

There are two main trusts to our appeal; one relating to our existing site and other relating to the proposed site . However overall we need to establish an overriding very special circumstances case.

Existing site

The Windsor Club has been in existence for around 40 years and is approximate 1900 sqm comprising: 5 squash courts(including an exhibition court with seating for 100), a large gym on two levels, a large studio, a separate 'spin' room, male and female changing rooms with saunas, bar, lounge, café, kitchen , 5 treatment rooms , office, and plant and storage spaces, together with car parking for around 100 cars. (See Holt Architecture Design Report in Planning Application in File 1) We understand that the site of the Club, at Helson Lane, was on land that had a condition specifying leisure use. None the less, from 2004, it has been subject to a number of planning applications and after many years of refusal this was eventually voted through at a panel meeting in 2008, 6 votes to 5. After a number of amendments and a further panel meeting on 15th June 2011, the 'final' planning application, was approved on January 17th 2012, for 58 care suites together with a 72 bed care home, to be started within 3 years. (Panel report dated 15/6/11 for the application 11/00403 for the demolition etc attached in file 2, tab 20)

Although some minor demolition works were completed on the northern corner of the site (outside the curtilage of the squash club) in February 2015, no ground works have been completed to date.

The Borough have a local plan policy , R7, which states that the demolition of an existing leisure facility available to the public should not be allowed to happen unless a comparable facility is made available at another location or, a better facility is made available on the same site. (Copy of local Plan Policy R7 attached tab 20 in file 2)

The panel document referenced above, recognises R7 as a strategic consideration (5.1) but only makes reference to the need to provide a replacement squash facility as part of the infrastructure contributions (1.8) and makes no account of the other leisure facilities we offer. Section 7.2 shows the developer contributions for the replacement of the existing squash facility (with an additional £20,000 being allocated) making a total of £270,000.

To buy a piece of building land in Windsor would cost 2 or 3 times this and even if this came for free, replacing 5 squash courts , in a building with changing rooms and associated services cost between £500K and £750K depending on materials. Replacing our leisure club with all its facilities would be several time this.

The council therefore have not met their own R7 policy condition.

We have appointed architects and taken advice that suggests that if we can build a new facility, we should include a pool. Thus our plans are for a slightly larger facility than the existing one.

Our planned facility with the pool is estimated to be between £3.0M to £3.5M.

The New site

From around 2008 the Club Management began the search for a new site but to no avail. When we took over on 1st May 2013, we revisited several possible sites previously identified at the Windsor Boys School, the Windsor Football Club, the Windsor Race Course, The Windsor Tennis Club and the Windsor Marina but nothing was forthcoming, either due to practical difficulties with the necessary infrastructure and parking, reluctance by the owners, operators or members to join up with us, or outright cost.

However, we did discover a long strip of land approximate 200m long by 25m wide in the Green Belt, with Thames frontage but also with a high pressure gas pipeline running down it. This sets constraints what type of development can be done but leisure applications are acceptable. We have entered into negotiations with the current owners and have agreement in principal.

In terms of its planning history, in 1997, this site was given approval for an outdoor leisure facility. It had originally been earmarked for a rowing Club - The Wraysbury Skiff and Punt Club and their plans for a 2 storey building were fully approved at the same time as those for the Eton Excelsior Rowing Club on the similar adjoining site. (Wraysbury Plans 97/75333). They also applied for a modified scheme in 1998 98/76670 attached in file 2 which also refers to the earlier application), which was also approved but both of these lapsed.

None the less the precedent has been established.

The Eton Excelsior Rowing Club (EERC) went ahead with their development (Ref 97/75322) and amended it in 2000 (Ref 00/79310) (Notice of Permission in file 2) to add a 3rd floor and associated parking. They are now a thriving community based Club

The Wraysbury site was then sold at auction in 2003 and in 2004 the new owners put an outline application in for a single story clubhouse, similar to the modified Wraysbury scheme 98/76670 above. (Ref 04/84806 Notice of Refusal and Appeal in file 2)

It was sold again and in 2008 another application was put in (Ref 08/02727 attached in file 2 with most of the supporting documents and Notices)

This was refused and also went to the panel with 4 main reasons for refusal given:

- 1) The site is in the Green Belt where only limited forms of development are acceptable including facilities that are essential for outdoor sport and recreation. It was not demonstrated that the facilities were essential and thus the proposal failed against GB1, GB2 and DP3). No very special circumstances were put forward to overcome these objections
- 2) The Trees on the site are protected by a tree preservation order. No British Standard Tree survey was submitted with the application and it was not demonstrated that the development that the proposal would not have a harmful impact on these protected trees. It was therefore refused for this reason The proposal fails to comply with Policy N6
- 3) The site lies partially within an area liable to flood. A Flood Risk Assessment has not been provided to demonstrate that the proposal would not have an adverse effect upon the are liable to flood. No sequential test was provided . The proposal fails to comply with Policy F1 and PPS 25

4) The development involved the creation of an access ramp into the river. It has not been demonstrated that the proposal would not have an adverse effect upon the land or water based ecology.

Our outline application 15/01185 sought to address item 1 to 3 and as we weren't planning a ramp into the river, did not address point 4 . (See file 1 and section 4 below.)

1. Green Belt

We have sought to justify the building in the Green Belt by very special circumstances (VSC). There is more detail in section 4 below but initially our approach was based on the following:

Precedent established – See above

Council not complied with Policy R7 – See above

Replacement of a lost amenity

Although we are a Members club with some 450 Members we are open to the Public on a pay-as-you go basis with as many as 100 visitors per week making use of the gym, studio classes and squash courts.

Apart from the leisure centre, there is currently only one other gym in Windsor so there will be a distinct loss of amenity when we close.

With RBWM looking to add some 12,000 homes over the next 15 years this situation will only get worse and with other reorganisations within its own leisure facilities, we will provide a much needed additional community resource at the new site , which will be equally accessible from Maidenhead as well as Windsor.

Relating to this we are last squash courts in Windsor. Squash got substantial coverage at the recent Commonwealth Games and was a candidate sport for the Olympics. It has excellent health and fitness benefits coupled with being easy to play at any level and not requiring expensive equipment. The Courts at Helston Lane are the last ones available to the public in Windsor. This is clearly an exceptional circumstance and replacing these at the new site will be a welcome addition to the Community facilities

We are one of the top squash clubs in Berkshire having teams in the top Mens and Ladies Berkshire leagues. Many of our young players graduate into the teams. At the other end of the spectrum we have been Vets County Champions for 8 of the last 10 years. We host many tournaments including Club level and County level. These include the Berkshire Closed County tournament, Inter-County tournaments at various age levels including Graded tournaments.

We plan to include an exhibition court in the new site and would plan to maintain a strong presence in Berkshire squash

Use by schools / young people.

We have regular use from young people; We have girls from St Georges School in Ascot and boys from Windsor Boys School twice a week and weekly School Team matches. In addition, we host their inter-house tournaments, catering for up to 120 students over a couple of days. In addition we have recently hosted both the Berkshire Junior Closed and the Junior inter counties matches. [See letter from James Dollery in File 1\)](#)

We currently run Junior Squash Coaching at the week-ends often with 15 to 20 children

We would expect to build on this use by young people at the new site as this is one of our specific charitable objectives, for example, subsidising coaching and equipment.

Indoor vs Outdoor

The site had original approval for an outdoor leisure club. It is acknowledged that our plans for a leisure club are more indoor orientated although there is a considerable outdoor focus

- 1) The infrastructure needed for an outdoor leisure Club is virtually identical to that for an indoor leisure club: changing rooms, showers, exercise space, reception, club room, refreshment facilities etc. The pool and squash courts are the only specific indoor activity.
- 2) We are a Fitness and Health Club and have more Members who use the Gym, Studio and Spin Room, than play squash. Many of these Members are runners and cyclists who base themselves at the club, use our equipment in the Winter months but do more outside in the Summer
- 3) We host the EVO Triathlon Club which regularly has approaching 100 members, who run, cycle and swim often in open water. Clearly this is primarily an outdoor activity but in the winter time all these sports need inside training facilities. [See letter in File 1](#)
- 4) We will have an outdoor gym exercise area and would expect to run classes and other activities on this area in the Summer months.

We believe there are a number of points in favour of granting permission for our Club which will have a mix of outdoor and indoor use.

