Appeal A development would not be viable if it had to provide the full affordable requirement of up to 50% sought by policy. The Council does, however, consider that the site could provide some 35% of affordable housing and still remain a viable proposition [120,156,157]. On the basis of the submitted figures, I see no reason to take a contrary view.

404. The Council generally accepted the mathematical basis of the Appellant's case, set out in its viability evidence, and again I have no reason to take a different view. However, although the issue of enabling development is clearly capable of being a material consideration, I have concerns about the principle and application of it in this case, and therefore the weight to be given to it. Examples of enabling development were put before me but none are comparable to the current proposals [106,108,158-162]. These other cases and judgements feature such matters as (i) strong development plan support for the "enabled" development; (ii) the consideration of a single site or closely related sites and (iii) a physical "place" or "heritage asset" to be preserved. None of these apply here.

405. On the first point, the Appellant accused the Council of not taking its need to relocate seriously, whilst the Council was critical of the fact that the Appellant did not pursue its need for a new ground, and the likelihood that it would seek to fund it by some form of enabling development, through the development plan process [49,129]. Despite these conflicting positions the fact remains that there is no specific policy support for the Appellant's proposals – either the development of The Avenue site or the re-development at Hazelwood. No firm evidence has been submitted to suggest that there is any pressing planning or policy requirement to re-develop the HGC, and as far as the CSPDPD is concerned The Avenue warrants protection from development by reason of its PUOS designation. In the context of a plan-led system these matters do not weigh in the Appellant's favour. Whilst it

is certainly conceivable that a good case could be made for providing a lesser amount of affordable housing if other planned CS objectives were being achieved, it is much more difficult to justify a reduction in this case, where the Appellant appears to view its own objectives as paramount.

406. Turning to the second point detailed above, the 2 sites in question are not closely related in terms of proximity, prevailing planning framework or ownership, although the Appellant does have an option to purchase in respect of Site B [55,163]. This lack of connection between the sites serves to emphasise the non-compliance of the current proposals with policy HO3 [19,155,156]. This policy acknowledges that viability is a matter to be taken into account when affordable housing is being considered, but it is quite clear that it is the viability of development "on the site" which needs to be considered [155]. There is nothing within the policy to suggest that the economics or viability issues relating to another site should be taken into account when considering how much affordable housing a particular site should deliver. To interpret the policy in such a way would have the potential to significantly weaken the Council's ability to provide the required amount of affordable housing which is itself a clear and pressing priority, not only at the local level, but also nationally [36,143,147].

407. In terms of the third point referred to above, there is clearly no "place" or "heritage asset" to be protected or preserved in this case. The Appellant argues that the London Irish Club and its facilities should be seen as the "place" for the analogy with English Heritage guidance and, as a matter of principle, this does not seem an unreasonable proposition [107]. However, this analogy breaks down somewhat in respect of the English Heritage criterion which indicates that enabling development should seek to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner [162,164,217]. This distinction is blurred in the current case as the needs of the Club and its owners are one and the same, but there is no evidence before me to suggest that there is any imminent threat to the continued existence of the Club.

408. Indeed, as well as the significant number of teams that the Club currently operates, the Sporting and Business Case explains that the Club also provides an extensive outreach and development programme across the South East, all from its existing base at The Avenue [50]. This includes tailored projects for individual schools and sports clubs and visits to local primary and secondary schools and local rugby clubs to deliver over 1,900 hours of rugby coaching [42,43]. Whilst it is clear that there would be some additional community benefits from allowing these appeals, including public and school use of the proposed 3G pitch and further community coaching provision [64,267], the primary purpose behind these applications is to provide significant benefits to the Club itself. These would arise as a result of the expansion and consolidation opportunities which would follow from having state of the art facilities in a purpose-built centre.

409. The Council has referred to the development plan process, endorsed by PPS3, whereby market housing development funds the provision of affordable housing, as a form of enabling development or "public subsidy" [147]. I share the Council's view that, in effect, the Appellant is seeking to have the vast majority of this development plan "public subsidy" over-ridden by its own financial needs and preferences. The question therefore has to be asked as to whether or not it is appropriate to divert a "public subsidy" away from affordable housing in order to provide these facilities.

410. In considering this matter I have been mindful of the fact that although the London Irish Club is the only provider of rugby facilities within the Borough, Staines Rugby Club lies just over the Borough border and also meets rugby needs within Spelthorne [149,199]. It was also established at the inquiry that there are a number of other providers of rugby facilities within a 30 minute drive time of The Avenue, including high level Academy facilities at Harlequins and Wasps, together with a number of other successful clubs with decent facilities [198]. As such it appears that there is a reasonably good level of provision of rugby facilities within the wider area, and in my assessment this lessens the weight which should be attached to the appeal proposals.

411. In addition, I give little weight to the Appellant's assertion that there is a lesser need to provide affordable housing on a pure windfall site such as this would be [109]. There is no rational basis for such a view when the Council has clearly struggled to meet its affordable housing target in recent years. Nor does such a view find any support in the CSPDPD or nationally within PPS3. I also give little weight to the Appellant's argument that the 19 affordable homes being offered should be seen as a real benefit as they would amount to 26% of the annual requirement of 72 dwellings [110]. Whilst mathematically correct, this has to be viewed against the potential delivery of affordable housing from this site which, at 35%, would be some 68 dwellings. This almost equates to the whole annual requirement.

412. Taking all the above matters into account it is the case that although some clear public and community benefits would flow from these linked proposals, the bulk of the benefits would flow to the Club itself. A straightforward redevelopment of The Avenue site would be capable of providing far more much needed affordable housing, in accordance with development plan and national planning objectives, than the Appellant is prepared to offer in this case. I am therefore led to conclude that the proposal would fail to provide an adequate amount of affordable housing and would therefore be at odds with both policy SP2 and policy HO3 of the CSPDPD [19,154].

Other matters

413. The Appeal A development includes the provision of a 60-bedroom Care Home and a site for a future health centre [26]. The Council acknowledges that with an ageing population there is likely to be a need for additional Care Home accommodation in the Borough, and does not oppose the proposed provision [113].

414. In a similar way the Council also acknowledges that the new health centre, which was introduced into the development mix in response to comments made during public consultation, would be desirable in principle [112]. A variety of evidence on this matter, at times appearing contradictory, was submitted to the inquiry [112,146]. Correspondence dating back to 2009 indicates that the Surrey PCT (the body that is currently responsible for making healthcare property investment decisions), would welcome a new facility on the appeal site if it could be provided on a "no cost" basis, involving a land swap for the current Health Centre site [112]. Furthermore, there is continuing support from the GPs at the Sunbury Health Centre Group Practice, as demonstrated through correspondence dated as recently as April of this year, submitted by the Appellant [112].

415. This contrasts, however, with the most recent information from the PCT, dating from just before the opening of the inquiry, which indicates quite clearly that the PCT does

not support the appeal proposal at the present time [112,146]. This stance is not surprising as there is uncertainty over the future of PCTs, with many of their current responsibilities likely to transfer to GP consortia. The Council argues that the absence of such support raises a significant likelihood that such a proposal will simply not come forward [146], whereas the Appellant's view is that the proposals would provide a welcome new facility for the benefit of the new residents and those of the wider area, even if the PCT does not survive to commission the facility [112].

416. Both the Care Home and the health centre would assist in producing a mixed development, but the conflicting views set out above and the lack of any firm proposals for either of these elements make it difficult to come to any clear conclusions regarding the weight to be attributed to them in this outline proposal. However, no policy conflict has been alleged against either of these aspects of the proposal, or against the proposed live-work units [113]. Overall I therefore conclude that these matters should add a modest amount of weight in the proposal's favour.

