

Statement of Common Ground V2

Local Planning Authority Reference: 21/4433/OUT

Appeal Reference: APP/N5090/W/23/3330577

Date of Inquiry: 13 February 2024

Site: North London Business Park, Oakleigh Road South, London, N11 1GN

Parties entering into Statement of Common Ground:

Comer Homes Group

London Borough of Barnet

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1 Introduction

- 1.1 This draft Statement of Common Ground (SoCG) has been prepared by Comer Homes Group (the Appellant) and the London Borough of Barnet (the Council) to accompany the appeal with reference APP/N5090/W/23/3330577 against the refusal by the Council for a hybrid planning permission for the redevelopment of the North London Business Park, Oakleigh Road South, London, N11 1GN ("the Site").
- 1.2 The document is agreed as of today's date but will continue to be reviewed and updated as discussions progress during the course of the appeal. An agreed, signed version will be provided in advance of the appeal inquiry. This SoCG also covers the Conditions Scott Schedule (**Appendix 1**) and Views Scott Schedule (**Appendix 2**) requested by the Inspector at the Case Management Conference. A separate SoCG will be submitted in relation to five-year housing land supply.
- 1.3 The planning application subject to this appeal was submitted (by Daniel Watney LLP on behalf of the Appellant) to and validated by the Council on 10 August 2021 and was allocated the reference number 21/4433/OUT (the Appeal Scheme).
- 1.4 The agreed description of development is as follows:

"Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential-led mixed use development. The detailed element comprises up to 452 residential units in five blocks reaching 9 storeys, the provision of a 5 form entry secondary school, a gymnasium, a multi-use sports pitch and associated changing facilities and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road and; the outline element comprises up to 1,967 additional residential units in buildings ranging from three to twelve storeys, up to 7,148 sqm of non-residential floor space (use Class E and F) and public open space. Associated site preparation/enabling work, transport infrastructure and junction work, landscaping and car parking."
- 1.5 The purpose of this Statement is to set out the agreed factual information and areas of agreement and disagreement relating to the following matters:
 - 1.5.1 Description of the Site and its surroundings;
 - 1.5.2 Planning history, including the refusal subject to this Appeal;
 - 1.5.3 Proposed Development;
 - 1.5.4 Development Plan and material considerations;
 - 1.5.5 Matters not in dispute;
 - 1.5.6 Matters in dispute; and
 - 1.5.7 Planning conditions.
- 1.6 This SoCG has been prepared in accordance with the advice contained in the Planning Inspectorate "Procedural Guidance – Planning Appeals – England" most recently updated in June 2023.
- 1.7 The contents of this document are considered to be 'common ground' between the Appellant and the Local Planning Authority. It may be that following submission, a further Statement of Common

Ground is agreed with stakeholders such as the Greater London Authority, Transport for London, or any identified Rule 6 Parties.

- 1.8 The below synopsis of the proposed development subject to this planning appeal is common ground.

