

LANCASHIRE COUNTY CRICKET CLUB

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**STATEMENT OF CASE IN RESPECT OF AN APPEAL BY ACCRUE (FORUM) LLP
IN RESPECT OF THE FORMER B&Q SITE, GREAT STONE ROAD, TRAFFORD**
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APPEAL REFERENCE APP/Q4245/W/20/3258552

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1 INTRODUCTION

1.1 This statement of case is submitted on behalf of Lancashire County Cricket Club (“LCCC”) in respect of an appeal (“the Appeal”) by Accrue (Forum) LLP (“the Appellant”) for the non-determination by Trafford Council (“the Council”) of an outline planning application relating to the former B&Q site, Great Stone Road, Trafford (“the Appeal Site”).

1.2 The Appeal seeks outline planning permission for:-

“The demolition of existing retail unit and associated structures; erection of buildings for a mix of use including: 333 apartments (Use Class 3) and communal spaces ancillary to the residential use; flexible space for Use Classes A1, A3, D1 and/or D2; undercroft car parking; new public realm; and associated engineering works and infrastructure” (“the Appeal Proposal”).

1.3 The Council resolved on 15 October 2020 that it would have refused the application for the Appeal Proposal had it not been appealed on the following seven grounds:-

Reason for Refusal 1 (RFR1):

The proposed development would prejudice the use of the fine turf and non-turf training facility at Lancashire Cricket Club. The proposed development therefore conflicts with Strategic Objective OTO11, Policies SL3 and R6 of the adopted Core Strategy.

Reason for Refusal 2 (RFR2):

The proposed development would have a dominating and adverse impact on Lancashire Cricket Club (LCC) as well as its setting and cultural character and identity. LCC is an internationally significant visitor attraction, cultural and tourism venue. The impact on the visitor experience is considered to be sufficient to weigh strongly against the proposal. The development is therefore contrary to Policies SL3 and R6 of the adopted Core Strategy and the National Planning Policy Framework.

Reason for Refusal 3 (RFR3):

The proposed development would represent poor design as its form, layout, height, scale, massing, density and monolithic appearance are inappropriate in its context and would result in a building which would be significantly out of character with its

surroundings. This would have a highly detrimental impact on the street scene and the character and quality of the area. This would be contrary to Policies SL3 and L7 of the adopted Trafford Core Strategy and the National Planning Policy Framework.

Reason for Refusal 4 (RFR4):

The proposed development would not provide a development plan policy compliant level of planning obligations in relation to affordable housing and education improvements to suitably and appropriately mitigate the impacts of the development. The applicant has failed to demonstrate that there is a robust viability case to demonstrate that the scheme could not offer a policy compliant level of obligations. The proposed development is therefore contrary to Policies SL3, L2 and L8 of the adopted Core Strategy and the Council's adopted Revised Supplementary Planning Document 1 (SPD1) - Planning Obligations and the National Planning Policy Framework.

Reason for Refusal 5 (RFR5):

The proposed development by virtue of its height, massing, scale and layout would result in a poor level of amenity and unacceptable living standards for future occupiers of the development, by virtue of inadequate daylight and outlook in both apartments and amenity areas. The proposed development is therefore contrary to Policies SL3 and L7 of the adopted Core Strategy and the National Planning Policy Framework.

Reason for Refusal 6 (RFR6):

The proposed development by virtue of its height, massing, scale and layout would result in harm to the amenity of existing residential properties on Great Stone Road and Trent Bridge Walk by virtue of noticeable reductions in the amount of daylight and sunlight that they receive, and would also have an overbearing impact on these properties and other residential properties in the wider 'Gorses' area. The proposed development is therefore contrary to Policies SL3, L3 and L7 and the National Planning Policy Framework.

Reason for Refusal 7 (RFR7):

The proposed development by virtue of its layout, scale and massing would have a harmful impact on the setting of Longford Park Conservation Area equating to 'less than substantial' harm in National Planning Policy Framework terms. The benefits of the scheme are not considered to outweigh the identified harm to a designated

heritage asset. The proposed development is therefore contrary to Policies SL3 and R1 of the adopted Core Strategy and the National Planning Policy Framework.