417. The final matter of note is the traffic and transport concerns raised in the evidence presented by LOSRA, the statements of interested persons who spoke at the inquiry and the large number of written representations submitted at both application and appeal stages by LOSRA and interested persons. These concerns cover a number of topics, including the impact of development-related traffic on the existing traffic situation; public transport accessibility; the proposed Travel Plans; parking provision on site; access to the appeal site itself; access to the proposed health centre; and compliance of the proposals with the DDA [223-225,252, 255,257].

418. It is clear from the above that there is a significant amount of local concern regarding such matters. Many of those raising concerns and objections live close to the appeal site and I have no doubt that they have provided their first-hand accounts of the traffic situations they experience. I have had regard to these views, and the more detailed analyses submitted by Mr Sexton on behalf of LOSRA [263]. However, it is also necessary to weigh these generally subjective accounts of traffic conditions against the objective, technical assessments submitted by the Appellant and approved by SCC as local Highway Authority [3,36,266].

419. Of particular concern is the operation of the priority junction between The Avenue and Staines Road East, which would be improved as part of the appeal proposal by widening the approach to the junction on The Avenue to provide a separate right-turn lane. LOSRA is critical of this proposed improvement, as the actual number of peak-hour right-turners from The Avenue is relatively low [224]. However, I understand that at present these vehicles have difficulty entering Staines Road East and, as there is only a single approach lane on The Avenue, these waiting vehicles block and delay other vehicles wishing to turn left out of The Avenue.

420. This improvement does not seek to fully solve existing traffic problems or congestion, but has been put forward on the basis that the operation of the junction with development traffic would be no worse than the present day situation without the development traffic. This is a standard approach to junction improvements in such circumstances, and the operation of the proposed improvement, with predicted development traffic added, has been assessed using an industry-standard junction modelling program [114].

421. The proposed improvement has been approved by SCC, as have all other highway aspects of the proposal, as detailed in the SoCG and set out in the S106 Agreement with SCC [36,114,266]. Despite the criticisms from LOSRA and interested persons, I

have given these professional views significant weight as no contrary traffic information, using generally accepted methods of assessment and appraisal, has been submitted to cause me to doubt the accuracy and validity of the Appellant's assessments.

422. In view of the above points, and in the light of the content of the SoCG and S106 Agreement I conclude that the Appeal A proposal would not have an adverse effect on the safety and convenience of users of the highway network in the vicinity of the appeal site. Accordingly I find no conflict with policy CC2 of the CSPDPD [36,38].

Preliminary Conclusion on Appeal A

423. As set out above, I have acknowledged that Scheme A would result in benefits for the London Irish Club and the public in general. Furthermore, if alternative sport and recreation facilities could be provided there would be no good reason, in open space terms, to oppose an appropriate development proposal for this site. However, I have also concluded that there is no pressure on the Council to approve additional applications for large windfall housing proposals such as this, and that this, together with the fact that The Avenue site is not previously-developed land, weighs against the proposal.

424. Most importantly, I have concluded that the proposal fails to make provision for an adequate amount of affordable housing and is therefore in conflict with CSPDPD policies SP2 and HO3. Notwithstanding my favourable findings on the other matters raised, my overall conclusion is that the harm arising from this latter matter means that Scheme A is not acceptable.

Summary and Overall Conclusions for Appeal A and Appeal B, taken together

425. Having reached preliminary conclusions on both Scheme A and Scheme B separately, the final step is to see how and to what extent those conclusions are changed by considering the proposals in combination.

426. A site such as The Avenue, which in itself presents no serious, physical difficulties to develop (such as the need to remediate contaminated land), could ordinarily be expected to provide a significant amount of much needed affordable housing through the well-established procedures set out in the development plan and fully endorsed in national planning guidance in PPS3 [20.147]. There would need to be strong, mainly planning reasons, why a site like this should not provide a significant amount of affordable housing in such circumstances.

427. However, all the Appellant relies on is an "enabling development" argument, taken somewhat out of context from the more normal way in which such a mechanism might be applied [215]. In this case it relates to 2 disparate and unconnected sites, unsupported by any development plan polices for their redevelopment, either in isolation or as a related project, and unsupported by national planning guidance for enabling development in this form. It is very much the "personal" preferences, desires and agenda of the private members London Irish Club which is driving these joint proposals and which severely limits the amount of affordable housing offered, with other community benefits being very much secondary.

428. The improvement of sports facilities and the promotion of participation in sport are national planning objectives as set out in PPG17 [42], and Scheme B would produce some benefits in this regard. However, even when added to the Scheme A benefits detailed above, they are still outweighed by the failure to provide an adequate and

reasonable amount of affordable housing on The Avenue site. In coming to this view I have been mindful of the Government's commitment to improving the affordability and supply of housing, as detailed in PPS3, and the fact that the need for affordable housing forms a key part of the Councils LDF "Vision" [143,147]. These points lead me to a final conclusion that even when Scheme A is considered as part of the joint proposal, it is not acceptable.

429. Scheme B would be acceptable on its own, because having regard to the existing scale and type of development already at Hazelwood the proposal would result in very little harm to the Green Belt, despite my findings of inappropriate development. The benefits of the proposal would clearly outweigh the sum total of all Green Belt and other Hazelwood-related harm, but more on the basis that this overall harm is slight rather than the benefits being substantial. However, when The Avenue benefits and disbenefits are taken into account, I share the Council's view that the harm which would arise as a result of the inadequate provision of affordable housing tips the balance against the Scheme B proposal, such that the benefits would no longer clearly outweigh the Green Belt harm and all other harm. This means that when the 2 schemes are considered together very special circumstances cannot be demonstrated and Scheme B also becomes unacceptable.

430. For all the reasons set out above I therefore conclude that when considered as a joint package, neither of these proposals for outline planning permission is acceptable. I have had regard to the environmental information contained in the ES, to the comments on it from the statutory consultees and members of the public, to the mitigation measures proposed, and to the environmental information derived from evidence given at the inquiry and contained in representations to the inquiry. I have also given due consideration to the list of suggested and largely agreed conditions, as well as the obligations secured through the Section 106 Agreements, but none of these matters alter my conclusions.

Conditions

431. For the reasons given I do not consider that either appeal should be allowed. However, if the Secretary of State takes a contrary view, and decides to grant planning permission for either or both schemes, then the conditions set out in Appendix C to this Report should be imposed [264,265]. These conditions and the reasons for their imposition have been agreed between the parties. They are appropriate to the developments proposed and all meet the relevant tests set out in Circular 11/95. In addition, if planning permission is granted for Scheme B it would be necessary to impose an additional condition controlling the erection of any temporary spectator stands, to ensure that the noise implications can be assessed by the Council [265]. I have added an additional condition to this effect.