2 Site Description

- 2.1 This Appeal concerns the redevelopment of the Site, which is located within the Brunswick Park Ward in the east of the London Borough of Barnet.
- 2.2 The Site measures 16.36 hectares, of which approximately 13 hectares is still currently undeveloped, comprising areas of disused open space and car parking. The Site is bounded by the East Coast Mainline railway along the entire western boundary, whilst the New Southgate Cemetery is adjacent to the eastern boundary. The Site varies significantly in topography with a steep gradient comprising a level difference of 24 metres across the Site from the northern boundary to its lowest point at Brunswick Park Road.
- 2.3 Properties to the north and south are residential, typically characterised by two/three storey suburban detached, semi-detached, and terraced housing. The Site does not contain any listed buildings, nor is it located within a Conservation Area.
- 2.4 The nearest National Rail stations to the Site are New Southgate to the south and Oakleigh Park to the north, both of which are located within one mile of the Site and provide access to central London within 20 minutes. Also located within one mile of the Site is Arnos Grove Station which provides access to the London Underground Piccadilly Line.
- 2.5 New Southgate is also identified as a preferred location for Crossrail 2, which is proposed to connect National Rail networks in Surrey and Hertfordshire and link in with the existing London railway infrastructure, through tunnels connecting Wimbledon and New Southgate. There is some doubt around timescales and if/when the line would be delivered, but it will not be in place for the foreseeable future.
- 2.6 The Site is served by the 382 bus along Brunswick Park Road connecting the Site from Southgate in the east, to Friern Barnet and Finchley in the west, and also the 34 (connecting the Site from Barnet in the west to Walthamstow in the east) and 251 (connecting the Site from Edgware in the west to Friern Barnet in the east) from Oakleigh Road South.
- 2.7 The PTAL of the Site is currently a mixture of 1-2, however it is expected that if Crossrail 2 to New Southgate is delivered, it would improve public transport accessibility of the Site. A PTAL Rating of 1-2, on a scale of 1-6, where 6 represents a good level of access, indicates poor levels of access to public transport.
- 2.8 The Site has two principal access points, one to the south onto Oakleigh Road South (A109) and one to the east onto Brunswick Park Road. There is also a redundant, unused access point to the northern boundary which would provide access to Ashbourne Avenue, were it not currently fenced off. Ashbourne Avenue leads onto Russell Lane (B1453), which comprises a neighbourhood retail frontage.
- 2.9 Standard Telephone and Cable (STC) developed the Site in the 1920s and manufactured a range of telecommunications equipment, including radio equipment for aircraft during the Second World War.
- 2.10 The Site now provides circa 38,000 sqm of office, temporary educational and community floorspace developed in a campus style with approximately 1,300 car parking spaces and is currently let to a variety of occupiers. The buildings are currently occupied as per Table 2 below. Save in respect of building 3, the vacancy levels in the buildings reflect the unsuitability of the

buildings for modern office occupiers.

2.11 The buildings were constructed to suit a single occupier with large atria and communal areas, an approach which does not suit self-contained office occupiers. A large proportion of the gross internal floorspace has been given over to these communal and circulation spaces and thus the Site has not been well occupied.

2.12 Table 2 below sets out the current occupation details of the existing buildings on the Site.

| Building Number | Tenant | Additional Comments |
|-----------------|--|--|
| 1 | Multi-storey car park | N/A |
| 2 | DWP Job Centre | DWP Job Centre – ground and first floors Unoccupied – lower ground and second floors |
| 3 | CBIC | Serviced offices – all floors This currently comprises the Comer Innovation Centre, which is primarily flexible floorspace occupied by small and medium sized businesses on very short term leasing arrangements. |
| 4 | Multiple small and medium sized businesses College of Animal Welfare NHS – CCG St Andrew's the Apostle School | Ground Floor - Serviced Offices for approximately 40 small and medium size businesses First Floor -College of Animal Welfare and NHS – Clinical Commissioning Group Second Floor-St. Andrew's the Apostle School |
| 5 | St Andrew the Apostle Secondary School | The School opened in September 2013 and currently operates as a 2FE School. |
| 6 | N/A | Demolished |
| 7 | Arianna Banqueting Hall Little Leo's Nursery | Used for a variety of purposes such as function / conference space alongside the nursery |

Table 2: Occupier details

2.13 Until November 2017, there were approximately 1,550 people employed on the Site across the various tenants. However, the Council vacated its premises (which accounted for over 55% of the total floorspace on the Site) in November 2017, and employment levels across the Site have since reduced significantly.

3 Planning History

2020 Hybrid Permission (PINS reference APP/N5090/W/17/3189843) (Original Scheme)

- 3.1 The Site benefits from planning permission for wholesale redevelopment. This is referred to as the Original Scheme. The previous application was also submitted in hybrid form and planning permission was granted at appeal by the Secretary of State on 24 February 2020 for:

“the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and; the outline element comprises up to 990 additional residential units in buildings ranging from two to nine storeys, up to 5,177 sq m of non-residential floor space (Use Classes A1-A4, B1 and D1) and 2.54 hectares of public open space. Associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking.”

(Council reference 15/07932/OUT and PINS reference APP/N5090/W/17/3189843. We refer to this as the Original Scheme)

