

13 April 2006

LAMBS ACTION TEAM

**OBJECTIONS TO PLANNING APPLICATIONS
NOS. P052310 AND P052334**

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A. EXECUTIVE SUMMARY

We believe that there are sustainable and compelling grounds on which this planning application should be refused by the local planning authority.

Planning Application No. P052310 is the second planning application by Clan Real Estate (Lamb's Passage) Limited for the redevelopment of No.1 Lamb's Passage, Islington, London EC1Y 8LE, which would mean the total loss of the Lambs Health & Fitness Club. It is in the same form as Planning Application No. P052334 which has been appealed to the Planning Inspectorate. This Submission and its Schedules contain the objections to both applications made by the Lambs Action Team, which represents the users of Lambs.

1. The legal and planning framework

- 1.1 It has been accepted by the Applicant and its advisers and by the Council's planning team that the Government's national Planning Policy Guidance note 17: "Planning for Open Space, Sport and Recreation (2002)" is a material consideration for the determination of the Application.
- 1.2 The objective of PPG17 is to protect and enhance existing open space, sports and recreational facilities. PPG17 recommends that local authorities should undertake robust assessments of the existing and future needs of their communities for sports and recreational facilities. The needs of residents and those working in and visiting areas should be included in the assessment (and these groups are referred to in PPG17 as the local community).
- 1.3 The objective of PPG17 is implemented by paragraph 10, which states that existing sports and recreational buildings and land should not be built on, unless an assessment has clearly shown the buildings and land to be surplus to requirements.
- 1.4 In the absence of a robust and up-to-date assessment by a local authority, under the terms of paragraph 10 of PPG17, an applicant may seek to demonstrate through an independent assessment that the land or buildings are surplus to requirements.
- 1.5 The phrase "surplus to requirements" should be given its ordinary and natural meaning in the context of the purpose of PPG17. Surplus means exceeding what is needed or used and, in the context of PPG17, it is the requirements of the local community that are relevant. Therefore, only facilities which are not used by the local community or for which the local community does not have a current or future need can be considered to be surplus to requirements.
- 1.6 We do not agree with the Applicant and their advisers that "surplus to requirements" means that the use currently made of Lambs can be absorbed elsewhere in the vicinity. This "absorption test" would be contrary to the objectives of PPG17 which are to stop the redevelopment of sports facilities that are meeting the needs of the local community. It also contradicts the Companion Guide to PPG17, which states that it is not enough simply to ensure that if an existing sports facility is lost to some other land use, it is replaced in broadly the same area.
- 1.7 Paragraph 10 of PPG17 goes on to say that developers will need to consult the local community and demonstrate that their proposals are widely supported by them. These

are two separate obligations, as confirmed by Diagram 1 from the Companion Guide (which follows this Executive Summary), with which the Applicant must comply in order to satisfy the requirements of PPG17.

- 1.8 In addition to the provisions of PPG17, support for refusing planning permission can be found in the Council's Unitary Development Plan and the London Plan. Strategic Policy 8 supports the provision of a wide-range of leisure activities that are accessible to all residents without needing to use a car. Policy R17 supports the provision of additional facilities for indoor sports and Policy R23 states that planning permission will not normally be granted where it would involve the loss of public entertainment or sites of cultural value. It would be wholly inconsistent with these policies for the Council to grant planning permission which would result in the loss of unique indoor sports facilities and a culturally important venue.

2. A critical assessment of the evidence

- 2.1 The sports and recreational facilities provided by Lambs are not surplus to requirements because they are currently used by at least 1100 people. Lambs is a unique facility in the area because it provides 9 squash courts which are intensively used by at least 600 members per week. Lambs also provides large gym and fitness studio facilities which cater for a number of popular sporting activities, including aerobics, yoga, pilates, boxing and karate. Lambs provides qualitative and quantitative benefits to the local community that are not matched by alternative facilities in the area.
- 2.2 We have carried out a very simple assessment of the level of use made of Lambs by squash players, following the approach set out in the Companion Guide to PPG17. It is clear from looking at the booking sheets maintained by Lambs that the squash courts are normally fully-booked between 11.40am and 2.20pm and 5pm and 8pm on each day that Lambs is open. A total of 68 bookings at these times means that 680 people play squash at Lambs every week (5 days at 136 people per day). This gives a relatively conservative figure for use of the squash courts.
- 2.3 We have carried out a brief survey of the availability of courts at the clubs listed in the Applicant's assessment, of which, only 10 courts are within approximately 10 minutes' walking distance of Lambs. As an example, we asked whether a court was available at 12.30pm and 6pm on every day during the week of 27 February 2006. An average of only 2 courts were available at 12.30pm on any day of that week when either 8 or all 9 courts were being used at Lambs. At 6pm, all 9 courts were booked at Lambs on every day that week, whereas only one court was available elsewhere. Even if you accept, which we do not, the Applicant's interpretation of "surplus to requirements", there is simply insufficient capacity at other facilities to cater for the requirements of the community that uses Lambs.
- 2.4 The Applicant has submitted two reports from Pan-Leisure Consulting Limited in an attempt to comply with PPG17. These are flawed in several material respects, which can be summarised as follows:
 - (a) ***Incorrect analysis:*** the Reports fail to analyse correctly the facts on which they rely. For example, the Reports say that Lambs's management's estimate of 400 squash playing members can be supported by booking sheets that show

317 players booked courts more than once in a particular month. Obviously, that means at least 634 people played that month. In many cases, those booking courts will have played more than one opponent during the month and these figures do not include members who only played once that month, so the total figure for people regularly using the courts must be higher.

- (b) **Not compliant:** the Reports do not follow the criteria and methodology set out in PPG17 and the Companion Guide in key respects (although they purport to do so). For example, the Reports do not treat the use made of the facilities by the working community as a legitimate planning consideration and they dismiss the requirement to consult the local community on spurious grounds. Consequently, the Reports fail to consider material factors that would alter their conclusions.
- (c) **Irrelevant factors:** the Reports take account of factors that are irrelevant to the planning process and PPG17. For example, the Reports repeatedly state that Lambs is a private facility, whereas the Companion Guide states that the value of sporting facilities is irrespective of who owns them.
- (d) **Lack credibility:** the Reports contain a number of errors and unjustifiable assumptions which undermine their credibility. For example, the failure to provide an accurate and up-to-date summary of squash at a national level has been demonstrated by letters from Sport England and England Squash. The Reports argue that membership of Lambs is private and exclusive, even though there are no qualifications or restrictions on joining. On a correct analysis of their own statistics on the relative cost of alternative sporting facilities, Lambs is amongst the cheapest providers which contradicts the statement in the Reports that “the fees charged could be considered exclusive”.

2.5 In breach of paragraph 10 of PPG17, the Applicant has not consulted the local community and cannot demonstrate that the local community widely supports its proposals. The Reports seek to excuse this failure to consult on the basis that Lambs is a specialist facility that attracts a niche audience which is not accessible to those who are socially and economically disadvantaged. However, specialist needs are a material consideration under the Companion Guide and, as explained above, Lambs does not discriminate against any group. In any event, it is clear from the fact that more than 500 objections have been lodged regarding the Application that the local community does not support the Applicant’s proposals.

2.6 The Applicant has submitted an opinion from a barrister which reaches certain conclusions on the law and facts applicable to the Application. For the reasons stated above, we disagree with his interpretation of PPG17, both as regards the surplus to requirements test and the subordinate nature of the other PPG17 obligations. As to the conclusions on the evidence, that is a matter for the Council and not for the Applicant’s barrister. In addition, his conclusions are wrong since they are based on the Reports, the findings of which he has simply accepted without critical evaluation. We have obtained the opinion of a barrister in response to the Applicant’s opinion, which is attached to this Submission.