Recommendation

432. I recommend that both Appeal A and Appeal B be dismissed

David Wildsmith

INSPECTOR

APPENDIX A

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant	Of Counsel, instructed by Siraj Choudhury, Solicitor (Planning and Litigation), Corporate Governance Department
He called	
Mr John Brooks BSc DipTP DMS MRTPI MCMI	Deputy Head of Planning and Housing Strategy, Spelthorne Borough Council
Mr Dion Scherer FRICS	Senior Surveyor, Campsie
Mr James Griffiths FIOA	Director, Vanguardia
Mr Stephen Job MA DipTP MRTPI	Director, Stephen Job Associates Ltd

FOR THE APPELLANT:

Mr Mark Lowe QC	Instructed by Simon Dimmick and Rosalind Prue of Blandy & Blandy LLP, One Friar Street, Reading, RG1 1DA
He called	
Mr Jonathan Tricker BEng(Hons) MCIHT	Consulting Director, Urban Initiatives
Mr Kelvin Campbell RIBA MRTPI MCIT MILT FRSA	Managing Director, Urban Initiatives
Mr Andrew Petherick MEd MSocEW ACIA	Managing Director, RAE Sport and Leisure Consultants Limited
Miss Moira Hankinson BSc DipLD FLI	Director, Moira Hankinson Consulting
Mr Martyn Thomas	Chairman, Board of Management of Rugby Football Union and Acting Chief Executive Officer of Rugby Football Union
Mr David Fitzgerald	Chairman, London Irish Amateur Rugby Football Club
Mr Andrew Martin ACIB MBA	Chief Executive Officer, London Irish Holdings Limited
Mr Jeremy Edge BSc(Soc Sci) FRICS MRTPI	Consultant Director, Urban Initiatives and Partner, Edge Planning & Development
Mr Douglas Sharps CEng FIMechE FIOA	Acoustic Consultant, Sharps Acoustics LLP

FOR THE LOWER SUNBURY RESIDENTS' ASSOCIATION (LOSRA) (RULE 6 PARTY)

Mr John Hirsh, Honorary Chairman

He called:

Mr Matthew Tanna-White	Local resident and representative of SOLID (Sunbury Opposes London Irish Developments)
Mr Paul Watts	Local resident and current President of LOSRA
Mr Tom O'Keefe	Shareholder in Hazelwood Golf Centre Ltd, and representative of HAG (Hazelwood Action Group)
Mr Ron Pettifor	Local resident and representative of HAG (Hazelwood Action Group)

INTERESTED PERSONS OPPOSING THE PROPOSAL:

Mr Alan Pascoe MBE BEd DUniv	Local Resident
Mrs Judith Perry	Local Resident
Mr Ian Robinson	Local Resident
Mr Gerry Cook	Local Resident

APPENDIX B

DOCUMENTS

Core Documents

CD01	**Hazelwood Plans**
CD01.01	Site Location Plan (drg no 2922.PLG.01) (4 Dec 09) (superseded)
CD01.02	Existing Site layout (drg no 2922.PLG.02) (4 Dec 09)
CD01.03	Proposed Site Layout (drg no 2922.PLG.03) (4 Dec 09) (superseded)
CD01.04	Proposed Site Sections (drg no 2922.PLG.04) (4 Dec 09) (superseded)
CD01.05	Proposed Detail of East End of Site (drg no 2922.PLG.05) (4 Dec 09) (superseded)
CD01.06	Revised Site Location Plan (drg no 2922.PLG.01 Rev A) (19 Oct 10)
CD01.07	Revised Proposed Site Layout (drg no 2922.PLG.03 Rev A) (19 Oct 10) (superseded)
CD01.08	Revised Proposed Site Sections (drg no 2922.PLG.04 Rev A) (19 Oct 10) (superseded)
CD01.09	Revised Proposed Detail of East End of Site (drg no 2922.PLG.05 Rev A) (19 Oct 10) (superseded)
CD01.10	Revised Proposed Site Layout (drg no 2922.PLG.03 Rev B) (11 Feb 11)
CD01.11	Revised Proposed Site Sections (drg no 2922.PLG.04 Rev B) (11 Feb 11)
CD01.12	Revised Proposed Detail of East End of Site (drg no 2922.PLG.05 Rev B) (11 Feb 11)

CD02	**Hazelwood: Original Planning Application Documents**
CD02.01	Planning Application Forms (Dec 09)
CD02.02	Planning Statement (Urban Initiatives) (Dec 09)
CD02.03	Sporting and Business Case (Rae Sport and Leisure) (Dec 09)
CD02.04	Sporting and Business Case Appendices (Rae Sport and Leisure) (Dec 09)
CD02.05	Design and Access Statement (Urban Initiatives) (Dec 09)
CD02.06	Consultation Statement (M&N Communications) (Dec 09)
CD02.07	Consultation Statement Appendices (M&N Communications) (Dec 09)
CD02.08	Spelthorne Borough Council Planning Committee Report 27 April 2010
CD02.09	Hazelwood Decision notice
CD02.10	Environmental Statement (Non-tech summary) (Scott Wilson) (Dec 09)
CD02.11	Environmental Statement (incorporating a Renewable Energy Statement) (Scott Wilson) (Dec 09) comprising: • Socio economic effects • Ground conditions • Water Resources • Utilities • Traffic and Travel • Noise and Vibration • Air Quality • Landscape and Views • Lighting • Ecology and nature conservation
CD02.12	Environmental Statement Appendices 1.1 – 10.3 incorporating: • Introduction • Proposed Development • Ground Conditions • Water Resources • Utilities • Traffic and Travel • Noise and Vibration • Air Quality • Landscape and Views
CD03	**Hazelwood: Further Planning Application Documents**
CD03.01	Travel Plan (Mar 10)
CD04	**Hazelwood: Planning Appeal Documents**
CD04.01	Planning Appeal Form (Oct 10)
CD04.02	Variation of Description of Development Email (Dec 09)
CD05	**Hazelwood: Post Planning Appeal Documents**
CD05.01	Spelthorne Borough Council Planning Committee Report 9 February 2011
CD05.02	Statement of Common Ground (rev 1)

CD05.03	Statement of Common Ground Highways
CD05.06	Statement of Case (Spelthorne Borough Council)
CD05.07	Statement of Case (Appellant)
CD06	**The Avenue: Plans**
CD06.01	Drg no 2347/PLG01: Site Location Plan
CD06.02	Drg no 2347/PLG02: Existing Site Plan
CD06.03	Drg no 2347/PLG03: Proposed Masterplan (superseded)
CD06.04	Drg no 2347/PLG04: Sections (superseded)
CD06.05	Drg no 2347/PLG05: Proposed Highway Adoption Plan (withdrawn)
CD06.06	Drg no 2347/PLG 03 Rev D (19 Apr10): Avenue Revised Proposed Masterplan
CD06.07	Drg no 2347/PLG 04 Rev D (19 Apr 10): Avenue Revised Proposed Sections
CD07	**The Avenue: Original Planning Application Documents**
CD07.01	Planning Application Forms (Dec 09)
CD07.02	Development Schedule (Urban Initiatives) (Dec 09)
CD07.03	Planning Statement (Urban Initiatives) (Dec 09)
CD07.04	Design and Access Statement (Urban Initiatives) (Dec 09)
CD07.05	Affordable Housing Statement (HEDC) (Dec 09)
CD07.06	Transport Assessment (Urban Initiatives) (Dec 09)
CD07.07	Consultation Statement (M&N Communications) (Dec 09)
CD07.08	Consultation Statement Appendices (M&N Communications) (Dec 09)
CD07.09	Design Codes (Urban Initiatives) (Dec 09)
CD07.10	Spelthorne Borough Council Planning Committee Report 27 April 2010
CD07.11	Decision notice
CD07.12	Planning Supporting Statement (Environment) incorporating a Renewable Energy Statement (Scott Wilson) (Dec 09)
CD07.13	Planning Supporting Statement (Environment) Appendices incorporating: • Introduction • Proposed Development • Ground Conditions • Water Resources • Utilities • Traffic and Travel • Noise and Vibration • Air Quality • Landscape and Views
CD08	**The Avenue: Further Planning Application Documents**
CD08.01	Travel Plan (Apr 10)