Other special circumstances

The members have set up a Charity Company called Castle Members Club Ltd, which is the entity behind this application. There is no profit motive behind this application and no one is going to benefit personally. Our aims and objectives as a Charity Sports Club include encouraging general levels of fitness and particularly participation by young people.

Sporting Hub

Locating our facility next to the Eton Excelsior Rowing Club will complement their activities and provide additional footfall which will be good for both clubs. With the Eton Dorney rowing lake just over the river and biking and jogging trails nearby, this will provide a valuable community hub of sporting activity.

Eton Excelsior Rowing Club.

We have a good relation with the Eton Excelsior Rowing Club and they are enthusiastic about our gym facilities as they don't have a permanent gym . There are other factors that they see as beneficial: improved security on the site, additional space to launch eights , improved parking arrangements, water safety tests and capsizing drill, resolution of their boundary dispute with our vendors. [See letter for their Chairman, Peter Clements in File 1](#)

In particular one of the trees we are proposing to remove on the river frontage is a major safety hazard for the rowing club as in the Summer months it obscures the view of boats coming up stream and makes launching boats more dangerous.

2. Trees

We have conducted a British Standard Tree survey to BS 5837 by a register arboricultural consultant and submitted this with our application .[\(A Tree Survey and Arboricultural Method Statement ref SPH/AS/5837-01/31.01 and an Arboricultural Impact Assessment Ref SPH/AS/AIA -01/31.01 in tree section in File 1\)](#)

It is worth noting that the Tree preservation order TPO 31 was put on the whole site in 2003 to prevent unauthorised action just prior to the site going to auction, but without consideration of the species or condition of the trees. It was objected to at the time by the new owners ([Document headed 'Tree Preservation Order 31' in tree section in file 1](#))

The site has been unmanaged for many years and the adjoining woodland has encroached with several larger trees having fallen over or overhanging at significant angles.

45 trees would be lost to the scheme but all but one are categorised 'U' or 'C' in the survey and the consultant states in the report that these ' may be removed regardless of the development'

The one 'B' category tree overhangs the water front and creates a safety hazard for EERC

We plan on piling the foundations and creating a permeable car park surface which will minimise root damage

We plan on doing a considerable amount of landscaping and our proposals include planting 12 trees and investigating an edge of woodland planting scheme with the adjoining woodland owner

In summary these trees are very poor quality and our landscaping proposals will enhance the area considerably

However the council disagree and their response is attached ([Document headed, Legal Protection in tree section, file 1](#))

3. Flooding

We have conducted a Flood Risk Assessment including a sequential test (Ref FRA 5th Jan 2015 Draft v1.0 RAB and FRA 14th August Final v2.0 – in Flood section, file 1)

Environmental Agency Response to Jan draft dated 24th June – Flood section file 1

As we plan to build on piles, the building will sit above the flood plain, and only the piles themselves will have an impact. However the survey identified that we could excavate the silted up slipway on the corner of the site and that would mitigate any adverse impact our building would have on the flood plain. This was stated in our plan

The council queried the methodology used by the consultants and who have rebutted this in the latest version of their report (FRA 14th August Final v2.0) This includes an updated sequential test as a result of the councils feedback although this version of the report didn't get onto the council website .

4. Access , Parking and Traffic

Access.

The initial plan submitted indicated that we would create a second entrance and operate an 'in' and out' system with EERC. We did this as we believed this would be safer

On advice from the planning office we resubmitted our site plan showing use of the existing EERC access for both 'in' and 'out' (1714 (12) 001 Rev7 in traffic section, file 1) This document also show the proposed position of the bike rack and bin storage . Highways preferred this entrance as the splays and viewing angles were acceptable. They withdrew there earlier objections on the 18th August. (e-mail and comments in traffic section, file 1)

Parking

The architects created enough parking space on our side of the site for over 100 cars, i.e similar to what we have today. However using ratios for parking requirements for similar leisure facilities, suggests we only need around 75 spaces The revised plan (Ref 1714 (12) 001 Rev7 in traffic section, file 1) actually shows 133 parking spaces together with 5 disabled spaces and 9 staff places together with the bicycle racks

Our plans for parking have always left the existing EERC parking on the right hand side of the drive and not included them in our calculations. The council reports never seemed to understand this

However we have agreed with them that they can use our parking area particularly if they have big events.