- 1.4 LCCC submitted written objections to the application for the Appeal Proposal dated 8 October 2020 and has submitted further written representations to the Planning Inspectorate (“PINS”) in respect of the Appeal on 31 August 2021.
- 1.5 On 29 September 2021 LCCC was notified by the Council that the Appeal would be determined by way of public inquiry rather than informal hearing and that an inquiry had been scheduled for four days commencing on 11 January 2022.
- 1.6 LCCC applied for rule 6 status which was granted by PINS on 19 October 2021.
- 1.7 LCCC objects to the Appeal Proposal for the reasons set out in this statement of case. In summary the principal objections are that:-
- The Appeal Proposal will conflict with LCCC's operations through noise;
 - The Appeal Proposal will have an unacceptable impact on LCCC's fine turf training facility;
 - The Appeal Proposal will have an unacceptable impact on LCCC's ability to use its existing access and will cause adverse road safety issues in terms of vehicular and pedestrian conflict;
 - The Appeal Proposal will have a dominating and adverse impact on LCCC and its setting as an internationally significant sporting venue/visitor attraction, cultural and tourism venue;
 - The Appeal Proposal will be detrimental to the operations of LCCC and EOT as an international sporting venue and leading cultural/tourist venue and is likely to result in constraints being placed on LCCC's operations at EOT which will cause direct financial loss for LCCC, will prejudice its status as an international sporting and cultural venue with adverse economic effects for both LCCC and the local economy.

2 THE APPEAL SITE

- 2.1 The Appeal Site comprises the former B&Q store, an area of car parking and associated structures which extends to c.1 hectare.

2.2 Vehicular access to the Appeal Site is currently taken over land which is in the ownership of LCCC and over which the Appellant has a right of way. Access to the Appeal Proposal is dealt with at section 7 below.

2.3 The Appeal Site fronts Great Stone Road to the west. To the south it is bordered by the Metrolink tramline. To the north and east, the Appeal Site adjoins land owned by LCCC which forms part of its Emirates Old Trafford cricket complex.

3 LCCC/EMIRATES OLD TRAFFORD CRICKET GROUND

3.1 Emirates Old Trafford (“EOT”) has been the home of LCCC since 1864. The original cricket pavilion was built in 1895. EOT is the second oldest test match cricket venue in England and hosted the second Ashes Test in England in 1884.

3.2 Since that time, EOT has been a regular test match venue for international cricket. It has also been one of the venues for five cricket world cups in 1975, 1979, 1983, 1999 and 2019.

3.3 In 2009, EOT lost its status as a test match venue due to the outdated sub-standard facilities. Since that time, LCCC has undertaken extensive redevelopment/regeneration of EOT to enable it to regain its status as a test match venue and to underpin its role as an international sporting venue. Some of the key developments that have taken place include:-

- Refurbishment/redevelopment of the pavilion;
- Redevelopment of the playing surface with the installation of new drainage/new flood lights and video screen;
- New spectator stands/facilities;
- New players and media facilities;
- Construction of an outdoor/indoor cricket training facility for elite level cricket capable of supporting the test match status of EOT;
- The development of the Point Conference Centre which is one of the largest multiple conference facilities in the northwest region;
- Development of a Hilton Garden Inn on site;

- LCCC is currently in the process of securing planning permission for the demolition of the Red Rose Suite and its replacement with a new hotel extension building and grandstand with associated facilities.
- 3.4 EOT is now not only a leading international sporting venue, it is also of significant cultural value both locally and worldwide contributing in particular to the vibrancy of the area on international match days and concert/music events.
- 3.5 In addition to the above improvements, it remains a key objective of LCCC to further strengthen the role of EOT as an international supporting venue by enhancing the visitor experience and maximising the leisure/commercial/community opportunities at the EOT. Given the detrimental impacts of COVID-19 on the business it is all the more important for LCCC to be able to maximise opportunities to enable it to secure a strong financial footing and secure/enhance its status as an international sporting venue.

4 NOISE

- 4.1 The Appellant submitted a noise and vibration assessment with the planning application for the Appeal Proposal which was prepared by Holtz Acoustics dated 12 February 2020. The Holtz assessment stated that it had assessed noise from EOT and concluded that planning permission could be granted for the Appeal Proposal subject to the imposition of suitable conditions. The Holtz assessment recommended the imposition of a noise management plan which would be secured by condition. The noise management plan was proposed to address the noise from live concerts held at EOT which the Holtz assessment acknowledged at 4.4.3 that "*it is not possible to fully mitigate*". The assessment noted that whilst the details of any noise management plan were yet to be formulated it was likely to involve the building management notifying residents in advance of forthcoming concerts so that they are fully informed (and could presumably choose to be elsewhere on the evenings of live concerts).
- 4.2 The Holtz assessment was broadly accepted by the Council's environmental health officer who did not object to the planning application for the Appeal Proposal on noise grounds.
- 4.3 Following the submission of the Appeal, LCCC has instructed noise consultants, Vanguardia, to review the Holtz assessment. A copy of the Vanguardia report was appended to the written representations submitted on behalf of LCCC on 31 August 2021. The key points raised by the Vanguardia assessment are as follows.
- 4.4 The Holtz assessment does not adequately assess all sources of noise from EOT.