CD09	**The Avenue: Planning Appeal Documents**
CD09.01	Planning Appeal Form (Oct 10)
CD09.02	Variation of Description of Development Email (Dec 09)
CD10	**The Avenue: Post Planning Appeal Documents**
CD10.01	Spelthorne Borough Council Planning Committee Report 9 February 2011
CD10.02	Statement of case (Spelthorne Borough Council)
CD10.03	Statement of case (Appellant)
CD10.04	Statement of common ground (rev 1)
CD10.05	Statement of common ground highways
CD11	**Hazelwood and The Avenue: Documents submitted in relation to both applications / appeals**
CD11.01	Post Refusals Additional Information Report (Oct 10), including as appendices: • Appendix 1: Decision notices • Appendix 2: Minutes of pre-appeal meetings with Spelthorne Borough Council • Appendix 3: Revised masterplan for Hazelwood (2922.PLG.03 Rev A) • Appendix 4: Letter from Mr Rick Bruin, RFU (August 2010) • Appendix 5: Hazelwood Proposed site levels report (Scott Wilson, September 2010) • Appendix 6: Noise and Vibration Environmental Statement Addendum (Scott Wilson, September 2010) • Appendix 7: Air Quality Update Report (Scott Wilson, Oct 2010) • Appendix 8: Archaeological Evaluation Report (Scott Wilson, October 2010) • Appendix 9: Surrey County Council Form CR1 – Recommendation on The Avenue Planning Application (SCC, September 2010) • Appendix 10: Alternative Masterplan Proposal for The Avenue (2347.PLG.03 Rev E, For Information Only)
CD11.02	LOSRA statement of case
CD12	**National Planning Policy**
CD12.01	PPS1: Delivering Sustainable Development (2005)
CD12.02	PPS Planning and climate change – supplement to PPS1 (2007)
CD12.03	PPG2: Green Belts (1995)
CD12.04	PPS3: Housing (June 2010)
CD12.05	PPS 5: Planning for the Historic Environment (2010)
CD12.06	PPS 7: Sustainable Development in Rural Areas (2004)
CD12.07	PPS 9: Biodiversity and Geological Conservation (2005)
CD12.08	PPS12 Local Development Frameworks published in September 2004 (now superseded)

CD12.09	PPS12 Spatial Planning (2008)
CD12.10	PPG13: Transport (2001)
CD12.11	PPG17: Planning for Open Space, Sport and Recreation (2002)
CD12.12	Assessing needs and opportunities: a companion guide to PPG17
CD12.13	PPS22: Renewable Energy (2004)
CD12.14	PPS23: Planning and Pollution Control (2004)
CD12.15	PPG24: Planning and Noise (1994)
CD12.16	PPS25: Development and Flood Risk (2010)
CD12.17	Community Infrastructure Levy Regulations November 2010
CD12.18	Circular 11/95 The Use of Conditions in Planning Permissions
CD12.19	Delivering affordable Housing, Department for Communities and Local Government, November 2006
CD12.20	Circular 1/85 The use of conditions in planning permissions (superseded)
CD13	**Regional Planning Policy**
CD13.01	The South East Plan (2009)
CD13.02	The South East Plan Key
CD14	**Local Planning Policy**
CD14.01	Core Strategy and Policies DPD (February 2009)
CD14.02	Allocations DPD (December 2009)
CD14.03	Proposals Map DPD (December 2009)
CD14.04	Saved policy GB1 of the Spelthorne Borough Local Plan 2001 and whole supporting text.
CD14.05	Policy BE14 of the Spelthorne Borough Local Plan 2001 and whole supporting text (initially saved, now replaced by policy EN4)
CD14.06	Spelthorne Development Plan Core Strategies and Policies Inspector's report
CD14.07	Policy EV31 of the Spelthorne Borough Local Plan 1991 and whole supporting text.
CD14.08	Extracts from the Inspector's report on the public local inquiry into objections and representations made to the Spelthorne Local Plan (1988)
CD14.09	Extracts from the Spelthorne Borough Local Plan Inquiry Inspector's report (1998)
CD15	**Other Relevant Documents and Reports**
CD15.01	Spelthorne Borough Council Annual Monitoring Report 2010
CD15.02	Spelthorne Borough Council Housing Market Assessment (January 2007)
CD15.03	Spelthorne Borough Council Housing Needs Survey (2006)
CD15.04	Landscape Character Assessment, Guidance for England and Scotland, The Countryside Agency and Scottish Natural Heritage, 2002, Chapters 2 and 7

CD15.05	IEMA/IOA Noise Impact Assessment Guidelines, Proceedings of the Institute of Acoustics, 2006, Vol. 28, pt. 7
CD15.06	Guidelines for noise impact assessment, consultation draft, Institute of Environmental Management and Assessment, Institute of Acoustics (April 2002)
CD15.07	Health Effect Based Noise and Assessment Methods: A review and feasibility study (summary), National Physical Laboratory (September 1998)
CD15.08	Guidelines for Community Noise, Executive Summary, WHO (1999)
CD15.09	Disability Discrimination Act 1995 – Part III
CD15.10	Measuring Public Transport Accessibility Levels, Transport for London (April 2010)
CD15.11	TRICS Good Practice Guide 2010
CD15.12	Appeal APP/Z3635/A/01/1077892 (17.16 para Village PLC) Inspector's report (2002)
CD15.13	Appeal APP/Z3635/A/01/1077892 (Chelsea Village PLC) Decision of the Secretary of State (October 2002)
CD15.14	Planning Application PA/99/0583 Planning Committee report
CD15.15	Planning Application PA/99/0583 decision notice
CD15.16	Planning Application PA/99/0583 legal agreement
CD15.17	Appeal T/APP/Z3635/A/94/236119/P5 (Land off the Ridings, Sunbury on Thames) decision notice
CD15.18	Appeal T/APP/Z3635/A/97/285522/P8 (land at St. Theresa's Convent) decision notice
CD15.19	Planning for Sport and Active Recreation, Sport England (Interim Statement 2005)
CD15.20	Playing Pitch Assessment & Strategy 2007 – 2012, SBC
CD15.21	Playing Pitch Strategy 2008 – 2011 Report of the Deputy Chief Executive, executive summary
CD15.22	Sport in the Green Belt, Sport England (March 2003)
CD15.23	London Irish Proposed Centre of Excellence at Hazelwood Golf Course, Sunbury, Knight Kavanagh and Page for Spelthorne Borough Council (March 2011)
CD15.24	Assessment of Open Space, Sport and Recreation Provision in Spelthorne Borough Council, (September 2005)
CD15.25	National Facilities Strategy, Rugby Football Union in England (2008)
CD15.26	National Facilities Strategy, Rugby Football Union in England, Summary (May 2001)
CD16	**Letters and emails**
CD16.01	Pre-application advice letter from Heather Morgan to Jonathan Bore dated 24th June 2009