Traffic

We undertook a traffic survey and originally planned to do this at both our current site and at the roundabout junction on the road leading to the new site. For some reason we were not allowed a

licence for the latter. (Dermot McCaffrey 'transport statement for our current site is in the Traffic section, file 1). This did get eventually onto the council website on the 10th August with the revised site plan on the 6th August .

The site accesses onto the Old Maidenhead road which is now a dead end, with the site entrance only just down from the Western dead end. However this used to be the main Windsor to Maidenhead A road and thus it is relatively wide. The road travels east about 500 yards past the Windsor Marina entrance on the left and a few houses on the right. It then passes an area called the Willows on the left and Squires Garden centre on the right, before joining the main A308 (Windsor –Maidenhead Road) at a roundabout

It is used by cyclists . but otherwise there would be no other traffic from the right .

Concerns about traffic levels at peak times and parking on the side of the road have been raised by local residents.

The transport survey has assessed the traffic at our current site and projected what our traffic levels might be and concluded that our peak times are before and after the main rush hour. Coupled with the width of the road which can easily accommodate parked cars we believe our proposals won't adversely affect the traffic at the roundabout or down the Old Maidenhead Road.

The Highways Department submitted a response dated 18th August, to our transport statement which is (emails and report attached in traffic section, file 1) In this they withdraw their objections and stated that the access arrangements are now acceptable. This response was not flagged at the panel meeting on the 19th August and it was still listed as a reason for refusal in the panel briefing document (Ref Planning Committee –Windsor Urban Development Control 19th August in Panel section file 2) and did not get onto the public access website until the 20th August (See Public Access Module document list under tab 19, file 2)

The building will be around 300 m from the nearest house so that noise or disturbance to local homes will be minimal to non-existent

4.Process

We submitted our outline application on the 20th April 2015, with appearance, landscaping, layout and scale as reserved matters, leaving Access. See documents under planning application, in file 1 (Outline planning application, Holts Architecture Design Report , Supporting statement from John Andrews)

Decision expected by 20th July 2015

Approved by the Bray Parish (File 1)

It was called to the Panel in Maidenhead on the 5th August but then inexplicably moved to Windsor two weeks later

Consultations were actually completed on the 17th August 2015 (although the Highways comments were dated the 18th August.

It was called to the panel on the 19th August ([Agenda and several of the Notices in panel section in file 2](#))

A few days prior to the panel meeting we hand delivered a document to all panel members and substitutes homes. ([Ref Proposed Development for Health and Leisure Club....in panel section, file 2.](#)) We attended the panel meeting and our Chairman, Nick Pellew delivered the speech ([in panel section file 2](#)) A local resident also spoke and highlighted concerns about traffic.

There were some further comments but no substantive debate on the issues raised and a very peremptory proposal to accept the planning officers advice to refuse was made and voted through.

Decision to refuse recorded on the 20th August ([Notice of Decision in Panel section, file 2](#))

The reasons given are summarised as follows:

- 1) The acceptability of the development cannot be properly determined without further reserved matters forming part of the application ...in addition to the reserved matter of Access (*which wasn't reserved*) ... particularly scale and layout in the context of harm to the openness of the Green Belt. Our very special circumstances argumentis outweighed by other considerations . As such the proposal is contrary to the NPPF , GB1 and GB2
- 2) The sequential test assessment of other available sites does not demonstrate that there are not suitable available sites that are a lower risk of flooding
 - i) Also parts of the building are within the functional flood plain
 - ii) The flood water storage compensation methodology was questioned and suggested that it would not be sufficient
 - iii) The development may be taking place within the 8m buffer
- 3) No ecological survey was done
- 4) The proposed development would be harmful effects on the trees on our site and the adjacent site
- 5) It has not been satisfactorily demonstrated that the additional height and bulk of the building would not be detrimental to views from the river and harming the setting of the Thames.

Our response. Also see DCP briefing document ([Planning Committee –Windsor Urban Development Control 19th August in Panel section file 2](#))

- 1) There was substantial detail in our design and access statement and we feel that the council had every opportunity to ask for more information even after the initial month had elapsed.

In addition, had our documents been read fully we feel that a pretty clear impression of what we were planning could be established and several points would have been answered.