- 4.5 The Holtz assessment includes monitoring of noise from a one day 50 over county cricket match. It does not assess the noise from other forms of cricket such as the T20 cricket format, the hundred format or international matches. These forms of cricket involve larger crowds and the T20 and hundred formats specifically involve lively crowds where there is loud music and where evening matches run until 22.30.
- 4.6 The Holtz assessment noise survey was carried out behind the temporary cricket stand in a location which is substantially screened from the noise from the EOT. The temporary stand erected by LCCC for major cricket matches in July/August is not a permanent construction. It is not in situ at other times of the year and importantly it is not in place when concerts take place - the area on which the temporary stand is sited being used for the area of the concert stage. The fact that Holtz have taken into account the temporary stand in their assessment calls in to question the methodology used in Holtz' noise assessment as no assessment has been undertaken without the temporary stand in place when significant noise generating activities take place at EOT.
- 4.7 The assessment undertaken by Holtz with the temporary stand in situ means that the Holtz survey data would only be valid for those parts of the Appeal Proposal at and below first floor level. Vanguardia advise that above first floor level, the noise levels at the façade of the Appeal Proposal would increase rapidly until around the third or fourth storey when there would be no screening from the temporary stand and where noise from EOT would be unmitigated. Vanguardia assess that noise levels could be at least 20 decibels (ie four times louder) higher than assessed by Holtz for the majority of the north eastern and northern facades of the Appeal Proposal.
- 4.8 LCCC is also licensed to hold up to seven live music concerts per annum. Holtz did not assess a live concert and proceeded on the basis that there are likely to be 1-2 concerts per annum. On that basis, Holtz proposed the noise management plan.
- 4.9 Vanguardia consider this approach is wrong. LCCC is permitted to hold seven concerts per annum (typically sound check will be the day before) and Holtz' assessment should have considered noise from the live concerts at that level as that is what is permitted. It is LCCC's intention in the future to hold more concerts per annum in order to increase its commercial revenue. For example, five concerts are already planned for next year. The Holtz assessment therefore materially under assesses the impact of concert noise.

- 4.10 The Holtz assessment recognises that it is not possible to fully mitigate concert noise and proposes the noise management plan. Vanguardia consider that approach is insufficient and will lead to conflict between new residents and LCCC. Vanguardia have set out in their assessment the anticipated noise levels at the north eastern façade of the Appeal Proposal and the significant level of noise reduction that would be required to achieve the recommended internal noise levels for living rooms within the Appeal buildings between the hours of 07.00 and 23.00.
- 4.11 Vanguardia have identified an extensive list of mitigation that would be required to ensure that the Appeal Proposal can be built without conflict between the residential use and LCCC's operations. Those extensive mitigation measures do not currently form part of the Appeal Proposal and without them being provided, Vanguardia advise that there will be conflict between the land uses which is likely to lead to complaints from new residents about LCCC's operations and the potential for constraints to be placed on LCCC's operations in the future.
- 4.12 The National Planning Policy Framework ("NPPF") advises at paragraph 187:-
- "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the Applicant (or "agent of change") should be required to provide suitable mitigation before the development has been completed".*
- 4.13 The advice in the NPPF is expanded upon in the National Planning Practice Guidance in relation to the chapter on noise which refers to this issue as the "agent of change". Paragraph 9 of the noise chapter in the NPPG makes it clear that the onus is on the Applicant (ie the Appellant) as the agent of change to adequately assess the noise from LCCC/ EOT and to *"define clearly the mitigation being proposed to address any potential significant adverse effects that are identified"*. As an international sporting and tourist/cultural venue, LCCC should be able to expect to be able to continue to operate as permitted without having to adjust its operations/practices to accommodate unsuitable development next door on the Appeal Site or without having to introduce

mitigation at its own cost to avoid conflict between its existing permitted operations and the incompatible use being introduced on the Appeal Site.

- 4.14 In accordance with Vanguardia's advice, LCCC submits that the Appellant has failed to assess the noise from EOT sufficiently, has significantly underplayed the impact of noise from EOT on the Appeal Proposal, has failed to propose sufficient mitigation to address those impacts and that as proposed the Appeal Proposal should therefore be dismissed.