CD16.02	Letter from Marcus Wilshere to Heather Morgan dated 11 May 2010 re Clarification on Reasons for Refusal
CD16.03	Letter from Heather Morgan to Marcus Wilshere dated 13 May 2010 re Clarification on Reasons for Refusal
CD16.04	Letter from Kelvin Campbell to Heather Morgan dated 13 May 2010 re Planning Committee Arrangements
CD16.05	Email from Heather Morgan to Rachel Hamilton dated 24 May 2010 re Further Clarification on Reasons for Refusal
CD16.06	Letter from Rick Bruin of the RFU to Andy Martin, dated 5th August 2010
CD16.07	Letter from Rick Bruin of the RFU to Heather Morgan, dated 28th Aug 2010
CD16.08	Email from Katy Walker of Sport England to Leanne Palmer (PINS) dated 5th April 2011
CD16.09	Letters from Robert Catley-Smith to Heather Morgan dated 25th January 2010 and 22nd February 2010 & from Tom O' Keefe to Esme Spinks dated 25th January 2010
CD17	**Proofs of Evidence (including proofs for both appeals)**
SPELTHORNE BOROUGH COUNCIL	
CD17.01	Stephen Job (Planning) Proof of evidence: Summary
CD17.02	Stephen Job (Planning) Proof of evidence
CD17.03	Stephen Job (Planning) Proof of Evidence: Appendices
CD17.04	Dion Scherer (Viability) Proof of Evidence
CD17.05	Dion Scherer (Viability) Proof of Evidence: Appendices
CD17.06	James Griffiths (Noise) Proof of Evidence: Summary
CD17.07	James Griffiths (Noise) Proof of Evidence
CD17.08	James Griffiths (Noise) Proof of evidence: Appendices
CD17.09	John Brooks (Housing) Proof of Evidence
LONDON IRISH HOLDINGS LIMITED	
CD17.10	Moira Hankinson (Landscape) Proof of Evidence (The Avenue)
CD17.11	Moira Hankinson (Landscape) Proof of Evidence: Appendices (The Avenue)
CD17.12	Moira Hankinson (Landscape) Proof of Evidence (Hazelwood)
CD17.13	Moira Hankinson (Landscape) Proof of Evidence: Appendices (Hazelwood)
CD17.14	Kelvin Campbell (Urban Design) Proof of Evidence (joint for both appeals)
CD17.15	Kelvin Campbell (Urban Design) Proof of Evidence: Appendices (joint for Appeal A and B)
CD17.16	Doug Sharps (Noise) Proof of Evidence (Hazelwood)
CD17.17	Doug Sharps (Noise) Proof of Evidence: Appendices (Hazelwood)
CD17.18	Jeremy Edge (Planning) Proof of Evidence: Summary (Joint for Appeal A and B)

CD17.19	Jeremy Edge (Planning) Proof of Evidence (Joint for Appeal A and B)
CD17.20	Jeremy Edge (Planning) Proof of Evidence: Appendices (Joint for Appeal A and B)
CD17.21	Andrew Petherick (Sport and Recreation) Proof of Evidence (Joint for Appeal A and B)
CD17.22	Andrew Petherick (Sport and Recreation) Proof of Evidence: Appendices (Joint for Appeal A and B)
CD17.23	Jon Tricker (Transportation) Proof of Evidence (Joint for Appeal A and B)
CD17.24	Andy Martin (London Irish Holdings Limited) Proof of Evidence (Joint for Appeal A and B)
CD17.25	David Fitzgerald (London Irish Amateur Rugby Club) Proof of Evidence
CD17.26	Martyn Thomas (Rugby Football Union) Proof of Evidence
CD17.27	Letter and schedule from Blandy and Blandy LLP regarding S106 position
CD17.28	Jeremy Edge (Viability) Proof of Evidence: Summary (Joint for Appeal A and B)
CD17.29	Jeremy Edge (Viability) Proof of Evidence (Joint for Appeal A and B)
CD17.30	Jeremy Edge (Viability) Proof of Evidence: Appendices (Joint for Appeal A and B)
LOWER SUNBURY RESIDENTS' ASSOCIATION (LOSRA)	
CD17.31	LOSRA Proofs of Evidence (summary)
CD17.32	LOSRA Proofs of Evidence
CD17.33	LOSRA Proofs of Evidence: Appendices

Inquiry Documents

Documents submitted jointly by the Local Planning Authority, the Appellant and others

JNT/1 Bundle of correspondence between the Council and the Appellant concerning progress on a S106 Agreement rather than a Unilateral Undertaking

JNT/2 Itinerary for the accompanied visits of the appeal sites – 22 June 2011

JNT/3 Completed S106 Agreement with Surrey County Council and others

JNT/4 Final draft S106 Agreement with Spelthorne Borough Council to replace the proposed Unilateral Undertaking

JNT/5 List of agreed conditions for Appeal A

JNT/6 List of agreed conditions for Appeal B

Documents submitted by the Local Planning Authority

LPA/1	Rebuttal evidence of Stephen Job
LPA/2	Rebuttal evidence of Dion Scherer
LPA/3	Rebuttal evidence of James Griffiths
LPA/4	Letter of notification of the inquiry
LPA/5	Opening Statement on behalf of the Council
LPA/6	Emails regarding the Sunbury Health Centre and the proposals for a new health centre as part of Appeal A
LPA/7	Witness Declaration by Mr John Brooks, relating to his Proof of Evidence
LPA/8	Appeal A – The Avenue – Comparison of Gross External Area (GEA) and Gross Internal Area (GIA)
LPA/9	Supplementary Note relating to Mr Brooks' evidence
LPA/10	Revised version of Appendix 8 from Mr Job's evidence (see CD17.03)
LPA/11	Revised June 2011 version of Planning Policy Statement 3 (PPS3): Housing
LPA/12	Hazelwood Golf Course – EIA Publication and Consultation
LPA/13	Revised version of CD15.20 - Playing Pitch Assessment & Strategy 2007 – 2012, Spelthorne Borough Council
LPA/14	Further emails relating to the Primary Care Trust (PCT) and the proposed Health Centre for the Appeal A site
LPA/15	Details of the size of the Protected Urban Open Spaces
LPA/16	Layout plan for the Chelsea Village proposal in 2001
LPA/17	Additional information relating to "Landscapes Maintenance Programme" for Mr Job's Appendix 9
LPA/18	Scoping Reports under Regulation 48 of the Habitats Regulations 1994 for both Appeal A and Appeal B sites
LPA/19	Closing Submissions on behalf of the Council (in black ring-binder)
LPA/20	Court Judgement CO/1799/2004 referred to in the Council's Closing Submissions

Documents submitted by the Appellant

APP/1	Rebuttal evidence of Jonathan Tricker
APP/2	Rebuttal evidence of Andrew Petherick
APP/3	Rebuttal evidence of Jeremy Edge
APP/4	Errata and Clarifications relating to the evidence of Moira Hankinson
APP/5	Ecology rebuttal evidence for Appeal B (spoken to by Miss Hankinson)
APP/6	Supplementary Statement from Jeremy Edge on "Planning for Growth"
APP/7	Opening Submissions on behalf of the Appellant
APP/8	Index for the Post Refusals Additional Information Report (PRAIR) submitted in October 2010
APP/9	A comparison of noise levels (LA_{eqT}) within Sunbury Cemetery – Chelsea Village and the London Irish Appeal B proposal

APP/10	Details of the number of Registered Players in the Under 7 Years to Under 19 Years Categories within the London Region 2007-10
APP/11	Email from Council Tree Officer relating to the Appeal B site
APP/12	Photographs of Oakham School's floodlit artificial grass (2G) pitch, adjacent to the town's cemetery – May 2011
APP/13	Photographs of Cambridge RFC's floodlit pitches – May 2011
APP/14	Plan No 2347_20100706_TA_Proposed_001 showing the improvement proposed for the junction between Staines Road East and The Avenue
APP/15	Appeal Decision APP/L5810/A/10/2135941
APP/16	Note of liaison with Sunbury Health Centre Group Practice and PCT
APP/17	Photographs showing water ponding on the Hazelwood Driving Range
APP/18	Academy Review Report – 16 February 2011
APP/19	Email from Mr Ben Lee to Mr Andrew Martin of London Irish Holdings regarding rugby coaching provided to schools etc
APP/20	Breakdown of staff currently at The Avenue and proposed for the Hazelwood site
APP/21	Details of floodlighting to sports grounds in the countryside and a comparison of high fencing and lighting columns, relevant to the evidence of Miss Hankinson
APP/22	Letter from Mr Rick Bruin of the RFU to Mr Petherick dated 16 June 2011
APP/23	Appellant's comments on the suggested conditions put forward by LOSRA
APP/24	Final Draft version of the S106 Agreement between the Appellant (and others) and the Council
APP/25	Response by Mr Petherick to the email submitted to the inquiry from Mr Conrad Rowland (see Doc IP/6), dealing with "Athletics Networks and Athletics Network Berkshire"
APP/26	Details of open space by reference to the Appeal A site and neighbouring Protected Urban Open Space areas
APP/27	Chronology of the Council's emerging Core Strategy and the date of the Option Agreement regarding London Irish's acquisition of Hazelwood
APP/28	Details of potential relocation sites for London Irish in response to questions from LOSRA
APP/29	Closing submissions for the Appellant