2.7 In refusing planning permission for the Applicant’s first application, the planning officer then in charge, Kevin Henson, said:

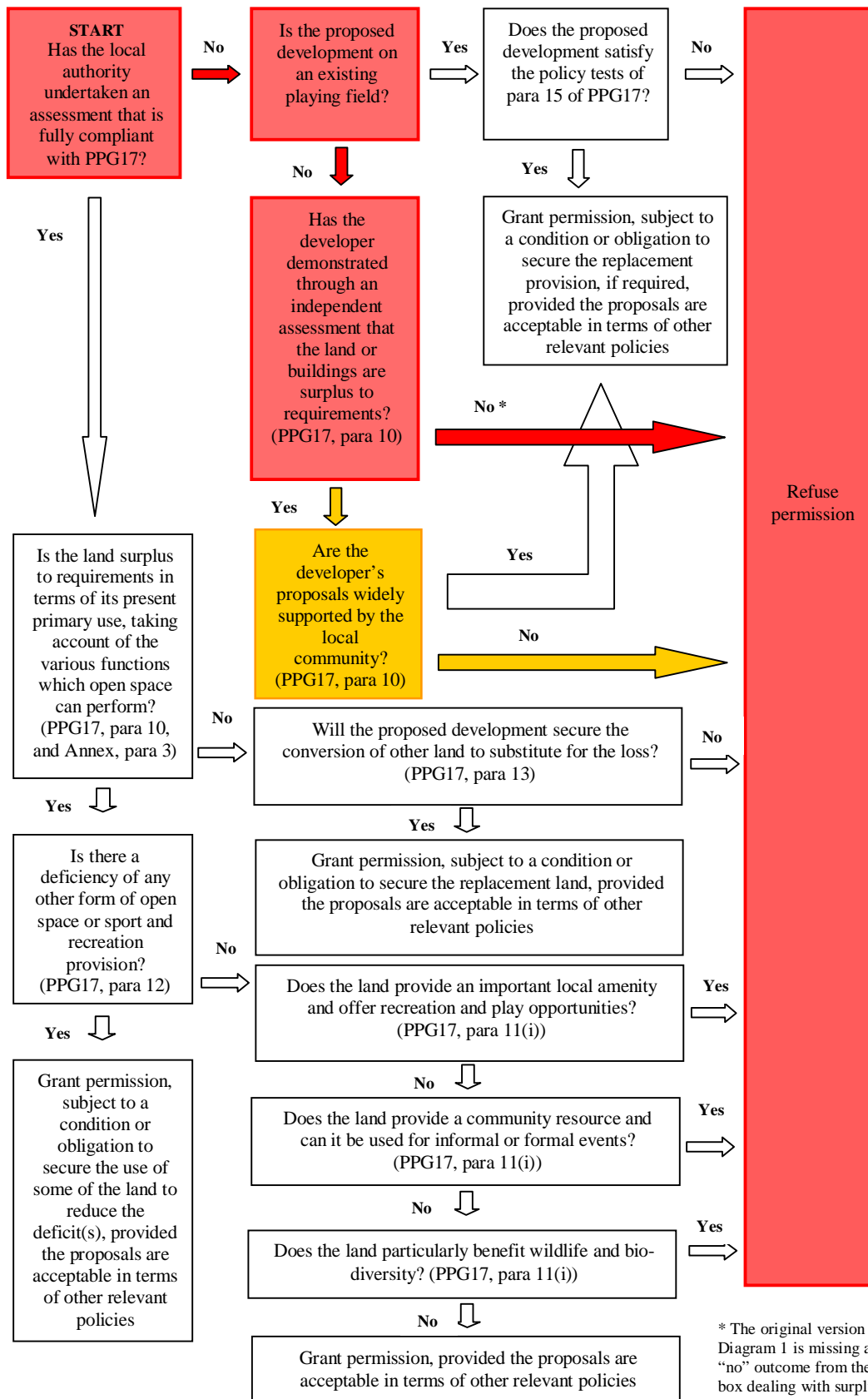
“The existing sports facilities on site contribute to the character and liveliness of the area and play an important role in the Borough and the wider area in the provision of indoor sports facilities. The proposal would therefore result in a loss of facilities contrary to Policies R18 and ST8 of Islington's Unitary Development Plan 2002. The proposal would also be contrary to policy 3D.5 of the London Plan 2002 and to PPG17.”

2.8 Nothing has changed since this refusal and these remain cogent reasons for refusing the Application.

3. Conclusion

In conclusion, we would draw your attention to Diagram 1 contained in the Companion Guide (published by the Office of the Deputy Prime Minister) which follows. This diagram summarises the approach to development control set out in PPG17 and makes clear how local authorities should consider planning applications which involve the redevelopment of an existing sports facility. As you can see from the high-lighted flow path, the correct determination of the Application would be to refuse planning permission.

Diagram 1: Redevelopment of an Existing Open Space or Sports/Recreation Facility



* The original version of Diagram 1 is missing a "no" outcome from the box dealing with surplus to requirements, which we have added. The primary flow path is shown in red and the secondary in amber.

B. OUTLINE AND INTRODUCTION

This Submission is made by the Lambs Action Team, which represents the users of Lambs Health & Fitness Club, in objection to Planning Application No. P052310 by Clan Real Estate (Lamb's Passage) Limited for the redevelopment of No.1 Lamb's Passage, Islington, London EC1Y 8LE. These objections are also relevant to and made in respect of Planning Application No. P052334, made by the Applicant and appealed to the Planning Inspectorate.

In addition to the Executive Summary provided in the preceding section, this Submission is divided into sections dealing with:

- the background to the Application;
- relevant planning policy;
- the application of that policy to the proposed redevelopment (both as regards national planning policy guidance and general planning principles);
- a short section on the impact of the national squash scene on the Application; and
- a section regarding matters that have been raised but which are not relevant to the planning process.

This Submission is supported by a number of documents that the Lambs Action Team have compiled, including an analysis and response to the reports submitted by Pan-Leisure Consulting Limited, an opinion from Mr. Mark Watson, a planning barrister from 6 Pump Court, regarding applicable planning law issues, the results of information gathered by the Lambs Action Team from surveys and other sources, a summary of the New Lambs Club business plan and copies of the several hundred objection letters sent to the Council and the Lambs Action Team. These are contained in the schedules to this Submission.

Although the terms used in this Submission are generally defined as they arise, a handy reference for defined terms can be found in Section H.

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C. BACKGROUND

1. Planning Application No. P052310 (the “**Application**”) has been made by Clan Real Estate (Lamb’s Passage) Limited (the “**Applicant**”) for the redevelopment of No.1 Lamb’s Passage, Islington, London EC1Y 8LE and involves the demolition and redevelopment of Lambs Health & Fitness Club (“**Lambs**”).
2. The Applicant first made a planning application for the redevelopment of No.1 Lamb’s Passage, under Planning Application No. P050441 dated 21 February 2005. Planning permission was refused by planning officer Kevin Henson on six grounds in May 2005. The sixth ground for refusal was the loss of the sports facilities at Lambs, contrary to Policies R18 and ST8 of the Unitary Development Plan and policy 3D.5 of the London Plan and to PPG17.
3. The Applicant has made two further applications in identical terms to each other, in which the Applicant has sought to address the six grounds on which the original planning application was refused. These are Planning Application No. P052334, which is being appealed to the Planning Inspectorate on the grounds of non-determination, and the Application.
4. The Application was made on 15 September 2005, at which time the Applicant did not provide an assessment in accordance with PPG17. The Lambs Action Team commissioned a report from Strategic Leisure Limited which was lodged on 23 October 2005 and, in response, the Applicant filed a report from Pan-Leisure Consulting Limited (“**Pan-Leisure**”) dated November 2005.
5. As you can see, the Applicant submitted the first report from Pan-Leisure after filing the Application, and only after receipt of letters on behalf of the Lambs Action Team and Sport England drawing attention to the fact that the Applicant had failed to address PPG17 in the planning statement attached to the Application. It is clear from this timeline that the Applicant has ignored Government guidance on the protection of sports facilities in purchasing this site for redevelopment.
6. The Planning Officer (Matthew Rosel) recommended in his Case Officer’s Report dated 13 January 2006 (the “**Case Officer’s Report**”) that the Application be approved subject to a Section 106 Agreement. The Application came before the South Area Planning Sub-Committee (the “**Planning Committee**”) on 24 January 2006 where, faced with material concerns about PPG17, determination of the Application was deferred. The minutes state that “consideration of the Application was deferred in order for consideration to be given to the requirements of PPG17 and its relevance to the Application”.
7. The Applicant amended the Application on 23 January 2006 and submitted supporting materials in the form of an additional report from Pan-Leisure and an opinion from a barrister, Rupert Warren, (the “**Warren Opinion**”) both lodged on 1 March 2006.