- 3.2 The scheme was originally designed through extensive pre-application engagement with officers of the Council and the GLA between 2013-2015 before the submission was made in December 2015.
- 3.3 Amendments to the scheme and the Environmental Statement was made in June 2016 and March 2017 to address comments raised by statutory and local consultees.
- 3.4 The planning application for the Original Scheme was recommended for approval by the Council’s Planning Officers but refused by Members of the Planning Committee in June 2017. The application was subsequently appealed and recovered by the Secretary of State (SoS), where an Inquiry was held from 9 - 11 October 2018 and on 9 November 2018.
- 3.5 The Environmental Statement was updated in July 2018 at the request of the Planning Inspectorate during the course of the Inquiry process.
- 3.6 The Inspector reported to the SoS in January 2019 recommending the appeal to be allowed, with the SoS agreeing in January 2020, issuing the final decision allowing the appeal on 24 February 2020 (the First Appeal Decision):
- Phase 1 was approved in detail and comprises 360 residential units in five blocks reaching up to eight storeys, alongside the provision of a 5-form entry secondary school including a multi-use sports pitch and associated changing facilities, MUGA facilities on the school roof, improvements to open space and transport infrastructure; and
 - Phases 2 – 5 were approved in outline and comprise a further 990 residential units in buildings ranging from two to nine storeys, up to 5,177 sqm of non-residential floorspace including shops, offices, food and drink, and public buildings. This includes 2.54 hectares of public open space including play, alongside associated transport infrastructure, further landscaping and car parking.
- 3.7 The original decision was corrected under the ‘Slip Rule’ to ensure the description of development was consistent with the scheme that was decided at committee, with the final decision from the SoS being issued on 24 February 2020.

2022 Non-Material Amendment (22/0994/NMA)

- 3.8** An application for a non-material amendment to permission 15/07932/OUT was submitted to the Council on 23rd February 2022 however this has never been determined.
- 3.9** The application sought to split Phase 1 into two phases, Phase 0 and Phase 1, to bring the new secondary school into its own, independent phase to allow this to come forward on its own accord should this be desired.
- 3.10** The phasing amendments were later incorporated in a Section 73 application along with minor material design changes as described below.

2022 Section 73 Permission (22/1579/S73) (the Existing Scheme)

- 3.11** A Section 73 application was submitted to the Council on 25 March 2022 and was approved on 20 October 2022. The amendments can be summarised as follows:
- i. splitting the approved Phase 1 from the extant 2020 permission, into Phase 0 and Phase 1, with Phase 0 comprising solely the new secondary school;
 - ii. reconfiguration of Phase 0 in respect of the exact location of the School building, the sports pitches and the changing facilities. The main school building remains approximately in the same location, albeit reduces in size, whilst the external sports pitches and changing facilities have been reconfigured;
 - iii. remodelled access including introduction of a signalised junction on Brunswick Park Road where previously a roundabout was approved and
 - iv. other incidental changes to landscaping and internal accommodation.
- 3.12** The relevant pre-commencement conditions of the Existing Scheme have subsequently been discharged and work on Phase 0 and 1 implemented in September 2022. A Certificate of Lawfulness seeking confirmation of the Existing Scheme's implementation is currently under consideration (ref. 23/0815/191).
- 3.13** A Reserved Matters application for Phase 2 (ref. 23/0688/RMA) was submitted to the Council on 17 February 2023 and is currently pending consideration.
- 3.14** The planning history considered relevant to this Appeal is set out in Table 1 below. The planning history and associated summary below is agreed as common ground.

| Council Reference | Description | Decision | Date |
|-------------------|--|---------------------|------|
| 23/2436/CO N | Submission of details of condition 3 (construction environmental management plan) pursuant to planning permission 22/1579/S73 dated 20/10/2022 | Under consideration | - |
| 23/1756/CO N | Submission of details of condition 16 (Noise impact from ventilation/extraction) pursuant to planning permission 22/1579/S73 dated 20/10/2022 | Under consideration | - |
| 23/1303/CO N | Submission of details of condition 27 (Piling Method Statement) pursuant to planning permission 22/1579/S73 dated 20/10/22 | Under consideration | - |
| 23/1281/CO N | Submission of details of condition 32 (Written Scheme of Investigation) pursuant to planning permission 22/1579/S73 dated 20/10/22 | Under consideration | - |
| 23/1282/CO N | Submission of details of condition 14 (External Materials) pursuant to planning permission 22/1579/S73 dated 20/10/22 | Under consideration | - |

