

Examination of the Harrow Local Plan 2021-2041

Hearing Statement in respect of Matter 4: Environment, Green Infrastructure and Social and Community Infrastructure

Policy CI3: Sport and Recreation

5.7 Is part A of the policy justified by the evidence base and does it accord with national policy?

5.8 What is the purpose of part C (a and b) of the policy and policy GR7 A which appear to duplicate the same requirements?

Use of Artificial Intelligence (AI)

1. In line with PINS Guidance Use of artificial intelligence in casework evidence we confirm that no AI has been used to create or alter any part of this document including text, images, information or data.

Policy CI3: Sport and Recreation

5.7 Is part A of the policy justified by the evidence base and does it accord with national policy?

CI3 A Part a

2. Part A of policy CI3 A does not accord with national policy and does not accord with the evidence base. Outdoor recreation and sport are some of the few uses that by definition are not harmful to the green belt which can therefore be located there without conflicting with planning policy.
3. Sports provision is beneficial in its own right and is a discrete objective of national planning policy, to be encouraged and brought forward. By definition whether public or private, sports facilities are used by the community. People and teams using private facilities are part of the community. Therefore, any facility in either public or private ownership, that is in use, is used by the community.
4. Because of this, there is no requirement in national planning policy to control use or regulate community access to facilities. Whether public or private, these are matters controlled by the owners and operators of the facilities. In particular there is no provision for enhanced community access set out in the NPPF. This measure simply places an additional barrier in the way of sports provision which delays or prevents it coming forward.
5. The Council use references to community access in order to force operators to sign community use agreements.
6. The provision for community access in Part A therefore not effective, positive or justified. It has no basis in national policy. Insisting that community use agreements are put in place acts as a brake on sustainable sports development coming forward rather than promoting it, and it increases the length of time it takes to negotiate and determine applications, meaning that the policy is not positive and is not effective.
7. A very recent appeal decision APP/M5450/W/24/3357455 dated 3 April 2025 in respect of the Hive Football Centre dealt explicitly with this point of community

access to sports facilities. The Council insisted that community access must be controlled through a s106 agreement, the cost of which has to be borne by the developer.

8. The Hive Football Centre is the Borough's premier professional sporting venue and hosts 34 schools, and 27 clubs and groups making it one of the largest venues for community use in the Borough, if not the largest. The range and depth of community use of The Hive Football Centre is also well illustrated in Tables 3.1 to 3.4 of the London Borough of Harrow Indoor and Outdoor Sports Facilities Strategy 2024-2037 which form part of the evidence base to this Examination.
9. Despite this, and not being a reason for refusal, the Inspector at that appeal found it necessary to deal with community use and the arrangements for securing that, simply because it formed part of adopted policy. It had to be dealt with at some length, as follows:

"13. The Council's primary concern is that the development is available for the community to use so as to meet the identified need. Indeed, the commentary to policy MOS5 of the Site Allocations Plan (2013), which refers specifically to the site, states that development must make provision for community access to the facilities. Sport England have suggested this can be secured by a condition attached to a planning permission requiring that a Community Use Agreement (CUA) is provided. It is noted that the supporting text to emerging Policy CI3, which relates to sport and recreation, states that CUAs will be secured in the form of a legal agreement, and that Sport England's guidance and templates will be used. This policy has yet to be examined so can be given only limited weight.

14. It is acknowledged that the development of Site B had a planning condition that required a CUA be provided and that a planning obligation was also completed which purported to secure the CUA, although the Council stated at the hearing that that planning obligation is flawed. A unilateral undertaking has been provided with this appeal which aims to ensure the development is carried out in line with the previous CUA.

15. Appended to the Statement of Common Ground is a list of the 34 schools, and 27 clubs and groups that currently use The Hive. This shows that The Hive is already a popular community use and, given the proposal would provide similar facilities to those already at The Hive, it would seem highly likely that the facilities to be provided by the proposed development would also be utilised by these schools, clubs and groups. Indeed the appellant advised that the development was only viable on that basis.

