

Land at North London Business Park, Oakleigh Road South, London

PINS Ref: APP/N5090/W/23/3330577

Appeal by Comer Homes Group

OPENING SUBMISSIONS ON BEHALF OF

THE APPELLANT

Introduction

1. The appeal site is a very good example of a large under-utilised brownfield site which could make a worthwhile contribution to the supply of new homes in Barnet, and London more generally.
2. The site is a valuable resource which should be made best use of especially given that more than 1/3rd of Barnet is green belt and Metropolitan Open Land.
3. The appeal application is for **2,419** new homes comprising a full application for 452 homes, and a further 1967 homes in the outline part of the application. **512** of the proposed new homes would be affordable. In any reasonable person's book, this scale of provision of market and affordable homes would be hugely beneficial. The appeal proposals also include amongst other things a new 5 form entry secondary school, various community / healthcare uses and large amounts of *public* open space.
4. The site already has planning permission for comprehensive redevelopment including 1350 new homes comprised in buildings up to 9 storeys. The layout and orientation of the proposed new buildings has not changed in the appeal scheme.
5. The **additional 1,069** homes is largely achieved by what we consider to be perfectly acceptable increases in the height of some of the proposed blocks.

6. The issue between the Appellant and the Council is very narrow indeed and concerns the impact on townscape from five viewpoints. The Council does not object to the principle of the development – which is hardly surprising as it has allocated the site for a major housing redevelopment in the emerging Local Plan, nor does it object to tall buildings on the site as such – again hardly surprising as the extant planning permission includes a number of tall buildings. The Council has dropped that part of the reason for refusal which concerned the visual amenity of adjoining residential occupiers. The Council has no other development management objections.
7. In short, even on the Council’s case, this is a major redevelopment with strikingly few adverse effects.
8. And, even on the Council’s case, the appeal proposals would deliver considerable public benefits.
9. It is little wonder that the Council’s planning officers recommended approval of the application. Members disagreed for a reason which is an almost uncanny echo, much of it word for word, of the reason for refusal of the previous scheme which was also refused against officers’ advice but allowed on appeal.

Townscape

10. The Council’s reason for refusal recites five viewpoints (four to the west and one to the east of the site). One of these – Oakleigh Road North – is now said by the Council’s witness Mr Sallin to mean to refer to a different location, namely Oakleigh Road South.
11. The Council argue now, *just as they did last time round*, that the appeal proposals would “fail to respect the local context and established pattern of development”. The point is a simple – and simplistic – one. The environs of the site are distinctly suburban. The appeal scheme is different. To which one should be forgiven for asking “And so?”
12. As your colleague concluded, and the Secretary of State agreed on the last appeal – the site has its own character and since it was first developed always has, and this character is different and distinctly so, and always has been, from the surrounding suburbia.

13. This finding, coupled with an endorsement of the layout strategy which places the proposed taller blocks alongside the railway line or well within the site, in other words away from the low-rise neighbouring development, led the Secretary of State to agree with your colleague and grant permission for a scheme which is very different from its suburban environs. As already noted, the current proposals have exactly the same layout strategy, and the blocks which are proposed to have additional storeys are those which are along the railway line or well within the site.
14. Being able to see something which is different to the place where you are seeing it from would not usually be considered in and of itself to be a harmful thing but this is especially so in the very particular circumstances of this site.

Planning Policy

15. The starting point is that the Council agrees that the site is suitable for tall buildings and for residential redevelopment.
16. The debate in relation to the relevant *parts* of the five development plan policies relied on by the Council in its reason for refusal – there were six but London Plan D4 is no longer in the frame - essentially stands and falls with the parties' respective positions in relation to townscape.
17. However, even if (contrary to the Appellant's case) some townscape harm would arise from the proposals and this in turn means that there is some or other lack of accord with *parts* of these development plan policies, it would be overly simplistic to conclude that this would mean that the appeal proposals do not accord with the development plan when read as a whole.
18. This is because one would have to take into account in reaching an overall, balanced, judgment concerning the development plan:

- (1) Compliance with other elements of the listed policies. For instance, London Plan D9 requires an assessment against a huge range of factors other than townscape, none of which the appeal scheme is said to conflict with. It would therefore be entirely justifiable to find compliance with D9 and other similar policies cited even if the conclusion is reached that there would be some townscape harm arising from the proposals.
- (2) Compliance with other parts of the development plan. The Council does not allege any conflicts with the vast array of other relevant development plan policies.

19. Accordingly, even were you to find some townscape harm it would still be entirely correct to conclude that the determination which would accord with the development plan when read as a whole would be to allow the appeal. (As you will know, in the circumstances of this case, section 38(5) of the Planning And Compulsory Purchase Act 2004 comes into play when applying s.38(6).)

20. It is our case that the considerable public benefits which the proposals would deliver add even more force to the case for allowing the appeal. Even were you to conclude (contrary to our case) that the appeal proposals do not accord with the development plan when read as a whole, the wide-ranging public benefits are material considerations which mean that the appeal should be allowed despite any such conclusion.

Benefits

21. The appeal scheme includes the following substantial benefits, amongst others:

- a. the redevelopment of a brownfield site;
- b. 2419 new homes, 512 of which would be affordable;
- c. various community / healthcare facilities;
- d. a new 5FE secondary school;
- e. large areas of new *publicly accessible* open space, and
- f. some £60m in CIL payments.

Overall Conclusion

22. We do not see the appeal scheme as one which would cause any harm, and certainly nothing of any substance but even were a different conclusion to be reached on this, the development plan overall and other material considerations weigh decisively in favour of allowing the appeal.

Chris Katkowski KC

Stephanie Hall

13th February 2024

Kings Chambers