| | | | |
|--------------------------------------|--|-----------------------|----------|
| 23/0815/191 | Implementation of planning permission 22/1579/S73 dated 20/10/22 for Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential-led mixed use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 form entry secondary school, a gymnasium, a multi-use sports pitch and associated changing facilities and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road and; the outline element comprises up to 990 additional residential units in buildings ranging from two to nine storeys, up to 5,177 sqm of non-residential floor space (use Classes A1-A4, B1 and D1) and 2.54 hectares of open space. Associated site preparation/enabling work, transport infrastructure and junction work, landscaping and car parking | Under consideration | - |
| 23/0688/RM A | Reserved matters application in respect of details relating to scale, layout, appearance and landscaping within Phase 2, pursuant to Condition 33, 34, 35 and 36 attached to planning permission ref. 15/07932/OUT (Appeal ref. APP/N5090/W/17/3189843) for the phased comprehensive redevelopment of the North London Business Park as amended by planning permission ref. 22/1579/S73, involving the erection of 139 residential units | Under consideration | - |
| 23/0664/CO N | Submission of details of condition 36 (Energy supply details) pursuant to planning permission 22/1579/S73 20/10/2022 | Under consideration | - |
| 22/4281/CO N | Submission of details of condition 3 (construction environmental management plan) pursuant to planning permission APP/N5090/W/17/3189843 dated 24/02/2020 | Under consideration | - |
| 22/4279/CO N | Submission of details of condition 7 (advanced infrastructure works scheme) pursuant to planning permission APP/N5090/W/17/3189843 dated 24/02/2020 | Pending consideration | - |
| 22/1579/S73 "The Existing Scheme" | Variation of condition 1 (Approved Plans) of planning permission reference 15/07932/OUT dated 24/02/20 for 'Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential-led mixed use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 form entry secondary school, a gymnasium, a multi-use sports pitch and associated changing facilities and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road and; the outline element comprises up to 990 additional | Approved | 20/10/22 |

| | | | |
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| | residential units in buildings ranging from two to nine storeys, up to 5,177 sqm of non-residential floor space (use Classes A1-A4, B1 and D1) and 2.54 hectares of open space. Associated site preparation/enabling work, transport infrastructure and junction work, landscaping and car parking. March 2017 RECONSULTATION Amended Plans: involving the provision of 10% Affordable Housing across the site with an overall increase in the proposed number of housing units from 1,200 to 1,350. The tallest buildings have been reduced in height from 11 to 9 storeys with some buildings along the boundary of the rail line increased from 7 to 9 storeys.' Variation to include: Changes to the school: Changes to the main access point on Brunswick Park Road: Changes to phasing | | |
| 22/0994/NM A | Non-material amendments to planning permission reference 15/07932/OUT dated 24/02/20 for 'Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential-led mixed use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 form entry secondary school, a gymnasium, a multi-use sports pitch and associated changing facilities and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road and; the outline element comprises up to 990 additional residential units in buildings ranging from two to nine storeys, up to 5,177 sqm of non-residential floor space (use Classes A1-A4, B1 and D1) and 2.54 hectares of open space. Associated site preparation/enabling work, transport infrastructure and junction work, landscaping and car parking. Amendments to include changes to the Proposed Development Zone Plan to split phase 1 | Under consideration | - |
| 22/0624/CO N | Submission of details of condition 4 (Contamination Remediation) pursuant to planning reference 15/07932/OUT dated 24/02/20 | Pending consideration | - |
| 22/0625/CO N | Submission of details of condition 32 (Programme of Archaeological Recording) pursuant to planning reference 15/07932/OUT dated 24/02/20 | Pending consideration | - |
| 21/4433/OU T "The Appeal Scheme" | Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential-led mixed use development. The detailed element comprises up to 452 residential units in five blocks reaching 9 storeys, the provision of a 5 form entry secondary school, a gymnasium, a multi-use sports pitch and associated changing facilities and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road and; the | Refused | 23/03/2023 |

| | | | |
|---|--|---|------------|
| | outline element comprises up to 1,967 additional residential units in buildings ranging from three to twelve storeys, up to 7,148 sqm of non-residential floor space (use Class E and F) and public open space. Associated site preparation/enabling work, transport infrastructure and junction work, landscaping and car parking | | |
| 21/0155/CO N | Submission of details of conditions 8 (Scheme of Landscaping Works), 28 (Scheme of Measures to Promote Biodiversity) and 29 (Method Statement including Temporary Tree Protections Measures) pursuant to planning reference 15/07932/OUT dated 24/02/20 | Approved | 17/09/21 |
| Council ref. 15/07932/O UT PINS ref. APP/N5090/ W/17/31898 43 "The Original Scheme" | Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and; the outline element comprises up to 990 additional residential units in buildings ranging from two to nine storeys, up to 5,177 sq m of non-residential floor space (Use Classes A1-A4, B1 and D1) and 2.54 hectares of public open space. Associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking. | Appeal allowed following call-in by the Secretary of State. | 24/02/2020 |