D. THE LEGAL AND PLANNING POLICY FRAMEWORK

This section summarises the planning law and policy that is relevant to the Application. It briefly states the law, which is not in dispute, and then deals with the interpretation of PPG17, which is the critical issue for determination of the Application. In doing so, it deals in turn with the correct interpretation of the surplus to requirements test, the Applicant's contentions and the Applicant's obligations to consult with the local community and demonstrate that its proposals are widely supported.

1. Development Plan

- 1.1 Under the Planning and Compulsory Purchase Act 2004, a planning application has to be determined in accordance with the local planning authority's development plan unless material considerations indicate otherwise (see s38(6) of that Act).
- 1.2 In this case, the development plan consists of the Islington Borough Council Unitary Development Plan ("**UDP**") and the London Plan.
- 1.3 Islington Borough Council (the "**Council**") has developed strategic policies to guide its planning in the Borough. Strategic Policy 8 supports the provision of a wide-range of recreation and leisure activities that are accessible to all residents without needing to use a car. Paragraph 7.4 of Policy ST8 states that: "The Council will ensure that sufficient, attractive and indoor facilities are available to enable a wide cross-section of the population to participate in sports, fitness and active leisure pursuits".
- 1.4 Strategic Policy 8 has been implemented by specific policies of which those that are particularly relevant include:
 - (a) Policy R17 which supports the provision of additional facilities for indoor sports.
 - (b) Policy R18 which enables the Council to seek agreements with private sector developers to provide suitably located sports facilities.
 - (c) Policy R23 which states that planning permission will not normally be granted where it would involve the loss of public entertainment or sites of cultural value.
- 1.5 The London Plan in policy 3D.5 states that the Mayor will work with strategic partners to promote and develop London's sports facilities. This will include the promotion of London as the home of the 2012 Olympic Games and Paralympics. The London Plan also states that in reviewing UDPs, boroughs should identify sites for a range of sports facilities to meet local, sub-regional and wider needs.
- 1.6 Although there are no specific policies in the UDP and the London Plan that prevent the redevelopment of sports facilities, the provisions set out above make it clear that the Council's development plan is supportive of sports facilities. It should also be noted that there is nothing inherently repugnant to the Council's development plan in the provision of sports facilities in the Borough by the private sector. Indeed, both Policy R18 and, as will be seen below, PPG17 promote co-operation with the private

sector in order to achieve the common goals of quality sports and recreational facilities.

1.7 Whether the Application conforms to the development plan is dealt with in Section F, but two further points of principle should be noted here:

(a) The members of the local planning authority are elected to represent the interests of the whole community in planning matters. When determining planning applications they must take into account planning considerations only. The basic question is whether the proposal would unacceptably affect amenities and the existing use of land and building which ought to be protected in the public interest.

(b) Where there are other material considerations, the development plan should be the starting point, and the other material considerations should be taken into account in reaching a decision. One such consideration will be whether the development plan policies are relevant and up to date.

2. Planning Policy Guidance note 17

2.1 It has been accepted by the Applicant and its advisers and by the Council's planning team that the Government's national Planning Policy Guidance note: "Planning for Open Space, Sport and Recreation (2002)" ("**PPG17**") is a material consideration for the determination of the Application.

2.2 It is well-established in planning law that Planning Policy Guidance notes are material considerations which must be taken into account, where relevant, in reaching decisions on planning applications. If a local authority elects not to follow relevant statements of the Government's planning policy, it must give clear and convincing reasons for doing so (see *E C Grandson and Co Ltd v SSE and Gillingham BC 1985*).

2.3 For example, on 2 August 2005 the First Secretary of State (John Prescott, the Deputy Prime Minister) refused an appeal regarding a planning application relating to new educational, social and healthcare accommodation. In this decision, PPG17 was a material consideration taken into account by the Secretary of State. Consequently, in light of the fact that the Application relates much more directly to the subject matter of PPG17 than the planning application concerned, PPG17 must be a material consideration for determination of the Application. (See paragraph 6 of the decision letter issued by the ODPM at Schedule 3.)

2.4 In summary, PPG17 recommends that local authorities should undertake robust assessments of the existing and future needs of their communities for sports and recreational facilities. The needs of residents and those working in and visiting the areas should be included in the assessment. Local authorities should undertake regular audits of sports and recreational facilities. This assessment and audit process will enable local authorities to set locally derived standards for the provision of sports facilities in their areas. PPG17 makes it clear that the local community includes residents, workers and visitors to the area and "local community" is used in this Submission to mean all three categories of people, as it is in PPG17.

- 2.5 PPG17 was published after the Council completed its UDP and therefore the Council was unable to incorporate the provisions of PPG17 into the UDP. Where the development plan is not up to date in taking account of Government planning guidance, that guidance will be a material consideration for the determination of planning applications to which it is relevant. It has been accepted by the Planning Officer that no PPG17 assessment has been carried out by the Council.
- 2.6 The objective of PPG17 is to protect and enhance existing open space, sports and recreational facilities. Understanding the purpose of PPG17 is essential in order to interpret and apply its provisions correctly.
- 2.7 On 24 July 2002, the ODPM issued a press release to accompany PPG17 which states that PPG17 provides strict planning policies to safeguard open space, sport and recreation and robust guidelines for local authorities on the need to protect such resources. The Deputy Prime Minister said “we expect local authorities to plan effectively and to protect these valuable resources”. The Secretary of State for Culture, Media and Sport welcomed the new planning guidance saying: “We must have proper safeguards against moves ... which would be to the detriment of sport”.
- 2.8 Central to the implementation of this objective is paragraph 10 of PPG17, the relevant sentences of which are set out below:

Existing open space, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements. In the absence of a robust and up-to-date assessment by a local authority, an applicant for planning permission may seek to demonstrate through an independent assessment that the land or buildings are surplus to requirements. Developers will need to consult the local community and demonstrate that their proposals are widely supported by them.

- 2.9 In addition to paragraph 10, the following extracts from these numbered paragraphs are also relevant to this Application:

11. *Open space and sports and recreational facilities that are of high quality, or of particular value to a local community, should be recognised and given protection by local authorities through appropriate policies in plans.*
18. *Where recreational land and facilities are of poor quality or underused, this should not be taken as necessarily indicating an absence of need in the area. Local authorities should seek opportunities to improve the value of existing facilities. Usage might be improved by better management or by capital investment to secure improvements.*

From the Annex to PPG17:

4. *Sport and recreation is not formally defined for the purposes of this PPG. ...policies are generic and should be applied to all forms of sport and recreational activities.*
5. *For the purposes of assessments of need and audits of existing built facilities for sport and recreation, local authorities should use a typology which*

includes swimming pools, indoor sports halls and leisure centres, indoor bowls centres, indoor tennis centres, ice rinks, community centres, and village halls.

