

# REPORT FOR: **PLANNING COMMITTEE**

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<b>Date of Meeting:</b>	16 April 2014
<b>Subject:</b>	The Hive Football Centre (Formerly Prince Edward Playing Fields), Camrose Avenue, Edgware
<b>Responsible Officer:</b>	Nicky Linihan – Interim Divisional Director - Planning
<b>Exempt:</b>	No
<b>Enclosures:</b>	Committee report and Planning decision notice for planning application P/0665/13

## **Section 1 – Summary and Recommendations**

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This report sets out the recommendations of officers, following the receipt of expert legal and planning advice, in relation to the Council's decision to refuse planning permission for planning application reference P/0665/13:

*Variation of condition 29 (approved plans - added through application p/2807/12) attached to p/0002/07 dated 08/04/2008 for 'redevelopment for enlarged football stadium and clubhouse, floodlights, games pitches, banqueting facilities, health and fitness facility, internal roads and parking' to allow minor amendments to the stadium comprising: phase 1: internal and external alterations to east stand including additional row of seats; increase in height, depth and capacity of west stand including camera position; reduction in capacity of standing areas; increase in height of floodlights and re-siting of southern floodlights; additional turnstiles, spectator circulation, fencing, food kiosks and toilets; alterations to parking areas. Phase 2: replace north stand with seated stand; reduction in capacity of standing area in southern stand; extension to rear of west stand to provide indoor spectator space (total stadium capacity not to exceed 5176 as previously approved)*

## **Recommendations:**

That the Council defends the appeal in so far as Reason for Refusal 1 (relating to the lighting) is concerned, but advises the Planning Inspectorate and the Appellant that the Council will not put a case forward in relation to defending Reasons 2 and 3 (in relation to the west stand).

## **Section 2 – Report**

### **Background**

Planning permission was granted on 8 April 2008 for the redevelopment of the site for enlarged football stadium and clubhouse, floodlights, games pitches, banqueting facilities, health and fitness facility, internal roads and parking (Ref P/0002/07).

A planning application was submitted in 2013 (Ref P/0665/13) to vary a condition linked to the 2008 permission (which was that the development should be carried out in compliance with the approved plans). The proposed variation was for minor material amendments to the approved stadium, across two building phases. Of particular note are an increase in the height of the west stand (by 5.6m), depth (by 4.2m), reduction in the width (by 15m) and therefore an increase in capacity with a proportionate reduction in capacity of the standing areas (north and south stands), and for an increase in the approved height of the floodlights (from 15.7m to 27.8m) and the re-siting of the southern floodlights.

The application was recommended for refusal by planning officers on the grounds that:

*“The application has failed to demonstrate that the impact of the floodlights would not result in significant harm to the amenities of neighbours by virtue of unacceptable lighting levels within and adjacent to residential properties surrounding or near to the site. The proposals are therefore contrary to policies DM 1C and DM 48C of the Development Management Policies Local Plan (2013).”*

Members of the planning committee supported the officers’ recommendation but also voted to refuse the planning application on two additional reasons, which were that:

*“The height of the west stand would result in a loss of amenity to neighbouring properties, contrary to Policy DM1 of the Harrow Development Management (2013), Policy CS1-B of the Harrow Core Strategy (2012), and Policy 7.4 of the London Plan (2011).”*

and

*“The west stand by reason of excessive height, scale, bulk and proximity to the site boundary, would cause unacceptable harm to the amenity of neighbouring properties, contrary to policy DM1 of the*

*Harrow Development Management Policies Local Plan (2013) Policy CS1.B of the Harrow Core Strategy (2012) and Policy 7.4 Of the London Plan (2011)."*

A copy of the original officers report and the planning decision notice are attached as appendices 1 and 2.

The Council served an enforcement notice in September 2013 seeking the removal of the west stand and the floodlights. This has since been withdrawn following the receipt of expert legal and planning advice.

### **Current situation**

An appeal was lodged on 18 March 2014 in relation to the refusal of the planning application. The applicant has asked that the appeal is considered by way of written representations. However, officers have requested an informal hearing to allow the Inspector to explore the issues, including with the technical experts in respect of the lighting, and for local residents to be able to air their views and concerns. The Council needs to submit its Statement of Case to the Planning Inspectorate by 29 April 2014.

Independent advice from a specialist lighting consultant has also been sought, which concludes that, because insufficient information was provided as part of the application to demonstrate that the lighting was acceptable, despite officers requesting this information prior to determination, the Council was not acting unreasonably in refusing the application in this regard. Officers therefore consider that it would be reasonable to pursue this reason for refusal through the appeal process.

Independent planning advice has also been sought from two highly experienced and knowledgeable planning consultants (external to the Council), both of whom have advised that, in respect of the west stand, they would not be prepared to provide evidence to support the Council's case. On the basis of the clear advice given officers consider that it would not be reasonable or expedient to pursue Reasons 2 and 3 in relation to the effect of the west stand on the amenities of neighbouring properties.

### **Main options**

The Council defends the appeal in so far as Reason for Refusal1 (relating to the lighting), but advise the Planning Inspectorate and the applicant that the Council will not contest Reasons 2 and 3 (in relation to the west stand).

### **Other options considered**

Proceed with the appeal on the basis of defending all three reasons for refusal. This would put the Council at serious risk of an award of costs against it on the grounds of unreasonable behaviour by pursuing objections that it is unable to defend. This option is therefore not considered appropriate.

## Implications of the Recommendation

### Financial Implications

The implication of not adopting officer recommendation is that the Council would be at risk of costs being awarded against it on the grounds of unreasonable behaviour, should all three reasons be pursued.

### Risk Management Implications

Notwithstanding the financial implication above, there is also the risk of reputational harm to the Council, were it to pursue all three reasons for refusal, in that it could be demonstrated that the Council had behaved unreasonably by pursuing objections that it is unable to defend.

### Equalities implications

None

### Corporate Priorities

The adoption of officers recommendation would be in line with corporate objectives to be a Fairer Harrow in relation to acting reasonably and proportionately in response to this appeal.

## Section 3 - Statutory Officer Clearance

Name: Simon George	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 10 April 2014		
Name: Sian Webb	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 10 April 2014		

## **Section 4 - Contact Details and Background Papers**

**Contact:** Nicky Linihan – Interim Divisional Director - Planning

**Background Papers:** None

If appropriate, does the report include the following considerations?

1.	Consultation	YES / NO
2.	Priorities	YES / NO