Documents submitted by LOSRA

LOSRA/1	Document containing rebuttal proofs of evidence from Mr Pettifor and Mr O'Keefe
LOSRA/2	Bundle of emails relating to the Appeal B Hazelwood site
LOSRA/3	Email from G S Ceaser, past Chairman of the Spelthorne Borough Planning Committee
LOSRA/4	Minutes of the Hazelwood Management Committee – 18 December 2007
LOSRA/5	Witness Statement from John Phillips, former Head Chef at Hazelwood Golf Centre

LOSRA/6	Email exchange between Claire Moore and Mr Petherick
LOSRA/7	LOSRA website page "LOSRA Gives Right of Reply to Hazelwood" – including letter from Mr Catley-Smith, the Managing Director of Hazelwood Golf Centre
LOSRA/8	Paper prepared by RAE Sports and Leisure Consultants "Relocation of London Irish Rugby Football Club to Hazelwood Golf Centre site – Answers to queries raised by Members of the Amateur Club"
LOSRA/9	London Irish Amateur Rugby Football Club "Proposed Ground Move Members Briefing Paper June 2009"
LOSRA/10	Website details for the London Irish Supporters Club
LOSRA/11	Website details for the London Irish Official Pubs
LOSRA/12	Website comments regarding London Irish's proposed move from The Avenue
LOSRA/13	Alternative Scenarios regarding pitch usage at Hazelwood
LOSRA/14	Closing Submissions on behalf of LOSRA

Documents submitted by interested persons

IP/1	Notes of the statement from Mr Alan Pascoe opposing the appeal proposals
IP/2	Statement from Mrs Judith Perry opposing the appeal proposals
IP/3	Statement from Mr Ian Robinson opposing the appeal proposals
IP/4	Statement from Mr Gerry Cook opposing the appeal proposals
IP/5	Bundle of 2 additional letters of objection to the appeal proposals, handed in at the inquiry
IP/6	Email from Mr Conrad Rowland, Chair of McCain Athletics Network Berkshire
IP/7	Bundle of letters of representation submitted at appeal stage, both supporting and opposing the appeal proposal

APPENDIX C

CONDITIONS TO BE IMPOSED IF PLANNING PERMISSION IS GRANTED

Appeal A

1. Applications for the approval of all the reserved matters for the first phase of the development referred to herein shall be made within a period of 3 years from the date of this permission. Applications for the approval of all remaining reserved matters shall be made within a period of 7 years from the date of this permission. The development to which the permission relates shall be begun not later than which ever is the later of the following dates:
    i) 3 years from the date of this permission: or
    ii) 2 years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

    Reason: To comply with the provision of S92 of the Town & Country Planning Act 1990.

2. Details of the scale, appearance and landscaping of the development, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development commences.

   Reason: To comply with section 92 of the Town and Country Planning Act, as amended.

3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of 5 years from the date of this permission.

   Reason: To comply with section 92 of the Town and Country Planning Act, as amended.

4. The development hereby permitted shall commence before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

   Reason: To comply with section 92 of the Town and Country Planning Act, as amended.

5. Any application for approval of the reserved matters shall be in general accordance with the Design Codes submitted with the application.

   Reason: To ensure a satisfactory appearance to the development.

6. Before any development commences, details including a technical specification of all proposed external lighting shall be submitted to, and approved in writing by, the local planning authority. The external lighting on the site shall at all times accord with the approved details.

   Reason: In the interests of visual and residential amenity.

7. Before any development commences, a scheme for the treatment of boundaries, including the boundaries between house plots, and showing any existing boundary treatment to be retained, shall be submitted to, and approved in writing by, the local planning authority.

   Reason: In the interests of visual amenity and to ensure a satisfactory form of development.

8. Before any development commences, details of secure, lit and covered cycle parking facilities shall be submitted to, and approved in writing by, the local planning authority.

   Reason: To encourage cycling as a mode of transport.

9. Before any development commences, full details of the arrangements for the storage of refuse, including recyclable materials, shall be submitted to, and approved in writing by, the local planning authority.

   Reason: To ensure that adequate provision is made for refuse storage.

10. Before any development commences, a phasing plan shall be submitted to and approved in writing by the local planning authority.

    Reason: To allow for possible phasing of the development.

11. Before first occupation of the development comprised within each phase:

    (a) all new walls, fences, gates or other means of enclosure shall be erected as approved and thereafter they shall be permanently retained. Any existing boundary treatment shown as to be retained in the approved scheme shall likewise be permanently retained;

    (b) cycle parking facilities shall be made available for use in accordance with the approved details and thereafter they shall be permanently retained;

    (c) refuse storage and recycling arrangements shall be in place in accordance with the approved details and thereafter they shall be permanently retained;

    (d) car parking areas shown on the approved plans shall be provided and thereafter they shall be permanently retained for parking purposes only;

    (e) a surface water scheme shall be completed as approved and thereafter it shall be maintained and managed in accordance with the maintenance and management proposals as approved;

    (f) at all times until the completion of the development and in accordance with approved details, (a) protective fencing shall be kept in position (b) soil levels within the fenced areas shall remain unaltered and (c) the land within the fenced areas shall be kept free of vehicles, plant, materials and debris;

    (g) if contained within the relevant phase, the proposed northern vehicular access shall be constructed to base course in accordance with the approved plans;

    (h) if contained within the relevant phase, the proposed southern vehicular access shall be constructed to base course in accordance with the approved plans.

    These approved measures shall all be implemented and completed prior to first occupation of the development comprised within each phase.

    Reason: To secure the implementation of the measures referred to in this condition.

12. The development hereby permitted shall not be occupied until the highway works for the improvement of the A308 Staines Road East/The Avenue junction have been completed in accordance with a scheme reflecting plan no. 2347_20100706-_TA_Proposed_001 and open to traffic.

    Reason: To secure necessary off-site highway works.

13. The development hereby permitted shall not be occupied until a mini roundabout has been constructed and improved provision made for pedestrians at The Avenue/Manor Lane junction.

    Reason: To secure necessary off-site highway works.

14. Before any part of the development hereby permitted is first occupied, modifications shall be made to the Batavia Road/The Avenue junction to secure improved visibility and improved provision for pedestrians.

Reason: To secure necessary off-site highway works.

15. No development shall take place until the Appellant, or its agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.

    Reason: In the interests of preserving and/or recording archaeological finds.

16. No development shall take place until details of:

    (a) parking facilities for vehicles of site personnel, operatives and visitors,

    (b) the loading and unloading of plant and materials,

    (c) the storage of plant and materials

    (d) boundary hoardings (where proposed)

    have been submitted to and approved in writing by the local planning authority. Work shall proceed strictly in accordance with the approved details throughout the period of demolition, site clearance and construction.

    Reason: In the interests of highway safety and residential amenity.