Table 1: Relevant Planning History

4 Proposed Development

Consultation and Engagement with the Council and Third Parties

- 4.1 The following description of the pre-application consultation, and the application process and amendments are agreed as common ground.
- 4.2 The Appeal Scheme was submitted following a programme of extensive pre-application engagement and consultation with both the Council's planning and design officers, the Greater London Authority and a Design Review Panel.
- 4.3 An initial pre-application meeting was held with the Council on 3 February 2021, primarily to discuss the principle of a revised residential-led development of a higher density following on from the previously consented scheme (Original Scheme), the SoS and Inspector's comments, and within the context of changing planning policy requirements.
- 4.4 A Planning Performance Agreement (PPA) was signed between the Appellant and the Council and several pre-application meetings including design and highway-focused workshops have been held with Officers, TfL and the GLA on the following dates:
 - 4.4.1 Pre-App with the Council – 3 February 2021
 - 4.4.2 Pre-App Meeting with the Council – 8 February 2021
 - 4.4.3 Design Workshop with the Council – 1 April 2021
 - 4.4.4 Highways Scoping Meeting – 14 April 2021
 - 4.4.5 Pre-App meeting with GLA – 21 April 2021
 - 4.4.6 TfL Pre-App Meeting – 19 May 2021
 - 4.4.7 Design Workshop with the Council - 17 June 2021
 - 4.4.8 Highways Workshop – 22 July 2021
 - 4.4.9 Trees/Landscaping Workshop – 23 July 2021
- 4.5 In addition to the above, the Appellant Team presented the Appeal Scheme to the UDL Design Review Panel on 15 April 2021. The advice received from the Panel is contained within the Core Documents (**CD3.002**) and at **Appendix 3** of this SoCG. The Appellant's internal note containing actions from the design workshop dated 6 April following the 1 April 2021 design workshop is also contained within the Core Documents (**CD3.003**) and at **Appendix 4** of this SoCG.
- 4.6 Meetings with elected representatives and stakeholders were also undertaken on the following dates, which is detailed further in the accompanying Statement of Community Involvement:
 - 4.6.1 Meeting with Cllr Daniel Thomas – 21 January 2021
 - 4.6.2 Meeting with Theresa Villiers MP – 5 March 2021

- 4.6.3 Meeting with Cllr Shimon Ryde – 11 March 2021
- 4.6.4 Meeting with Cllr Lisa Rutter and Cllr Roberto Weeden Sanz – 16 April 2021
- 4.6.5 Meeting with Cllr Eva Greenspan – 22 July 2021
- 4.7 Due to the outbreak of COVID-19, the Applicant held a virtual public exhibition which ran from 27 April to 11 May 2021. In addition to this, two public webinar sessions were held on 28 April 2021 and 5 May 2021.
- 4.8 The full details of these events and meetings are held within the Statement of Community Involvement, prepared by BECG and submitted with the planning application.

Application Submission and Determination

- 4.9 Following submission in August 2021, additional documents were submitted in September 2021.
- 4.10 During the course of the application, the Appeal Scheme was amended and revised plans and documents were submitted in August 2022 to respond to matters relating to increasing community floorspace provision, reducing the number of single aspect apartments (thereby reducing the number of apartments in Phase 1 from 454 to 445), external changes to ensure the wind environment is acceptable and updated reports and addendums in relation to the ES, daylight and sunlight, fire, wind, flood risk and drainage.
- 4.11 In October 2022, a Transport Assessment Addendum was submitted following liaison with Council Highway Officers and TfL.
- 4.12 Planning officers presented the application to the Council's Planning Committee on 15 December 2022, recommending that the application be granted planning permission subject to the completion of a Section 106 Agreement.
- 4.13 On 15 December 2022, members of the Strategic Planning Committee voted unanimously to refuse the application against the advice of officers. A reason for refusal could not be identified and members agreed to defer the application to the committee held on 18th January 2023 in order for the reasons for refusal to be prepared and agreed. The committee report presented to members at the 18th January committee recommended the following two reasons for refusal:
 - 1. The proposed development, by virtue of its excessive height, scale, and massing result in a discordant and visually obtrusive form of development that would demonstrably fail to respect the local context and established pattern of development when viewed from the west of the site on Fernwood Crescent, Denham Road, Oakleigh Close and Oakleigh Road North as well as New Southgate Cemetery to the East, to the detriment of the character and appearance of the area, and the visual amenity of adjoining residential occupiers. The proposal would therefore not create a high-quality development, not constitute a sustainable form of development and would be contrary to the provisions of the NPPF, Policies D3, D4 and D9 of the London Plan 2021 and policies CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies 2012.
 - 2. The proposed development does not include a formal undertaking to secure the provision of affordable housing, community and health care floorspace, affordable workspace, off site nature conservation and playspace provision, carbon off-setting, highways mitigation, non-financial and financial skills and employment, enterprise and training obligations. The proposal would therefore not address the impacts of the