5 IMPACT OF THE APPEAL PROPOSAL ON THE USE OF THE FINE TURF TRAINING FACILITY AT EOT

- 5.1 Ground one of the Council's reasons for refusal is that "*the proposed development would prejudice the use of fine turf and non-turf training facility at Lancashire Cricket Club. The proposed development therefore conflicts with strategic objective OTO11, policies SL3 and R6 of the adopted Core Strategy*".
- 5.2 The Council's ground of objection to the Appeal Proposal relies largely on the objection by Sport England and the England Cricket Board (ECB) to the Appeal Proposal.
- 5.3 The fine turf training facility forms part of the training facilities at EOT. These facilities are a necessary component of EOT. They support not only LCCC's cricket teams as an elite first class cricket club. The training facilities also need to be of an appropriate standard to support the international cricket teams including both England as the host team at EOT and visiting international teams during test matches and other international cricket matches held at EOT.
- 5.4 The fine turf training facility is an important and necessary part of the training facilities at EOT because it provides a turf (as opposed to artificial) training facility which most closely replicates the conditions of the main playing pitch at EOT. Given its function to support international and first class cricket, it is critical that the fine turf training facility is of the highest standard/condition.
- 5.5 The ECB submission to the Appeal Proposal explains that the fine turf training facility is subject to intensive use particularly at its southern and northern ends (ie at the batting and bowling ends). This involves inevitable significant wear and tear during the cricket season and the need for intensive renovation/reseeding during the out of season winter months.

- 5.6 The report of Dr Iain James of the ECB sets out his view that the Appeal Proposal will result in increased shade of the fine turf training facility during the critical months of October and February and that this will have a detrimental effect on the regeneration and performance of the fine turf training facility unless mitigation of the type proposed in Dr James' report is provided. That mitigation includes the provision of growth lighting and the future operation of the growth lamps/lighting in perpetuity (ie the associated running costs of the lighting and associated labour costs).
- 5.7 No adequate mitigation is proposed by the Appellant in relation to the Appeal Proposal and LCCC submits that the detrimental effect of the Appeal Proposal on the fine turf training facility, which is a necessary component of EOT's facilities as an international sporting venue, is such that the Appeal Proposal should be dismissed.
- 5.8 Paragraph 187 of the NPPF provides clear advice that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities and that existing business/facilities should not have unreasonable restrictions placed on them as a result of new development. In LCCC's submission, the detrimental impact of the Appeal Proposal on the fine turf training facility means that the Appeal Proposal conflicts with policy 187 of the NPPF and corresponding policies in the development plan.
- 5.9 LCCC supports the Council/Sport England/ECB in their objection to the Appeal Proposal on this ground and does not intend to adduce additional technical evidence on the impacts of the Appeal Proposal on the fine turf training facility.
- 5.10 LCCC also considers the Appeal Proposal by reason of its scale and massing and proximity to the training facility will be prejudicial to the use of the training facility by elite cricket teams by reason of overlooking/ loss of privacy and security. The Appellant has provided no suggested mitigation to address the security and operational issues associated with the fine turf training facility. Indeed, this area is used by international cricketers, who require the ability to train in privacy whilst experiencing outdoor match conditions. The development proposal would significantly compromise this.

6 DOMINATING AND ADVERSE IMPACT OF THE APPEAL PROPOSAL ON EMIRATES OLD TRAFFORD AS AN INTERNATIONALLY SIGNIFICANT SPORTING VENUE, VISITOR ATTRACTION, CULTURAL AND TOURISM VENUE

- 6.1 Ground two of the Council's objections to the Appeal Proposal is that "*the proposed development would have a dominating and adverse impact on Lancashire Cricket Club (LCC) as well as its setting and cultural character and identity. LCC is an*

internationally significant visitor attraction, cultural and tourism venue. The impact on the visitor experience is considered to be sufficient to weigh strongly against the proposal. The development is therefore contrary to policies SL3 and R6 of the adopted Core Strategy and the National Planning Policy framework”.