17. Before any demolition, site clearance or construction commences, wheel-washing facilities for vehicles leaving the site shall be provided in accordance with details which shall first have been submitted to, and approved in writing by, the local planning authority. The wheel-washing facilities as approved shall remain in place throughout demolition, site clearance and construction period and no vehicles shall leave the site during the demolition, site clearance and construction period without their wheels first being washed.

    Reason: In the interests of highway safety.

18. Before any part of the development hereby permitted is first occupied, a Travel Plan in general accordance with the Appellant's 'The Avenue Residential Development, Sunbury, Travel Plan' Version 4 dated 21 April 2010, shall be submitted to, and approved in writing by, the local planning authority. The plan shall contain targets and make provision for periodic monitoring and updating. The plan shall be continuously implemented as approved from the date when any part of the development is first occupied.

    Reason: In the interests of sustainable development.

19. Before any development commences, 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 include a detailed assessment of the potential to infiltrate surface water to the ground, detailed calculations demonstrating that the scheme would not increase the volume or rate of runoff from the site and details of proposals for the maintenance and management of the scheme.

    Reason: In the interests of sustainable development.

20. No development shall take place until a report has been submitted to and approved in writing by the local planning authority, which includes details and

drawings demonstrating how 10% of the energy requirements generated by the development as a whole will be met utilising renewable energy methods and showing in detail the estimated sizing of each of the contributing technologies to the overall percentage. The report shall identify how renewable energy, passive energy and efficiency measures will be generated and utilised for each of the proposed buildings to meet collectively the requirements for the development. The approved measures shall be incorporated into the development when constructed and thereafter they shall be permanently retained.

Reason: In the interests of sustainable development.

21. No development shall take place until:-

    (a) A comprehensive desk-top study, carried out to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the local planning authority.

    (b) Where any such potential sources and impacts have been identified, a site investigation has been carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until the extent and methodology of the site investigation have been submitted to and approved in writing by the local planning authority.

    (c) Where a site investigation has been carried out, the results have been incorporated into a written method statement for the remediation of land and/or groundwater contamination affecting the site which shall be submitted to and approved in writing by the local planning authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

    (d) Where a method statement has been submitted to, and approved in writing by, the local planning authority, the site has been remediated in accordance with the approved method statement, with no deviation from the statement.

    Reason: To protect the amenity of future occupiers and the environment from the effects of potentially harmful substances.

22. No demolition, site clearance or building operations shall commence until a Demolition and Construction Method Statement, demonstrating that the works will not adversely affect the occupiers of neighbouring residential properties, has been submitted to, and approved in writing by, the local planning authority. The statement shall include measures to mitigate the impact of dust, noise and vibration. The statement shall also specify the proposed hours of working. Work shall proceed strictly in accordance with the approved Statement throughout the period of demolition, site clearance and construction.

    Reason: In the interests of residential amenity.

23. Prior to the commencement of the development a Site Waste Management Plan shall be submitted to and approved in writing by the local planning authority. The

plan shall identify the volume and types of material arising from demolition and construction works, how and to what extent materials will be recovered and re-used on site and how off-site disposal of waste will be minimised and managed. All demolition and construction works shall be carried out in accordance with the approved plan.

Reason: In the interests of sustainable development.

24. Each workspace unit hereby permitted shall be integral with a residential unit so as to form in each case a single live-work unit. At no time shall any part of a live-work unit be occupied separately.

Reason: In the interests of protecting employment floorspace.

25. Before any development commences, a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all undeveloped areas other than privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

Reason: To ensure that landscape enhancements are secured in the long term.

26. Before any development (including any site clearance or demolition works) commences, protective fencing (the details of which shall first have been submitted to and approved in writing by the local planning authority) shall be erected around all trees proposed to be retained.

Reason: To protect existing trees from harm.

Appeal B

1. Details of the appearance and landscaping of the development, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development commences.

Reason: To comply with section 92 of the Town and Country Planning Act, as amended.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of 3 years from the date of this permission.

Reason: To comply with section 92 of the Town and Country Planning Act, as amended.

3. The development hereby permitted shall commence before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with section 92 of the Town and Country Planning Act, as amended.

4. Before any development commences, a scheme of biodiversity enhancement shall be submitted to, and approved in writing by, the local planning authority. Before any part of the development is brought into use, the scheme of biodiversity enhancement shall be carried out as approved.

Reason: To secure biodiversity enhancements.

5. Before any development commences, details including a technical specification of all proposed external lighting including times of illumination shall be submitted to, and approved in writing by, the local planning authority. The external lighting on the site shall at all times accord with the approved details.

   Reason: In the interests of visual and residential amenity.

6. Before any development commences, details of all proposed ball-stop fencing, post and rail fencing, spectator rails and goal posts (specifying those that will be demountable and at what periods they will be demounted) shall be submitted to, and approved in writing by, the local planning authority. All ball-stop fencing, post and rail fencing, spectator rails and goal posts shall at all times accord with the approved details.

   Reason: For clarification of what is proposed and to protect the Green Belt.

7. Before any development commences, details of secure, lit and covered cycle parking facilities shall be submitted to, and approved in writing by, the local planning authority. Before any part of the development is brought into use, the cycle parking facilities shall be made available for use in accordance with the approved details and thereafter they shall be permanently retained.

   Reason: To encourage cycling as a mode of transport.

8. Before any development commences, full details of the arrangements for the storage of refuse, including recyclable materials, shall be submitted to, and approved in writing by, the local planning authority. Before any part of the development is brought into use, the refuse storage arrangements shall be in place in accordance with the approved details and thereafter they shall be permanently retained.

   Reason: To ensure that adequate provision is made for refuse storage.

9. Before any part of the development is brought into use, a pedestrian/cycle crossing facility across Green Street adjacent to the junction with Croysdale Avenue shall be provided in accordance with a scheme generally reflecting plan no. 100302 2347-TMS-17.

   Reason: To secure necessary off-site highway works.

10. Before any part of the development is brought into use, a shared cycleway/ footway shall be provided along Croysdale Avenue adjacent from the site entrance to the junction with Green Street in accordance with a scheme generally reflecting plan no. 100302 2347-TMS-17.

    Reason: To secure necessary off-site highway works.

11. Before any other operations are commenced the proposed improvements to Croysdale Avenue shall be constructed in accordance with the approved plans.

    Reason: To secure necessary off-site highway works.

12. Before any part of the development is brought into use, the parking and manoeuvring areas shown on the approved plans shall be provided. Once

provided they shall be permanently retained thereafter for parking and manoeuvring purposes only.

Reason: To ensure that adequate provision is made for parking and in the interests of highway safety.

13. No demolition, site clearance or construction shall take place until details of:

    (a) parking facilities for vehicles of site personnel, operatives and visitors,

    (b) the loading and unloading of plant and materials,

    (c) the storage of plant and materials

    (d) boundary hoardings (where proposed)

    have been submitted to and approved in writing by the local planning authority. Work shall proceed strictly in accordance with the approved details throughout the period of demolition, site clearance and construction.

    Reason: In the interests of highways safety and residential amenity.

14. Before any demolition, site clearance or construction commences, wheel-washing facilities for vehicles leaving the site shall be provided in accordance with details which shall first have been submitted to, and approved in writing by, the local planning authority. The wheel-washing facilities as approved shall remain in place throughout the demolition, site clearance and construction period and no vehicles shall leave the site during the demolition, site clearance and construction period without their wheels first being washed.

    Reason: In the interests of highway safety.