development, contrary to Policies CS5, CS9 and CS11 of the Local Plan Core Strategy (adopted September 2012), policies DM01, DM04, DM10 and DM17 of the Development Management Policies (adopted September 2012) and the Planning Obligations SPD (adopted April 2013), Paragraph 8 of the NPPF, Policy S2 of the London Plan 2021.

- 4.14 On 20 March 2023, the Mayor of London decided there were “no sound planning reasons for the Mayor to intervene” in the planning application and the application was sent back to the Council for determination.
- 4.15 At the January committee, comments were made regarding errors in the road names proposed in Reason for Refusal 1 (RFR1). The wording was corrected in consultation with the applicant post-committee and the revised wording of RFR1 was used in the decision notice, received on 23 March 2023. RFR1 on the decision notice issued on 23 March 2023 reads as follows:
1. The proposed development would, by virtue of its excessive height, scale, and massing, result in a discordant and visually obtrusive form of development that would demonstrably fail to respect the local context and established pattern of development when viewed from the west of the site on Fernwood Crescent, Denham Road, Oakleigh Close and Oakleigh Road North as well as New Southgate Cemetery to the East, to the detriment of the character and appearance of the area, and the visual amenity of adjoining residential occupiers. The proposal would therefore not create a high-quality development, not constitute a sustainable form of development and would be contrary to the provisions of the NPPF, Policies D3, D4 and D9 of the London Plan 2021 and policies CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies 2012.
- 4.16 Following the issue of the decision notice on 23 March 2023 (**Appendix 5**), officers noted that the proposed reason for refusal 2 (RFR2) agreed at the 18 January committee, which related to the absence of a formal undertaking had not been included on the decision notice. An invalid revised decision notice was issued on 10 May 2023 (although it is still dated 23 March 2023) which includes RFR1 and RFR2. It was discussed at the Case Management Conference (CMC) on 4 December 2023 and agreed by both parties and the Inspector that the original decision notice dated 23 March 2023 is the only decision notice.
- 4.17 Notwithstanding the above, the securing of planning benefits through section 106 obligations was agreed to as per the officer’s report presented to committee and when the section 106 agreement is entered into, that will overcome the second RFR on the invalid revised decision notice.
- 4.18 At the CMC, it was agreed by both parties and the Inspector that part of RFR1 is no longer being pursued by the Council. Both parties agree that the “*the visual amenity of adjoining residential occupiers*” element is no longer being pursued as part of the reason for refusal.

5 Appeal Plans and Documents

- 5.1 It is common ground that the plans and documents listed at **Appendix 6** are those which supported the planning application and are now subject to approval under this appeal. It is also common ground that where documents were revised and superseded through the course of the application, the original documents which no longer apply and did not form part of the Council's decision are not referred to.
- 5.2 Any plans and documents the Council have not yet seen but are submitted as part of this appeal are also listed in **Appendix 6** and are also agreed documents between the Appellant and the Council. This includes a revised Proposed Development Zone Plan (ref. 211_WS_02_01 Rev D) (**Appendix 7**) which corrects a typographical error in the number of storeys proposed to a single block and provides clarity of the proposed building heights across the scheme. The correction and clarifications do not alter the design of the Appeal Scheme.
- 5.3 A copy of a new drawing which provides a 3D illustration of the increase in building heights compared to the Original and Existing Scheme is included at **Appendix 8** and it is agreed as **CD11.001** between both parties.
- 5.4 Reason for Refusal 1 refers to a number of streets that the Appeal Scheme would fail to respect in terms of the local context and established pattern of development. Denham Road is listed as one of the streets that has contributed to the reason for refusal. Denham Road was not one of the previously agreed views and therefore was not considered as part of the original planning application. A view has been prepared and agreed between both parties ahead of the Inquiry and the resulting documents will be included in the Core Documents.