It is clear from paragraph 5 of the Annex to PPG17, that the typology to be used in the assessment would need to include squash and consider the specific requirements of that sport, just as it would those listed.

- 2.10 The policies set out in PPG17 must be taken into account by local planning authorities in the preparation of development plans, but it is also stated in the opening paragraph of PPG17 that its provisions “may also be material to decisions on individual planning applications”. Whereas many sections of PPG17 set out the guidance to local authorities on planning for open spaces, sport and recreation, it is clear that paragraph 10 of PPG17 is specifically directed at individual planning applications, particularly as it deals with the obligations on a developer in the absence of a robust and up-to-date assessment by a local authority. Therefore, not only is PPG17 a material consideration for the determination of this Application, it also imposes specific obligations on the Applicant with which it must comply.

3. The correct interpretation of “surplus to requirements”

- 3.1 The phrase “surplus to requirements” should be given its ordinary and natural meaning in the context of the purpose of PPG17. Surplus means exceeding what is needed or used and, in the context of PPG17, it is the requirements or needs of the local community that are relevant. Therefore, only facilities which are not used by the local community or for which the local community does not have a current or future need can be considered to be surplus to requirements.
- 3.2 This interpretation has been arrived at from the application of well-established legal principles (see *R. (on the application of Thomas Bates & Son Limited) v. Secretary of State for Transport* at Schedule 4, in particular paragraph 23 of the judgement). PPG17 has been issued by the ODPM under its general powers regarding planning policy and should be interpreted using the ordinary meaning of the words in the relevant context. Although PPG17 is not a statute or statutory instrument, this approach to its interpretation is closely analogous to the laws relating to statutory interpretation. These laws are summarised below as they would apply to PPG17:
- (a) The words used in PPG17 should be given their literal meaning unless this would lead to an absurdity or where there is a natural ambiguity about the language used.
 - (b) In interpreting the words of PPG17 one should not seek to find an ambiguity where there is none if the words are given their ordinary and natural meaning.
 - (c) If there is an ambiguity – i.e. if the words could naturally be given more than one meaning, then the legislative intention should be found by interpreting the words in light of the purpose of PPG17.
- 3.3 A common starting place for the ordinary and natural meaning of words is a dictionary. The *Oxford English Dictionary* gives the following meaning for surplus: “exceeding what is needed or used”. The meaning of the word “requirement” can

vary depending on the context in which the word is used and the most appropriate is: “need; need to have; depend on for success or fulfilment”.

- 3.4 The first sentence of paragraph 10 of PPG17, which sets out the surplus to requirements test, does not itself specify whose requirements should be assessed. However, in the context of PPG17 as a whole, it is clear that those are the requirements of the local community whose existing and future needs for sports and recreation facilities are addressed in the guidance note.
- 3.5 This natural interpretation of the phrase “surplus to requirements” leads to the following interpretation of paragraph 10: *only facilities which are not used by the local community or for which the local community does not have a current or future need can be considered to be surplus to requirements.*

4. The Applicant’s interpretation of “surplus to requirements”

- 4.1 As noted above, the laws of statutory interpretation provide that where words can naturally admit more than one meaning, a purposive interpretation should be used in order to determine the legislative intention concerned. Commonly known as the “mischief rule”, this law seeks to establish the “mischief” that the regulations were attempting to redress and interpret the words used in light of that purpose.
- 4.2 We do not believe that the words are ambiguous in any way and that the interpretation set out above is clear and easy to apply. However, the Applicant has argued that the words surplus to requirements have another meaning: “whether any need met by the facility currently may be met elsewhere in the absence of the facility” (quoted from Warren Opinion and referred to as the “absorption test”). Therefore, this section considers whether this interpretation is valid under the laws of interpretation that apply.
- 4.3 The purpose of PPG17 can be derived from statements made by the Deputy Prime Minister and others around the date on which PPG17 was published. Some of these can be found at paragraph 2.7 above and a copy of the ODPM press release concerned can be found in Schedule 2. It is clear from these statements that the purpose of PPG17 is to protect and enhance the provision of sports facilities. As such, PPG17 intentionally sets a high bar for prospective developers seeking approval for a development that would deprive an affected community of existing open space, sport and recreational facilities. PPG17 was promoted in the context of growing concern about the loss of sports facilities in the country as a whole and should be interpreted accordingly.
- 4.4 Therefore, if there is more than one reasonable interpretation of “surplus to requirements”, the correct approach is to select the one that best serves the purpose of PPG17. The “absorption test” proposed by the Applicant and its advisers would be contrary to the objective of PPG17, which is to prevent the redevelopment of sports facilities that are meeting the needs of the local community. This can be clearly demonstrated by the following arguments:
 - (a) The interpretation proposed and applied by the Applicant would involve the loss of an existing sports facility that is used by a significant number of people and therefore runs directly counter to the purpose of PPG17.

- (b) The planning guidance issued for PPG17 states that it is not enough simply to ensure that if an existing sports facility is lost to some other land use, it is replaced in broadly the same area. The Applicant's "absorption test" directly conflicts with this statement.
 - (c) If the Government had intended that redevelopment should be permitted if it could be clearly shown that the use made of sports facilities could be accommodated elsewhere, it would have had to state that expressly in PPG17 given the context and the purpose for which PPG17 was issued.
 - (d) It was never the intention of PPG17 to force users of one sports facility to use another sports facility instead. Nor is it the objective of PPG17 to enable developers to shunt around the requirements of any local community because the developer wishes to use an existing sports facility for another purpose.
- 4.5 The Applicants have submitted an opinion from Mr Rupert Warren in which he suggests that there is only one correct interpretation of the expression "surplus to requirements". This statement is not only incorrect as explained above but, also, is not supported by any legal reasoning in the Warren Opinion. We have obtained an opinion from Mark Watson of 6 Pump Court, attached at Schedule 1, which advises on the requirements of PPG17 and whether they have been complied with in this case and what the consequences are for determining the Application.
- 4.6 The Warren Opinion also contradicts itself in the same paragraph in which it sets out the "absorption test". It says that whether a facility is surplus to requirements will depend "perhaps in large part" on what need it meets currently. Elsewhere, the Warren Opinion makes clear that the community whose requirements need to be assessed is the community who are currently members of Lambs. Consequently, it would seem from the Warren Opinion that the correct test is "in large part" whether the local community's needs are currently met by the facility. Obviously, if you apply these statements to the current situation, the local community's needs are currently being met by Lambs and, therefore, the facility cannot be "surplus to requirements".
- 4.7 If you take the "absorption test" to its logical conclusion, it is apparent that the proposed interpretation does not provide a test which can distinguish between the use made of different sports facilities. If Lambs, which is the largest squash facility in the area, can have its use absorbed by other facilities, then so too could any other sports facility have its use transferred to another. Such an interpretation of the "surplus to requirements" test therefore provides no tool with which to decide whether or not a given facility is in fact "surplus to requirements". In effect, it allows the developer that first picks upon one sports facility to obtain planning permission for redeveloping it. Such a position is in direct conflict with the objectives of PPG17, which seeks to provide tools for resolving conflicts that may arise between different uses and users of sports and recreational facilities (see paragraph 5 of PPG17).
- 4.8 In summary, "surplus to requirements" can only be given the strongest of interpretations in light of the purpose of PPG17. Only if an assessment has been undertaken which clearly shows that the buildings and land are no longer used by the local community and that there can be no future, foreseeable, community need that could be met by these facilities, should planning permission for redevelopment be granted.