16. It would be necessary to ensure community use for the proposal through a CUA. But it would be sufficient, in my view, for that to be secured prior to the use of the development, through the imposition of a planning condition. This could ensure the CUA was developed in line with Sport England advice and require the approval of the Council. It could also include provision for long term management and review to ensure the development remained in effective community use. The condition agreed, without prejudice, by the parties would ensure this and, in accordance with paragraph 56 of the National Planning Policy Framework (the Framework), a condition should be used. With that condition in place the sports pitches would be appropriately used and so would accord with policy DM 48 of the DMP which lends support to proposals which increase the quality and capacity of outdoor sports facilities and which secure community access to them. It would also comply with policy S5 of the London Plan which seeks to ensure the increased provision of sports facilities and encourage the multiple use of facilities including between sports providers and schools.

17. As such I consider the submitted unilateral undertaking to be unnecessary and I have had no regard to it.”

10. The cost, delay and risk in dealing with this matter were to no end as one of the leading community sports providers in the Borough was promoting additional facilities for the community to use but nonetheless had to acknowledge that access in the form of a legal agreement to meet the Council’s interpretation of its own policy.
11. The lesson that can be drawn from this very recent example is that the more complex sports and open space policies are, the more difficult it becomes to promote sports related development, development which planning policy at all levels recognises is an extremely desirable objective. It is not sensible or reasonable that it should be so difficult to secure planning permission for such desirable development.
12. As recognised by the Inspector, if a facility is not used by the local community, it will not make any money and it will not be viable. Even the Council charge to use their sports facilities.
13. For this reason, schemes should not be frustrated or delayed through adding onerous additional or repetitive requirements that or not justified with reference to the NPPF or other elements of the development plan. The provision dealing with community access to existing and new sports development should be removed as a mandatory requirement to prevent schemes from being unnecessarily delayed as in the case of The Hive.

CI3 A Parts b and c

14. Parts b and c of CI3A are also unnecessary and confusing there's no obvious reason why these matters were selected in place of others such as contaminated land or air quality for instance. If such matters have to be dealt with then that will be because other schemes have engaged other adopted policies. If that happens then the matter can be dealt with under the aegis of those engaged policies and there is no need to repeat them here or make an idiosyncratic selection from the list of all adopted policies.
15. The matter specified in parts b and c may not even arise in relation to all sports related applications and therefore will be irrelevant to many schemes. The specific matters raised by a particular application and the site constraints it faces are best left to the circumstances of the individual application.
16. Selecting some matters over others placing them in a policy giving them the additional protection makes the policy unnecessarily long and unwieldy, and confusing. The matters raised in b and c are not raised in the NPPF in respect of sports provision and are not matters particularly associated with sports provision and there is no support or rationale for including them rather than others.
17. Part A of the policy also repeats the objectives of part B. Both parts seek to support and promote sports related development, but in practice are extremely restrictive. They are designed to prevent the loss or change of existing sports facilities and do not positively promote new, improved and changed facilities to come forward, particularly where they are associated with open space.
18. Planning policy in respect of open space and sports provision needs to be drastically simplified as the LPA have difficulty in implementing them in a reasonable or proportionate way. Policies are drafted too negatively and with too many criteria because they are designed to prevent the loss of sports facilities but there is no corresponding policy which promotes sports and open space development in a way that makes it uncomplicated and easier to secure planning permission.
19. The main reason for this is that sports facilities where there are existing substantial buildings, or which need further substantial buildings for enhanced sports provision, are dealt with in the same policy that seeks to prevent any substantial building occurring. This happens mainly because sports provision and open space are dealt with in the same policy rather than being dealt with in separate policies. The net effect of this is that LPA prevents additional sports

developments coming forward because of the perceived loss and impacts on open space.