- 6.2 LCCC supports the Council in relation to this ground of objection for the following reasons.
- 6.3 LCCC has already produced at appendix 3 of its written representations submitted to the Appeal Proposal on 31 August 2021 a series of photographs taken from within EOT which demonstrates the visitor experience at EOT. What is noticeable from the photographs is the sense of enclosure and the absence of other buildings of significant scale adjoining or abutting EOT. LCCC considers the Appeal Proposal building will by reason of its height, scale and mass intrude into the views of many spectators within the ground and will be detrimental to the visitor/spectator/experience and the setting of EOT.
- 6.4 In LCCC’s submission the Appeal Proposal will have a dominating and overbearing impact on EOT due to its scale and proximity.
- 6.5 EOT is the central feature in this quarter/area of focus and the landmark building. The Appeal Proposal which extends at its maximum height to nine storeys will result in a building which by reason of its scale and close proximity to EOT will dominate and detract from EOT as the landmark building and its setting. In LCCC’s submission, the Appeal Proposal is harmful to the setting of EOT and its role as an international sporting/tourist/cultural venue.
- 6.6 The Council has through the work it has undertaken on the Civic Quarter AAP and the predecessor Civic Quarter masterplan sought to limit the scale of development on the Appeal Site to no more than six storeys. This limit has been set as part of a comprehensive approach by the Council to the Civic Quarter and in part to ensure that development on the Appeal Site is of an appropriate scale having regard to existing development in the vicinity of the Appeal Site including not only EOT but also the existing two storey residential development in the locality.
- 6.7 LCCC submits that the Appeal Proposal is out of scale and would have a dominating and adverse impact on EOT and its setting as an international sporting venue and cultural and tourism venue.

7 ACCESS

7.1 Vehicular access to the Appeal Site is currently gained over land within the ownership of LCCC over which the Appeal Site has a right of way. This land currently serves as one of the accesses to EOT.

7.2 It is LCCC's understanding that as part of the Appeal Proposal, the Appellant is proposing to construct a new vehicular access on land within its control which would be sited immediately adjacent to the existing LCCC access which will continue to remain open and used by LCCC as one of the accesses to the EOT.

7.3 LCCC instructed Axis to review the access proposals submitted as part of the Appeal Proposal. The review by Axis was appended to the written representations submitted on behalf of LCCC on 31 August 2021. The Axis review concludes that the proposed changes to the access arrangements in the Appeal Proposal (drawing ref VN201565-D100) would:-

- materially affect the ability for vehicles to turn into and out of LCCC's access, compared to the way in which this currently occurs;

- would cause vehicles to cross over into the opposite carriageway lane of the LCCC access, and more worryingly in terms of road safety, into the opposite carriageway lane of Great Stone Road when turning from LCCC's access;

- would also encourage pedestrians to walk out into the centre of the existing shared junction bellmouth area, which would in turn put these pedestrians (some vulnerable) in direct conflict with vehicles using the LCCC access;

- would effectively reduce the available capacity of the access and thus the ability for LCCC to manage event-related traffic.

7.4 The Appeal Proposal would therefore result in adverse road safety impacts both in terms of vehicular and pedestrian conflicts and would have a material detrimental impact on LCCC's ability to continue to use its existing access.

8 ECONOMIC IMPACTS

8.1 LCCC submits that conflicts are likely to arise between the occupants of the Appeal Proposal and LCCC's operations at EOT and that this is likely to result in constraints being placed on LCCC's operations.

- 8.2 Any such restrictions would have not only direct financial consequences for LCCC but would also prejudice EOT's future as an international sporting and cultural venue with significant economic consequences for both LCCC and the local economy.

9 CONCLUSIONS

- 9.1 LCCC submits that the Appeal Proposal will have adverse impacts on EOT for the reasons set out above.
- 9.2 In accordance with paragraph 187 of the NPPF, LCCC should not have unreasonable restrictions placed on it and should be able to continue to operate as permitted without having to adjust its operations to accommodate incompatible and unsuitable development. In LCCC's submission these are material considerations to which considerable weight should be attached in the planning balance and which should take precedence in the planning balance. These considerations together with the other disbenefits of the Appeal Proposal are such that in LCCC's submission the Appeal should be dismissed.

10 DOCUMENTS TO BE REFERRED TO BY LCCC AS PART OF ITS CASE

- 10.1 As part of its case LCCC may refer to the following documents:-
- I. All documents relating to the planning application for the Appeal Proposal and the Appeal;
 - II. Planning Policy and Other Material Considerations comprising:-
 - The saved policies of the Unitary Development Plan (UDP) (2006);
 - Trafford Local Plan Core Strategy (2012);
 - The emerging Trafford Local Plan;
 - The emerging Greater Manchester Spatial Framework;
 - The Refreshed Stretford Masterplan;
 - The emerging Civic Quarter Area Action Plan;
 - The National Planning Policy Framework (July 2019) and accompanying national planning practice guidance.
 - III. The Council Committee Report of 15 October 2020 and accompanying papers;

- IV. Correspondence with the Council/Appellant in relation to the Appeal Proposal;
 - V. The planning history of the Appeal Site; and
 - VI. Relevant Caselaw and appeal decisions.
- 10.2 LCCC reserves the right to add to/amend its case and the evidence relied on in the light of any further matters raised by the Appellant and the Council during the Appeal.