5. Consultation with Community and Wide Support

- 5.1 Paragraph 10 of PPG17 also says that developers “will need to consult the local community and demonstrate that their proposals are widely supported by them”. This is a separate obligation from the need to show clearly that the land or buildings in question are surplus to requirements.
- 5.2 The Warren Opinion suggests that this requirement is subordinate to the other provisions of paragraph 10 of PPG17, but this is not borne out by a proper interpretation of the paragraph. Again, applying the law relating to statutory interpretation, an ordinary and natural meaning should be given to these words.
- 5.3 The Warren Opinion argues that it would be unreasonable to require local consultation and the demonstration of wide support for the proposals if, in fact, a facility is surplus to requirements. If that had been the legislative intention of PPG17, it would have expressly exempted developers from satisfying these requirements in circumstances where they could clearly show that the facility was surplus to requirements. Paragraph 10 of PPG17 does not do so.
- 5.4 This part of paragraph 10 of PPG17 provides a two-fold obligation. The first is that consultation should be carried out with the local community and the second is to demonstrate that the developer’s proposals are “widely supported”. The local community, as referred to in PPG17, includes residents of the area and workers and visitors to that area and PPG17 looks to their existing and future needs (see paragraphs 1 and 2 of PPG17). In the context of a specific sports facility, such a consultation must therefore include both the current and potential users of the built facility and demonstrate that the developer’s proposals are widely supported by that local community.
- 5.5 The Warren Opinion admits that the local community concerned includes current members of Lambs and that the Applicant cannot show that its proposals are widely supported. However, not having the support of the current users is dismissed in the Warren Opinion as not being a breach of PPG17, implicitly because those that currently use Lambs would have a vested interest in keeping it open. Such an interest is, of course, exactly what PPG17 is attempting to assess and protect. In the absence of any local authority assessment, it is incumbent upon the developer to comply with the obligation of paragraph 10 of PPG17 to consult the local community.
- 5.6 Pan-Leisure in a letter dated 23 February has complained about the impracticality of consulting with residents and past, present and potential users of Lambs. However, the PPG17 and Companion Guide description of the local community includes past, present and potential users of sports facilities. Pan-Leisure has not attempted to consult with the most easily accessible section of the local community – the current users of Lambs. Nor have they taken any of the customary steps towards gauging the existing or future needs of the wider local community; for example holding public meetings, posting notices asking for written views, or undertaking surveys. The Companion Guide suggests public consultation techniques at paragraph 10.37 that include user surveys, household surveys, street surveys and focus groups and workshops. Whatever, the merits or not of Pan-Leisure’s response on this matter, the fact remains that the developer is obliged to consult with the local community and

demonstrate that its proposals are widely supported under the terms of paragraph 10 of PPG17.

6. Conclusion

- 6.1 In conclusion, the Application should be determined on its merits in the light of all the material considerations, which include the Council's development plan and PPG17. PPG17 legislates for the possibility that planning applications to redevelop sports facilities may be submitted before a local authority has completed its own PPG17 assessment. Therefore, it specifies how the developer should act in order to satisfy the objectives of PPG17: a developer must prove clearly that the facility in question is surplus to requirements and must consult the local community and show that its proposals are widely supported.
- 6.2 The surplus to requirements test set out in PPG17 should be given its ordinary meaning such that only facilities which are not used by the local community or for which the local community does not have a current or future need can be considered to be surplus to requirements. If there were any ambiguity about these words, then it would have to be resolved in light of the objectives of PPG17 which are to protect and enhance the provision of sports facilities.

E. PPG17 AND LAMBS

This section deals with the effect of PPG17 on the Application and summarises the reasons why Lambs is not surplus to requirements on a proper assessment of the needs of the local community. The duty in PPG17 is on the Applicant to show clearly that the sports facility in question is “surplus to requirements” and we will deal with why the Applicant comprehensively fails to do so. We will then address the Applicant’s dismissal of its obligation to consult the local community and demonstrate that its proposals are widely supported.

1. Lambs is not surplus to requirements

- 1.1 The sports and recreational facilities provided by Lambs are not surplus to requirements because they are currently used by at least 1100 people. The Lambs Action Team does not have access to official figures from Lambs’s management, however, on making enquiries regarding membership figures, we have been repeatedly told that membership stands at 1200. In any event, the fact that considerably more than a thousand people are members of Lambs, must show conclusively that this sports facility is meeting the current needs of the local community.
- 1.2 Lambs is a unique facility in the area because it provides 9 squash courts which are intensively used by at least 600 members per week (see the analysis in paragraph 1.7 below). On enquiry of Lambs’s management, new members are told that approximately two-thirds of the members play squash regularly (i.e. 800 members).
- 1.3 In addition, Lambs provides qualitative and quantitative benefits to the local community that play squash that are not matched by neighbouring facilities.
 - (a) Neighbouring facilities cannot possibly accommodate the use made of the courts at Lambs, since they have fewer courts that are equally busy at the same times as Lambs. See the explanation provided in paragraphs 1.11-1.14 below.
 - (b) Lambs is a centre for excellence, supporting male and female players at all levels, with a critical mass of players that cannot be housed in a single facility elsewhere. This has significant benefits for new and established players of the game because it provides a large pool of players with a wide range of abilities. This can be demonstrated by the fact that the current members’ squash league consists of 48 boxes of 6 players each (for the league finishing 14 April 2006). Lambs also houses teams participating at a higher level in the Square Mile Tournament, the Middlesex county league and the Lambs challenge ladder.
 - (c) Lambs plays host to successful ladies and mixed teams. There is a ladies ladder with 20 players, which welcomes new players of all standards, and members have also taken the initiative to set up ladies only training once a week. The ladies team currently holds the National Club League ladies plate title, won in May 2005. The Lambs ladies team was runner-up in the Middlesex County leagues in 2004 and held the Queens Cup title in 2002. The Lambs mixed team (consisting of two women and three men) lost narrowly in the final of the Non-County Mixed Nationals 2005 and won the

2003 Middlesex summer league cup in division 3. (See the information on these successes in Schedule 10.)

- (d) Squash coaching is and has been provided by world-class players, such as Peter Genever (current coach and formerly ranked as world no. 25 and runner-up in the 2005 BSPA Grand Prix), Tim Garner (formerly ranked as world no. 26), Glen Wilson (Commonwealth Gold medallist in 2002). Currently, squash-specific stamina and strength training is provided by Lars Harms (formerly Swiss no.1 player).
- (e) Lambs runs an active club night, which is regularly attended by over 50 people. The figure quoted in the Reports is derived from statements made by Lambs's management to Pan-Leisure, but is contradicted by our experience of attending club night. Two players, each attending two club nights in March between 5.30 p.m. and 7.30 p.m., have independently confirmed to the Lambs Action Team that the attendance has been of the order of 50.
- (f) The squash facility attracts a large number of professional players who use it as a London training base and therefore boost the playing experience for members. These players include Peter Nicol, Laurens van Anjema, Adrian Grant, Peter Genever, Alison Waters, Pamela Nimmo, Ben Garner, Chris Simpson and Tom Richards.
- (g) Lambs runs a "play the pro" night, twice a year, at which members of all standards are invited to play a game against world-class professionals including Peter Nicol and Laurens van Anjema.
- (h) The number of courts offered by Lambs enables it to host competitions such as the Square Mile tournament and the Jesters Tournament (the British amateur championship) which could not be held in clubs with fewer courts.
- (i) Any future development of this sport requires a built facility capable of offering a critical mass of players and housing them appropriately. You can only achieve the necessary breadth and depth of playing expertise to develop new talent when a large number of players congregate in one place.

1.4 It is worth noting that by the standards provided by English Squash for the number of members per court, Lambs is not significantly over-supplied. The England Squash guideline is that maximum density should not exceed 100 members per squash court to ensure peak time availability of courts. If you take Lambs's management's figures of 800 squash players using 9 courts (around 90 players per court) and the capacity calculations set out above, you will see that the number of courts at Lambs is near the recommended maximum.