20. The recent example of the Hive Football Centre again illustrates the difficulties that are created by failing to distinguish between sites that contain buildings and facilities and those that do not. The Hive Football Centre submitted planning application PL/0691/23 on 15 March 2024 for replacement of three grass pitches, one 11-a-side and two smaller 9-a-side pitches with two artificial grass pitches, floodlighting and ancillary works.
21. The application was submitted by the owner and occupier of the site, who is the entity best placed to understand what is required on site, the pattern of existing and future demand and crucially, is risking their resource is to invest in the site on the back of that assessment. The scheme proposed enhanced sports provision and was compliant with all levels of planning policy.
22. This was recognised at paragraph 6.2.16 of the officer's delegated report which states:

"The overarching policy context outlined above, nationally, regionally and local, seeks to encourage, expand and upgrade existing sports facilities and open space resulting in a net gain of facilities accessible to the community and where the facilities are located and for their benefit."
23. Despite the lack of a strong policy promoting sporting provision as opposed to resisting any change in sporting provision, the LPA assessed the scheme in the delegated report as follows:

6.2.32 As such, the applicant has not demonstrated compliance with policy S5 of the London Plan (2021). A clear needs assessment has not been undertaken which clearly shows the existing sports and recreational land or facilities to be surplus to requirements at the local and sub-regional level or a compelling case put forward that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
24. On 14 June 2024 planning permission was refused for the scheme¹. Reason 2 was as follows:

"2 - The proposal, by reason of insufficient information on the future uses of the proposed pitches and their need, fails to demonstrate that the proposed loss of playing fields and designated open space would be replaced by equivalent or

¹ Which is the same scheme referred to at paragraphs 6-8 above

better provision in terms of quantity and quality and that the community benefits of the proposal would clearly outweigh the former use, contrary to the National Planning Policy Framework (2023), policy S5 of The London Plan (2021) and Policy DM48 of Harrow Development Management Policies Local Plan (2013)."

25. On appeal the Inspector had very little time for this logic or reasoning. Paragraph 12 of decision letter APP/M5450/W/24/3357455 states:

"Quality, quantity and use of the AGP [Artificial Grass Pitches]

12. Historically the land was known as the Prince Edward Playing Fields and was well used by local residents and nearby schools for recreation. More recently it has been laid out as three grass pitches, used exclusively by Barnet Football Club's academy. They are no longer used due to poor drainage at the site. As such, the Council's Indoor and Outdoor Sports Facilities Strategy (2024) takes no account of them. It does however identify that there is a need in the Borough, as a minimum, for one floodlit rugby AGP and two upgraded floodlit football AGPs. Moreover, Sport England have agreed that there is a strategic need for the development, due to the increased demand in women's and girl's rugby and football. A letter from Middlesex FA also highlights an increase in girls football participation by 19% year on year. The need for the pitches, in terms of their quantity and quality, is therefore not disputed."

26. This scheme should have been granted permission by the LPA at first instance and it is clear that an appeal should not have been necessary giving the overwhelming evidence in support of the additional provision it proposed. However the net effect of the policies was to produce an outcome that frustrated acceptable sports provision from coming forward. This is the exact opposite outcome of what the planning system is supposed to achieve.
27. Not only is this unsustainable but it also means that local plan objectives are not met. In particular provision of sports related development, improving physical and mental health, strengthening community cohesion all of which could be provided on the site, are being delayed and frustrated. The primary reason for this two-fold:

First the Council's policy lump open space, playing fields and buildings for sports provision all together in the same category and same policy. Buildings are the opposite of open space and cannot be treated coherently in the same policy without distinction.

Second open space policy is designed to prevent buildings coming forward yet there are beneficial impacts from sporting related development which can which provide substantial planning benefits. Schemes for new buildings and

development that provides sports benefits cannot be assessed against open space policies designed to prevent all buildings and development coming forward. This approach is not sound and will not allow schemes addressing acknowledged need to come forward.

5.8 What is the purpose of part C (a and b) of the policy and policy GR7 A which appear to duplicate the same requirements?