6 Planning Policy Framework

- 6.1 It is common ground that the Development Plan for the Council currently comprises:
 - 6.1.1 London Plan 2021;
 - 6.1.2 Core Strategy 2012; and
 - 6.1.3 Development Management Policies Document 2012.
- 6.2 A material consideration in the determination of the appeal is the emerging Local Plan Review which was formally submitted to the Secretary of State on 26 November 2021, with Examination hearings commencing in September 2022 and closing in November 2022.
- 6.3 Daniel Watney LLP represented Comer Homes Group at the hearing sessions in relation to the limited weight the Council gave to the Original Scheme decision by the Secretary of State and this planning application for this Appeal Scheme in drafting the site allocation and tall buildings policies. Comer Homes Group were invited to make written comments following additional documents submitted by the Council following the closure of the hearing sessions. Daniel Watney LLP submitted representations on 19 April 2023.
- 6.4 Other relevant policy and guidance documents include the National Planning Policy Framework (NPPF), and various SPDs and SPGs adopted by both the Council and the GLA.
- 6.5 Significant weight is afforded to the National Planning Policy Framework and relevant policies within the adopted Development Plan documents listed above at 6.1.1 to 6.1.3. Given the status of the emerging Local Plan Review at examination, significant weight is afforded to those relevant policies contained within the emerging Local Plan however the weight attributed to this is subject to change as its examination progresses.
- 6.6 The applicable Development Plan policies and guidance are set out below and are agreed between both parties and will be referred to in evidence submitted by the Appellant and the Council.

London Plan 2021

- 6.6.1 GG1 'Building strong and inclusive communities'.
- 6.6.2 GG2 'Making the best use of land'.
- 6.6.3 GG3 'Creating a healthy city'.
- 6.6.4 GG4 'Delivering the homes London needs'.
- 6.6.5 GG5 'Growing a good economy'
- 6.6.6 GG6 'Increasing efficiency and resilience'.
- 6.6.7 D1 'London's form, character and capacity for growth'
- 6.6.8 D2 'Infrastructure requirements for sustainable densities'
- 6.6.9 D3 'Optimising site capacity through the design-led approach'
- 6.6.10 D4 'Delivering good design'
- 6.6.11 D5 'Inclusive design'
- 6.6.12 D6 'Housing quality and standards'
- 6.6.13 D7 'Accessible housing'
- 6.6.14 D8 'Public realm'
- 6.6.15 D9 'Tall buildings'
- 6.6.16 D11 'Safety, security and resilience to emergency'
- 6.6.17 D12 'Fire safety'
- 6.6.18 D14 'Noise'
- 6.6.19 H1 'Increasing housing supply'
- 6.6.20 H4 'Delivering affordable housing'
- 6.6.21 H5 'Threshold approach to applications'
- 6.6.22 H6 'Affordable housing tenure'
- 6.6.23 H10 'Housing size mix'
- 6.6.24 S1 'Developing London's social infrastructure'
- 6.6.25 S2 'Health and social care facilities'

- 6.6.26 S3 'Education and childcare facilities'
- 6.6.27 S4 'Play and informal recreation'
- 6.6.28 S5 'Sports and recreation facilities'
- 6.6.29 E1 'Offices'
- 6.6.30 E2 'Providing suitable business space'
- 6.6.31 E11 'Skills and opportunities for all'
- 6.6.32 HC1 'Heritage conservation and growth'
- 6.6.33 G1 'Green infrastructure'
- 6.6.34 G4 'Open space'
- 6.6.35 G5 'Urban greening'
- 6.6.36 G6 'Biodiversity and access to nature'
- 6.6.37 G7 'Trees and Woodlands'
- 6.6.38 SI1 'Improving air quality'
- 6.6.39 SI2 'Minimising greenhouse gas emissions'
- 6.6.40 SI3 'Energy infrastructure'
- 6.6.41 SI4 'Managing heat risk'
- 6.6.42 SI5 'Water infrastructure'
- 6.6.43 SI7 'Reducing waste and supporting the circular economy'.
- 6.6.44 SI12 'Flood risk management'
- 6.6.45 SI13 'Sustainable drainage'
- 6.6.46 T1 'Strategic approach to transport'
- 6.6.47 T2 'Healthy Streets'
- 6.6.48 T3 'Transport capacity, connectivity and safeguarding'
- 6.6.49 T4 'Assessing and mitigating transport impacts'
- 6.6.50 T5 'Cycling'
- 6.6.51 T6 'Car parking'