1.5 Lambs also provides large gym and fitness studio facilities which cater for a number of popular sporting activities, including aerobics, yoga, pilates, boxing and karate. A total of 35 classes per week are run during lunchtimes and early evenings. On enquiry, the Lambs Action Team was told by Lambs's management that class sizes average 15 people, which suggests that several hundred people a week utilise Lambs for these purposes. Lambs is the centre for Shidokan karate in London and, as demonstrated by the letter at Schedule 11, Lambs was able to satisfy the group's

unique requirements for a large training studio and enabled them to welcome local students on tight budget at a cost they can afford.

- 1.6 The Lambs Action Team has approached a number of local schools and received considerable interest in using the facility at weekends and in off peak hours to develop junior squash programmes. Clearly, this would encourage more physical activities, in line with the latest reports by the Council (Children Eating Well – Scrutiny Review Report of the Regenerational Review Committee March 2006). The emphasis in PPG17 is on protecting the built facility in order to enhance the provision of sports and recreation in the area. Whether or not the existing management of Lambs have encouraged schools, junior programmes and outreach to the community, without retaining the land and buildings for their current use, these goals, which are shared by local and central government, will never be achieved.
- 1.7 We have carried out a very simple assessment of the level of use made of Lambs by squash players. The Companion Guide suggests that an assessment or audit of local needs should include consideration of the levels and types of use made of a facility. Visits per unit of “useful area” or visits per person within the catchment area rather than simply the number of members are recommended ways of doing this. (See the Companion Guide at Chapter 5, particularly 5.18-5.20.)
- 1.8 It is clear from looking at the booking sheets maintained by Lambs that the squash courts are normally fully-booked between 11.40am and 2.20pm and 5pm and 8pm every day of the week. As you can see from the calculations set out in Schedule 5, a total of 68 bookings per day at these times means that 680 people play squash at Lambs every week. That means that nearly 3000 people play squash at Lambs every month, just at these times of day (taking an average month to have 22 working days).
- 1.9 We believe that the analysis set out above and in Schedule 5 gives a relatively conservative figure for use of the squash courts at Lambs. Even if only 95% of these peak-time bookings are made (and in practice the figure is that high) or some people booking courts have to cancel, the peak-time courts are often taken up at short notice by other players (Lambs maintains a list of reserve bookings for each day) and the courts are well-used at other times of the day. Consequently, the actual number of people using the squash facilities at Lambs is very likely to be greater.
- 1.10 Evidently, some of these bookings are made by the same people, however that is not a negative factor in assessing whether Lambs is surplus to requirements. The Companion Guide makes it clear that each use of a facility by a person should be included in any assessment of the level of use. It would be wrong to maintain that since a person plays four times a month, that only counts as one person using the facilities. The number of visits per court (per year) is the recommended approach in section 5.19 of the Companion Guide.
- 1.11 We have carried out a brief survey of the availability of courts at the clubs listed in the Applicant’s assessment, the results of which are set out in Schedule 6. We asked whether a court was available at 12.30pm and 6pm on every day during the week of 27 February 2006. An average of only 2 courts were available at 12.30pm on any day of that week when either 8 or all 9 courts were being used at Lambs. At 6pm, all 9 courts were booked at Lambs on every day that week, whereas only one court was available elsewhere. We also checked availability at times immediately around the

target booking time and, as you will see, were rarely able to book a court at the peak periods.

- 1.12 That these times are peak usage for all sports facilities is borne out by the fact that peak and off-peak membership can be purchased at Lambs. Most people use a sports facility when they have the time to play or exercise. The Warren Opinion points out that it should not be assumed that patterns of work and recreation are inflexible; however, nor should it be assumed, without proper assessment, that patterns of use are flexible. What is clear from our review of readily available information is that most squash players chose to use the facilities at lunchtime and early evening.
- 1.13 The Applicant suggests that membership is available at other facilities and adduced letters from two other gyms showing that a total of 400 squash-playing members could be taken on as members. However, in addition to not following the approach set out in Chapter 5 of the Companion Guide, these figures do not take account of the fact that peak-time usage cannot be met by these other facilities. The letters from alternative facilities attached to the first Report are quite short and fail to state whether they can accommodate a significant influx of players at peak hours with the courts that they have available. (Management of these other gyms is estimating that taking on this number of additional squash-playing members will not displace too many existing members from their preferred playing times.)
- 1.14 Therefore, even if you accept, which we do not, the Applicant's interpretation of "surplus to requirements", there is simply insufficient capacity at other facilities to cater for the requirements of the community that uses Lambs.
- 1.15 You should note that the information provided by the Lambs Action Team in the Schedules has been derived from various surveys and questionnaires carried out by non-professional volunteers in good faith. As such, we know that the methodology may not be wholly compliant with the requirements of PPG17 or the Companion Guide. However, we believe that it serves to show strongly the level of use of Lambs made by the local community and to cast serious doubts on the figures used in the Reports. The Reports do not support the figures they use with hard evidence of the sort that the Applicant could readily obtain. Further, Pan-Leisure should have carried out the sort of research that we have attempted in order to be complaint with PPG17 and follow the recommendations set out in the Companion Guide.

2. The Applicant's assessment of Lambs

- 2.1 Paragraph 10 of PPG17 states that, in the absence of a robust and up-to-date assessment (by the local authority), the developer may seek to demonstrate through an independent assessment that the land and buildings are surplus to requirements. The opening sentence of paragraph 10 of PPG17 makes it clear that an assessment must clearly show that the facilities are surplus to requirements. Therefore, the Applicant must provide an independent assessment that clearly shows that Lambs is surplus to requirements. The Applicant has not successfully done this.
- 2.2 The Applicant's assessment must therefore comply with PPG17 and it would be good practice to follow the recommendations of the Companion Guide, suitably modified to apply to the assessment of the facility in question and not the area as a whole. The Applicant has submitted two reports from Pan-Leisure entitled "Lambs Squash Club –

Summary Report” and “PPG17 – Independent Assessment” respectively (the “**Reports**”), which accept that PPG17 and the Companion Guide are relevant to their conclusions.

2.3 The Reports are flawed in several material respects, which are summarised in the following paragraphs. A more complete analysis and rebuttal of the statements made in the Reports is set out in Schedule 12.

2.4 ***Incorrect analysis.*** The Reports fail to analyse correctly those facts on which they rely in several material respects. This poor quality of analysis also serves to weaken the credibility of the Reports. Some examples taken from Schedule 12 are set out below.

(a) The Reports say that Lambs’s management’s estimate of 400 squash playing members can be supported by booking sheets that show 317 players booked courts more than once in September 2005. Obviously, since squash is a game played by two people, that means at least 634 people played that month. In many cases, those booking courts will have played more than one opponent during the month which will increase the total number of people concerned. These figures do not include members who only played once that month, so the total figure for people regularly using the courts must be higher still.

(b) The Reports do not compare like with like in their analysis of the relative cost of playing squash at neighbouring facilities. The rate quoted for Champneys is the cheaper corporate rate, whereas the individual membership rate has been quoted for Lambs. The Reports fail to take account of court fees payable in addition to membership at several other venues. The correct position is set out in Schedule 7 and clearly shows that Lambs is the cheapest facility within the 10 minute catchment area (or indeed of all the facilities listed, except the London Bridge and Spitalfields facilities).

(c) The Reports argue that a lack of provision for junior players at Lambs means that the club is not fulfilling the objectives of PPG17. However, the Reports fail to reach the correct conclusion – which is that if the bult facility that contains Lambs were to be redeveloped, there could never be any such provision at the club.