28. These policies duplicate each other in the local plan. It simply adds length to the document, makes it harder to use and causes confusion. It is an example of mindset which requires two belts and two braces, and which is overcautious. The net result is delay and expense for applicants who must navigate a more complex policy environment than is necessary to the detriment of enabling sports provision to come forward quickly and efficiently across the Borough.

Changes required to make the plan sound

29. In order to make the Plan sound, the Council must:
- Identify The Hive Football Centre as a sports venue and remove the open space designation from the site;
 - Amend the Policy Map to remove the Open Space designation from the Hive Football Centre;
 - Amend incidental maps within the Development Plan which show The Hive Football Centre as open space and show it as a sports venue instead
30. In addition, F The following changes are required to make the Plan sound. Where we suggest new text is included in a policy, it is in **BOLD CAPITALS**. Where we suggest text should be deleted, it is struck through.

Policy CI3: Sport and Recreation

A. Proposals that would increase the **PROVISION**, capacity and quality of outdoor sport and recreation facilities, ~~and those that would secure community access to private facilities;~~ will be supported, **SUBJECT TO COMPLYING WITH THE AIMS AND OBJECTIVES OF OTHER POLICIES IN THIS PLAN.** ~~provided that:~~

~~a. There would be no conflict with Green Belt, Metropolitan Open Land or open space policies;~~

~~b. The proposal would not have a detrimental impact on any heritage significance or biodiversity assets within or surrounding the site; and~~

~~c. There would be no adverse impact on residential amenity or highway safety.~~

B. PROPOSALS TO IMPROVE OR ENHANCE FACILITIES FOR INDOOR AND OUTDOOR SPORTS AND RECREATION AT SPORTS AND RECREATION VENUES WILL BE SUPPORTED, SUBJECT TO COMPLYING WITH THE AIMS AND OBJECTIVES OF OTHER POLICIES IN THIS PLAN.

C. Proposals for uses that would support existing or proposed outdoor sport and recreational facilities will be supported where they are:

a. Ancillary in terms of size, frequency, use and capacity; and

b. Do not displace or prejudice facilities needed for the proper functioning of the principal outdoor sport and recreational uses.

D. Proposals for floodlighting will be supported where they would:

a. Enhance outdoor sport and recreation facilities; and

b. Not detrimentally impact the character of open land, the amenity of neighbouring occupiers or biodiversity.

E. All proposals (excluding minor applications) should facilitate community access to sport and recreation facilities **BY THE COMMUNITY**. ~~through a community use agreement, unless it can be demonstrated that it is not feasible.~~

F. EXISTING SPORTS AND RECREATIONAL BUILDINGS AND LAND, INCLUDING PLAYING FIELDS AND FORMAL PLAY SPACES, SHOULD NOT BE BUILT ON UNLESS:

A. AN ASSESSMENT HAS BEEN UNDERTAKEN WHICH HAS CLEARLY SHOWN THE OPEN SPACE, BUILDINGS OR LAND TO BE SURPLUS TO REQUIREMENTS; OR

B. THE LOSS RESULTING FROM THE PROPOSED DEVELOPMENT WOULD BE REPLACED BY EQUIVALENT OR BETTER PROVISION IN TERMS OF QUANTITY AND QUALITY IN A SUITABLE LOCATION; OR

C. THE DEVELOPMENT IS FOR ALTERNATIVE SPORTS AND RECREATIONAL PROVISION, THE BENEFITS OF WHICH CLEARLY OUTWEIGH THE LOSS OF THE CURRENT OR FORMER USE.

~~E. Proposals which would lead to the loss of, or would prejudice the use of a sports or recreation facility will be resisted unless:~~

- a. Any loss of facilities would be replaced by equivalent or better provision in terms of quantity and quality, in a suitable location in accordance with Policy C11 (Safeguarding and securing new Social Infrastructure); or
- b. The development is for alternative sports and recreational provision for which the identified need clearly outweighs the loss of the existing facility.