We identified a number of very special circumstances (VSC) many of them outlined earlier in this paper and there was no discussion at the panel meeting on their merits or otherwise.

Indeed the panel briefing document makes no reference to the approval of the Wraysbury plans (97/75333 and 98/76670) in the planning history although it does mention the EERC plans of the same period. In our opinion this was a serious omission as it is a clear precedent

The briefing document states that no transport assessment has been done, when it had and was on the council website on the 10th August. The Highway authority subsequently withdrew their objections but the panel briefing document still had this as the second reason for refusal and thus potentially unfairly prejudiced the councillors opinions.

Section 6.4 makes no reference to our mixed use indoor and outdoor. See earlier section in this document

Section 6.5 outlines the councils VSC response.

a) The council feels that £270K is sufficient to meet their R7 obligation. We disagree. See the first section of this document

b,c,d,e,f) Acknowledged all or in part

g) Not agreed. The relates to 'other harm in the green belt, flooding etc

6.6 and 6.7 Factual

6.8 Includes Highways as a problem which is now shown not to be.

The environmental concerns include 'paving most of the area for car parking purposes' We have never said this and plan to use permeable parking and permeable road surfaces as shown on page 14 of the Holts design statement.(See file 1)

The site is not available to the public at the moment and there is no access to the River. Our plans would make the site open to the public and provide access to the river. This suggests we are actually opening up an area of Green Belt.

6.9 Argues that the case for VSC cannot be made without layout and scale

Inevitably there is a degree of subjectivity in deciding whether something that contributes to the health of the population outweighs something that impacts on the openness of the green belt. However we are very frustrated that these issues weren't debated at all

6.10 to 6.14 Access car parking etc . Superseded by Highways removing their objections

- 2) In the panel briefing document para 6.15 discusses the Sequential test. No updated version was ever requested. We only asked RAB to do this when we saw this document a week or so before the panel meeting. The update including all the sites that we investigated is included as a separate section(in Flood section, file 1). However this wasn't received in time to submit to the council.

6.16 Questioning the methodology. Our consultants, RAB's response to this is included in their document dated 14th August. **The section they have updated is separately included in the flood section, file 1**

We acknowledge we are building in the flood plain but we believe our construction method (piling) and our mitigation measures offset any flood risk. We believe our consultants have answered the questions about methodology satisfactorily.

We therefore believe there should be sufficient information to allow the objections to be removed.

- 3) We understood that the ecological survey could be done between outline and full application. 6.18 and 6.19 suggest what needs to be done. i.e. a Preliminary Ecological Appraisal, and extended Phase 1 habitat survey, and a desk study and bat scoping survey. We would do this now if it would help our case for Appeal
- 4) Most of the trees are in a poor state as identified by our survey. The council don't accept that. We would hope to include a site visit in the Appeal process.

6.20 factual summary

6.21 suggests more trees are likely to be effected which we acknowledge is possible. However we will be able to do more landscaping and tree planning that originally projected as the car parking requirements are not as great and using permeable car park surface materials will protect more of the existing tree root systems and allow more trees to be planted.

It does not seem reasonable to us to have to mitigate all the trees that are poor quality. We would certainly mitigate any A or B trees that are lost to the scheme and have already opened up discussions with the adjoining landowner regarding this. There is potential to plant some more trees and we would expect to enter into a dialogue with the council to reach a compromise.

- 5) The building we are proposing is very close to the same height as the existing EERC building which was virtually identical to the original Wraysbury plan **97/75333**, for a two storey building which unfortunately seems to be no longer available to download from the Borough website. We have got some details from their amended plan **98/76670**. Their amended building is of similar width and thus it is only the length of our building which is substantially different.

Clearly with our building end on to the river, the length will not materially effect this and thus as seen from the river, the view would be little different in terms of bulk than for the previously approved Wraysbury building. We will have terracing that will reduce the bulk as seen from the river and there will be extensive use of glass to give the building light and a sense of lightness.

The proposed design and shape of our building will be to compliment its natural setting as far as possible. The Holts Design statement (**File 1**) shows some the ideas we would hope to employ.

We believe that this building will be attractive and of architectural merit that will enhance the setting on the Thames. In addition to our facilities opening up this site will provide additional public access to the river and thus will offer a welcome additional public amenity.