2.5 ***Not compliant with PPG17 or the Companion Guide.*** The Reports do not follow the criteria and methodology set out in PPG17 and the Companion Guide in key respects, although they purport to do so. Consequently, the Reports fail to consider material factors that would alter their conclusions. Some of the most important examples taken from Schedule 12 are set out below.

(a) The Reports cite the availability of membership as proof that the use made of Lambs can be absorbed by neighbouring facilities. This approach is not consistent with the guidance contained in Chapter 5 of the Companion Guide. Availability of membership is not the same as having available court capacity to play squash at the times at which users wish to play. Using the figures referred to in 2.3(a) above and following the approach taken in the Companion Guide, it is not the number of people making bookings that should be taken

account of but the number of “player-sessions” and times at which those occur.

- (b) Furthermore, even if it were possible to absorb demand elsewhere, the Companion Guide makes it clear that it will not be good planning to permit redevelopment for that reason.
- (c) The Reports do not treat the use made of the facilities by the working community as a legitimate planning consideration whereas PPG17 and the Companion Guide require the interests of residents, workers and those visiting the area to be addressed. The Reports states that only 6% of Lambs’s members live within the postcodes of EC1, EC2 and EC4, but from the brief survey carried out by the Lambs Action Team (Schedule 9), we found that 17% of members live in the Borough and 34% work within the Borough.
- (d) The Reports comment on the physical state of the facilities at Lambs, but ignore the guidance in PPG17 and the Companion Guide which state that allowing redevelopment will not be good planning even if the land in question has been neglected or is in poor condition. The Companion Guide makes clear that quality and value are different things and a low quality but high value facility may be “immensely valuable”. The value placed on Lambs by the local community has not been assessed by the Applicant in accordance with the requirements of PPG17, but it is clear that great value is placed on Lambs by the relevant local community.
- (e) The Reports dismiss the requirement to consult the local community on spurious grounds; they argue that Lambs’s membership is not representative of the local community and therefore can be ignored. They argue that Lambs is a specialist facility, whereas PPG17 states that its policies should be applied to all sports and the Companion Guide states that it is important to take account of the needs of special interest groups, such as sports teams or clubs. The Reports do not use the techniques for consulting local communities which are set out in the Companion Guide, nor did the Applicant agree the methodology with the Council as recommended.

2.6 ***Irrelevant factors:*** the Reports take account of factors that are irrelevant to the planning process and PPG17. Some examples taken from Schedule 12 are set out below.

- (a) The Reports repeatedly state that Lambs is a private facility, whereas the Companion Guide states that the value of sports facilities is irrespective of who owns them.
- (b) The change in requirements for squash venues are advanced by the Reports as a negative factor in the assessment of Lambs, though the Reports do not explain how this impacts upon the assessment required under PPG17. In fact, this issue is irrelevant to the surplus to requirements test in paragraph 10 of PPG17.
- (c) The declining fortunes of the operator of Lambs is not material or relevant to planning policy considerations.

2.7 **Lack credibility:** the Reports contain a number of errors of fact and unjustifiable assumptions which undermine their credibility. Some examples taken from Schedule 12 are set out below.

- (a) For example, the failure to provide an accurate and up-to-date summary of squash at a national level has been demonstrated by letters from Sport England and England Squash, attached in Schedule 13. Participation in the sport has levelled out since 1996 and is now increasing.
- (b) The Reports argue that membership of Lambs is private and exclusive, even though there are no qualifications or restrictions on joining. On a correct analysis of their own statistics on the relative cost of alternative sports facilities, Lambs is amongst the cheapest providers which contradicts the statement in the Reports that “the fees charged could be considered exclusive”.
- (c) The Reports say that Lambs is a specialist facility, when in truth it caters for a wide-range of sporting activities. In addition, the facts used in the Reports do not support their own conclusion – on Pan-Leisure’s figures, the squash playing members amount to barely 30-35% of the total membership.
- (d) The Reports list six squash facilities, totalling 17 courts, which they claim are within 10 minutes walking distance of Lambs. In fact, only four facilities with a total of 10 courts are within approximately 10 minutes’ walking distance of Lambs, if you include Finsbury Leisure Centre, which our survey measured at 11 minutes away (see Schedule 8). In addition, of the facilities listed in the Reports, Spitalfields (3 courts) is due to close by the end of 2006 and London Bridge uses one of their three squash courts for aerobics during peak times.

2.8 The categories used in the preceding paragraphs are inter-related and used for convenience only. A failure to take account of relevant considerations affects the credibility of the Reports, as do mistakes of fact or taking account of irrelevant considerations. The failures in analysis can stem from the failures to correctly follow PPG17 and the Companion Guide.

2.9 Overall, a disinterested reading of the Reports would conclude that they are not an independent assessment in the sense of being objective and intellectually robust. They contain pejorative comments and take a dismissive attitude to public consultation and the requirements of PPG17. The Reports are insufficient to provide the robust assessment of the needs of local communities that has to be made in order to show clearly whether a given sports facility is surplus to requirements.

3. Obligation to consult and demonstrate wide support

3.1 In breach of paragraph 10 of PPG17, the Applicant has not consulted the local community and cannot demonstrate that the local community widely supports its proposals.

3.2 The Reports seek to excuse this failure to consult on the basis that Lambs is a specialist facility that attracts a niche audience which is not accessible to those who are socially and economically disadvantaged. This is not a valid reason under PPG17 and the Companion Guide for failing to consult the local community. Moreover,

specialist needs are a material consideration under the Companion Guide and, as explained above, Lambs does not discriminate against any group. In fact, as the cheapest comparative sports facility in the area (on a correct interpretation of the statistics) it is more accessible to socially and economically disadvantaged groups.

- 3.3 In any event, it is clear from the fact that more than 500 objections have been lodged regarding the Application that the local community does not support the Applicant's proposals. The Council and the Lambs Action Team have both received many hundreds of letters and emails objecting to the Application, a selection of which are attached in Schedule 14. The strength with which the Application is opposed has been commented on by the Council's planning team; it is highly unusual in their experience for there to be such consistent, numerous and detailed opposition to a planning application.
- 3.4 The Warren Opinion states that the objections received can be discounted because they are from interested parties or that objections often cite grounds that are not relevant to planning policy. The purpose of the consultation required by PPG17 is to give the local community, including interested parties, an opportunity to have their views heard and for those to be considered by the planning authority. It is very clear from reading PPG17 and the Companion Guide that it is exactly the views of those using existing sports facilities that the guidance is seeking, both in the local authority's and the developer's consultation. Further, where irrelevant argument are in fact put forward by objectors, they can be discounted by the planning authority. However, that is no reason for not carrying out the consultation exercise required by PPG17.
- 3.5 The Warren Opinion reaches certain conclusions on the facts applicable to the Application which is a matter for the Council and not for the Applicant's barrister. In addition, his conclusions are wrong since they are based on the Reports, the findings of which he has simply accepted without critical evaluation. You will also see attached at Schedule 1, an opinion from Mark Watson of 6 Pump Court which comprehensively and objectively advises on the impact of PPG17 on this Application.

4. Conclusion

In conclusion, we have included Diagram 1, which is referred to in section 3.1 of the Companion Guide, at the end of our Executive Summary. This diagram has been prepared by the ODPM; it summarises the approach to development control set out in PPG17 and makes clear how local authorities should consider planning applications which involve the redevelopment of an existing sports facility. As you can see from the high-lighted flow, the correct determination of the Application would be to refuse planning permission.