15. Before any part of the development is brought into use, a Travel Plan in general accordance with the Appellant's 'The Clubhouse and Sports Pitches for London Irish at the Hazelwood Golf Centre, Croysdale Avenue, Sunbury, Club Travel Plan' Version 3 dated 12 March 2010, shall be submitted to, and approved in writing by, the local planning authority. The plan shall contain targets and make provision for periodic monitoring and updating. The plan shall be continuously implemented as approved from the date when any part of the development is brought into use.

    Reason: In the interests of sustainable development.

16. Before any development commences, 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 include a detailed assessment of the potential to infiltrate surface water to the ground, detailed calculations demonstrating that the scheme would not increase the volume or rate of runoff from the site and details of proposals for the maintenance and management of the scheme. Before any part of the development is brought into use, the surface water scheme shall be completed as approved and thereafter it shall be maintained and managed in accordance with the maintenance and management proposals as approved.

    Reason: In the interest of sustainable development.

17. No development shall take place until a report has been submitted to and approved in writing by the local planning authority, which includes details and drawings demonstrating how 10% of the energy requirements generated by the development as a whole will be met utilising renewable energy methods and showing in detail the estimated sizing of each of the contributing technologies to the overall percentage. The report shall identify how renewable energy, passive energy and efficiency measures will be generated and utilised for each of the proposed buildings to meet collectively the requirements for the development. The approved measures shall be incorporated into the development when constructed and thereafter they shall be permanently retained.

    Reason: In the interest of sustainable development.

18. No demolition, site clearance or construction shall take place until the results of the Appellant's investigation of the site to identify possible contamination have been incorporated into an options appraisal and strategy for the remediation of land and/or groundwater contamination affecting the site which have been submitted to, and approved in writing by, the local planning authority. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

    Reason: To protect the amenity of future occupiers and the environment from the effects of potentially harmful substances.

19. Prior to any part of the site being brought into use, the site shall be remediated strictly in accordance with the approved strategy.

    Reason: To protect the amenity of future occupiers and the environment from the effects of potentially harmful substances.

20. If, during the course of development, contamination not previously identified is found to be present at the site, development shall cease (unless the local planning authority agrees otherwise in writing) until an amended remediation strategy addressing the additional contamination has been submitted to, and approved in writing by, the local planning authority. The site shall be remediated thereafter strictly in accordance with the approved amended strategy.

    Reason: To protect the amenity of future occupiers and the environment from the effects of potentially harmful substances.

21. No demolition, site clearance or construction shall commence until a Demolition and Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement shall include measures to mitigate the impact of dust, noise and vibration. The statement shall also specify the proposed dates and hours of working. Work shall proceed strictly in accordance with the approved Statement throughout the period of demolition, site clearance and construction.

    Reason: In the interests of residential amenity and nature conservation.

22. Before any development commences a Site Waste Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall identify the volume and types of material arising from demolition and construction works, how and to what extent materials will be recovered and re-used on site and how off-site disposal of waste will be minimised and managed. All

demolition and construction works shall be carried out in accordance with the approved plan.

Reason: In the interests of sustainable development.

23. When adult rugby matches take place on weekends at the same time, not more than 2 matches and the training or community use of the 3G pitch shall occur on the pitches numbered 1- 3 on Plan 2922 PLG.03. Rev. B.

Reason: To protect neighbouring residential occupiers and cemetery visitors from noise.

24. Except on a maximum of 3 occasions in any year, no more than eight of the twelve junior pitches shall be used at the same time.

Reason: To protect neighbouring residential occupiers from noise.

25. Except on a maximum of 3 occasions in any year, the junior pitches numbered 6-9 inclusive shall be used solely for training purposes.

Reason: To protect neighbouring residential occupiers from noise.

26. Before any part of the clubhouse is first brought into use, the playing pitches shall be ready for use.

Reason: To ensure that the playing pitches are provided.

27. The function room shall not be used otherwise than between the following hours:
Sundays – Thursdays (07:00 to 23:30)
Fridays and Saturdays (07:00 to 01:30 the next day)

Reason: In the interest of residential amenity.

28. Before any demolition, site clearance or construction commences, details of the routes to be used by demolition, site clearance and construction related vehicles shall be submitted to, and approved in writing by, the local planning authority. All such vehicles shall use the approved routes, and no other routes, at all times.

Reason: In the interests of residential amenity and highway safety.

29. The overspill car park shall be used for the parking of cars on no more than a total of 20 Saturdays or Sundays in any rugby season (1 September to 31 May).

Reason: To protect the Green Belt.

30. The details of landscaping required to be submitted under condition 1 above shall be broadly consistent with the proposals set out in the site planting plan D123273/PP/001 revision D.

Reason: To accord with the Appellant's proposals and in the interests of visual amenity and biodiversity.

31. Before any development commences, a landscaping and biodiversity management plan, including long-term design and biodiversity objectives, management responsibilities and maintenance schedules for all undeveloped areas shall be submitted to and approved in writing by the local planning authority. The landscape and biodiversity management plan shall be carried out as approved.

Reason: To ensure that landscape and biodiversity enhancements are secured in the long term.

Additional condition promoted by LOSRA, to be imposed if Scheme B is granted planning permission:

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no moveable structure for the use of spectator accommodation shall be erected on the land.

Reason: To ensure that the noise scenarios remain accurate and valid, in the interests of protecting the amenity of visitors to the nearby cemetery and the living conditions of nearby residents.

APPENDIX D

SCHEME PLANS

APPEAL A		
No.	**Drawing No.**	**Title**
1	2347/PLG/01	Site Location Plan
2	2347/PLG/02	Existing Site Plan
3	2347/PLG/03 Rev D	Avenue Revised Proposed Masterplan
4	2347/PLG/04 Rev D	Avenue Revised Proposed Sections
APPEAL B		
No.	**Drawing No.**	**Title**
1	2922.PLG.01 Rev A	Revised Site Location Plan
2	2922.PLG.02	Existing Site Layout
3	2922.PLG.03 Rev B	Revised Proposed Site Layout
4	2922.PLG.04 Rev B	Revised Proposed Site Sections
5	2922.PLG.05 Rev B	Revised Proposed Detail of East End of Site

APPENDIX E

LIST OF ABBREVIATIONS

App	Appendix
CD	Core Document
CV	Chelsea Village
CIL	Community Infrastructure Levy Regulations 2010
CS	Core Strategy
CSPDPD	Core Strategy and Policies Development Plan Document adopted in February 2009

dB	decibels
DDA	Disability Discrimination Act 1995
DETR	Department of the Environment, Transport and the Regions
Doc	Document
DPD	Development Plan Document
dph	dwellings per hectare
EIA	Environmental Impact Assessment
ES	Environmental Statement
hrs	hours
FOI Act	Freedom of Information Act
GEA	Gross External Area
GIA	Gross Internal Area
GPs	General Practitioners
ha	hectare
HGC	Hazelwood Golf Centre
km	kilometre
LEAP	Local Equipped Area for Play
LDF	Local Development Framework
m	metre
MGB	Metropolitan Green Belt
MUGA	Multi Use Games Area
NPL	National Physical Laboratory
NEC	Noise Exposure Category
para	paragraph
PCT	Primary Care Trust
PGA	Professional Golfers Association
PIM	Pre-Inquiry Meeting
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
PRAIR	Post Refusals Additional Information Report
PTAL	Public Transport Accessibility Levels
PUOS	Protected Urban Open Space
RFC	Rugby Football Club
RFU	Rugby Football Union
RSS	Regional Spatial Strategy
SCC	Surrey County Council
SEP	South East Plan
SSP	School Sports Partnership
SoCG	Statement of Common Ground
sqm	Square metres
The Council	Spelthorne Borough Council
VAHC	Virgin Active Health Club
TRICS	Trip Rate Information Computer System
WHO	World Health Organisation