F. THE UDP, WIDER PLANNING CONSIDERATIONS AND LAMBS

1. The Council's Unitary Development Plan

- 1.1 It would be wholly inconsistent with the Council's development plan, consisting of the UDP and the London Plan, to grant planning permission which would result in the loss of unique indoor sports facilities and a culturally important venue.
- 1.2 Permitting the demolition of existing sports facilities that provide a wide range of activities and which are accessible without the use of a car, would be directly contrary to Strategic Policy 8. Lambs fulfils the stated objective of Strategic Policy 8; to ensure that sufficient indoor facilities are available to enable a wide cross-section of the population to participate in sports, fitness and active leisure pursuits. In addition, since planning policy must inherently be interpreted in a consistent manner, it would be inconsistent to permit redevelopment of an existing sports facility where policies are in place that support development of new facilities (Policy R17).
- 1.3 In refusing planning permission for the Applicant's first application, the planning officer in charge, Kevin Henson said:

“The existing sports facilities on site contribute to the character and liveliness of the area and play an important role in the Borough and the wider area in the provision of indoor sports facilities. The proposal would therefore result in a loss of facilities contrary to Policies R18 and ST8 of Islington's Unitary Development Plan 2002. The proposal would also be contrary to policy 3D.5 of the London Plan 2002 and to PPG17.”

- 1.4 Nothing has changed since this refusal and these remain cogent reasons for refusing the Application.

2. The wider importance of Lambs

- 2.1 A local planning authority must take account of the wider importance of any facility in reaching a decision on a planning application. The London Borough of Bromley recently considered the importance of Crystal Palace as a sports facility used by residents of the Bromley, but also a much wider catchment area. In the end, it concluded that like for like replacement or preservation of these sports facilities was essential in order to maintain the provision of sports and recreation facility not just for Bromley but for the wider region.
- 2.2 The squash club at Lambs has a wider regional and even national importance as supported by statements from Sport England and England Squash. It is often referred to as the “Wimbledon of Squash” and is one of the spiritual homes of the game. Consequently, the Planning Committee must take account of the wider importance of this facility in reaching its decision on Application. No doubt the Council would not contemplate the redevelopment of Saddlers Wells Theatre or the Arsenal Football Club grounds at Highbury, without having regard to their standing in the wider community and to the benefit that the Borough obtains from having such facilities within its area.

2.3 Squash was voted onto the programme of the 2012 Olympic Games by achieving more than 50 per cent. of the IOC members' votes. However, a second vote was required in order for the sports to be recognised as an Olympic Sport in order to replace the two sports that have been dropped from the London games. The second vote required a two-thirds majority and took place under a secret ballot (against the wishes of the IOC president) and neither squash nor karate managed to cross this second, higher hurdle. There is no doubt in anyone's mind that squash will become an Olympic sport in 2016 and it remains very likely that squash will be an exhibition sport at the London Games in 2012.

3. Current financial performance of Lambs

3.1 The current financial performance of the management of Lambs is irrelevant to the Application and is not a legitimate planning consideration. The Reports describe at some length the difficulties faced by the current owners and paint a picture that suggests that the club has no future. Whatever, the true position, PPG17 applies to the buildings and land, rather than simply to the current use that is being made of them.

3.2 The question, therefore, is whether the built facility is surplus to requirements and the current use made of those facilities by Lambs's management is not a relevant planning consideration. In order for the goals of PPG17 to be met, existing sports facilities must be preserved so that the use made of them can be improved, whether that is from increased participation by the local community, junior representation or access through outreach and sport development work. None of the wider goals of PPG17 or the UDP can be met if the facilities are not there in order to meet them.

3.3 For your interest, we attach at Schedule 15 the executive summary from a business plan for the purchase and operation of Lambs as a stand-alone, community sports facility. This demonstrates conclusively that Lambs is a viable sports facility that can continue to serve the needs of the local community.

3.4 We wish to bring to your attention the fact that Mike Corby Holdings Limited has a financial interest in securing planning permission to redevelop Lambs.

G. NATIONAL POSITION OF SQUASH

1. The Applicant's approach

- 1.1 The Reports spend considerable time on the market for squash and other leisure pursuits at a national level. Whilst this is clearly a consideration of a local authority PPG17 assessment of the need for sporting facilities, the Reports do not make it clear as to why these considerations are directly relevant to the Application or the surplus to requirements test set out in paragraph 10 of PPG17.
- 1.2 As noted in Section E of this Submission, the Reports have attracted considerable criticism from Sport England and England Squash as regards their remarks concerning the sport. In addition, the Reports do not make use of available and more specific data that would customarily be used in a professional assessment of the sporting requirements at a national level. Instead, the Reports use the General Household Survey Statistics which are taken from government census reports and are considered generally to give only the broadest of pictures.
- 1.3 For example, the CACI data can be obtained for specific areas and, using socio-demographic trends, examines the current and potential usage of sporting facilities in that area. Similarly, neither the regular year 7 and 9 surveys of school children nor the customary bi-annual local authority surveys of use of public sports facilities are referred to by the Reports, where other sports consultants would expect them to be. In particular, the Sport England Facilities Planning Model has not been referred to in the reports at all. Although a generic model without specific comment on squash (or, for that matter tennis, badminton or other specific sports), it provides the accepted point of departure for any analysis of the sort apparently undertaken in the Reports.
- 1.4 The Reports arrive at the conjecture that the decline in membership at Lambs relates, at least in part, to the decline in participation in squash nationally. Even though their information and conclusions are open to criticism as set out above, these statements are purely theoretical and not borne out by any hard evidence. In fact, new members continue to join Lambs on a regular basis, as can be observed from regular visits to the club.

2. Conclusion

Most importantly, considerations of the national involvement in squash are not directly relevant to the question of whether the use made by the local community of the sports facilities at Lambs are surplus to requirements. Whether you believe the facts and figures presented by the Reports, by Lambs's management, or by the Lambs Action Team, the lowest common denominator between all these views is that at least 1,100 people make use of the sports facilities at Lambs. Whether or not that number is going up, or continues to go down, it is inconceivable that Lambs could be considered surplus to requirements when so many of the local community make use of the services that it provides.

H. DEFINED TERMS

Most of the following terms are defined where appropriate in the text, but as a reference, we have grouped together the terms used in this Submission.

“**Applicant**” means Clan Real Estate (Lamb’s Passage) Limited.

“**Application**” means Planning Application No. P052310 dated 15 September 2005 and as amended in January 2006.

“**Borough**” means the London Borough of Islington.

“**Case Officer’s Report**” means the report of the Planning Officer dated 13 January 2006.

“**Companion Guide**” means Assessing Needs and Opportunities: Planning Policy Guidance 17 Companion Guide (ODPM, September 2002).

“**Council**” means Islington Borough Council.

“**Lambs**” means Lambs Health & Fitness Club.

“**Lambs Action Team**” means a group led by Ken Pottinger, Daniel Lloyd and Jack Colbourne which represents the users of Lambs Health & Fitness Club.

“**London Plan**” means The London Plan – Spatial Development Strategy for Greater London dated February 2004.

“**Pan-Leisure**” means Pan-Leisure Consulting Limited.

“**Planning Committee**” means the South Area Planning Sub-Committee of the Islington Borough Council.

“**Planning Officer**” means the Council’s planning officer in charge of this Application, currently Matthew Rosel.

“**PPG17**” means Planning Policy Guidance note 17: “Planning for Open Space, Sport and Recreation (2002)” issued on 24 July 2002.

“**ODPM**” means the Office of the Deputy Prime Minister.

“**Reports**” means the two reports from Pan-Leisure Consulting Limited, being “Lambs Squash Club – Summary Report” dated November 2005 and “PPG17 – Independent Assessment” dated January 2006.

“**Submission**” means this document containing the objections to the Application on behalf of the Lambs Action Team.

“**UDP**” means Islington Borough Council Unitary Development Plan 2002.

“**Warren Opinion**” means the opinion of Mr. Rupert Warren of Landmark Chambers dated February 2006.