- 6.6.52 T7 'Deliveries, servicing and Construction'
- 6.6.53 T9 'Funding transport infrastructure through planning'
- 6.6.54 DF1 'Delivery of the Plan and Planning Obligations'

Core Strategy 2012

- 6.6.55 CS NPPF 'Presumption in favour of sustainable development'
- 6.6.56 CS1 – Place shaping strategy – the three strands approach'
- 6.6.57 CS3 – 'Distribution of growth in meeting housing aspirations'
- 6.6.58 CS4 – 'Providing quality homes and housing choice in Barnet'
- 6.6.59 CS5 – 'Protecting and enhancing Barnet's character to create high quality places'
- 6.6.60 CS7 – 'Enhancing and protecting Barnet's open spaces'
- 6.6.61 CS8 'Promoting a strong and prosperous Barnet'
- 6.6.62 CS9 'Providing safe, effective and efficient travel'
- 6.6.63 CS10 'Enabling inclusive integrated community facilities and uses'
- 6.6.64 CS11 'Improving health and wellbeing in Barnet'
- 6.6.65 CS13 'Ensuring the efficient use of natural resources'
- 6.6.66 CS14 'Dealing with our waste'
- 6.6.67 CS15 'Delivering the Core Strategy'

Development Management Policies Document 2012

- 6.6.68 DM01 'Protecting Barnet's character and amenity'
- 6.6.69 DM02 'Development standards'
- 6.6.70 DM03 'Accessibility and inclusive design'
- 6.6.71 DM04 'Environmental considerations for development'
- 6.6.72 DM05 'Tall buildings'
- 6.6.73 DM06 'Barnet's heritage and conservation'
- 6.6.74 DM08 'Ensuring a variety of sizes of new homes to meet housing need'
- 6.6.75 DM10 'Affordable housing contributions'

- 6.6.76 DM11 'Development principles for Barnet's town centres'
- 6.6.77 DM13 'Community and education uses'
- 6.6.78 DM14 'New and existing employment space'
- 6.6.79 DM15: Green Belt and open spaces
- 6.6.80 DM16 'Biodiversity'
- 6.6.81 DM17 'Travel impact and parking standards'

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- 6.6.82 GSS01 'Delivering sustainable growth'
- 6.6.83 GSS13 'Strategic parks and recreation'
- 6.6.84 HOU01 'Affordable housing'
- 6.6.85 HOU02 'Housing mix'
- 6.6.86 CDH01 'Promoting high quality design'
- 6.6.87 CDH02 'Sustainable and inclusive design'
- 6.6.88 CDH03 'Public realm'
- 6.6.89 CDH04 'Tall buildings'
- 6.6.90 CDH07 'Amenity space and landscaping'
- 6.6.91 CDH08 'Barnet's Heritage'
- 6.6.92 CHW01 'Community Infrastructure'
- 6.6.93 CHW 02 'Promoting health and wellbeing'
- 6.6.94 ECY01 'A vibrant local economy'
- 6.6.95 ECY03 'Local jobs, skills and training'
- 6.6.96 ECC01 'Mitigating climate change'
- 6.6.97 ECC02 'Environmental considerations'
- 6.6.98 ECC02A 'Water management'
- 6.6.99 ECC03 'Dealing with waste'
- 6.6.100 ECC04 'Barnet's Parks and Open Spaces'

- 6.6.101 ECC06 'Biodiversity'
- 6.6.102 TRC01 'Sustainable and active travel'
- 6.6.103 TRC02 'Transport infrastructure'
- 6.6.104 TRC03 'Parking management'
- 6.6.105 Annex 1 – Schedule of Site Proposals

National Planning Policy Framework

- 6.6.106 Paragraph 11 – planning decisions should apply “a presumption in favour of sustainable development” for “development proposals that accord with an up-to-date development plan.”
- 6.6.107 Paragraph 39 – good quality pre-application engagement enables better coordination with the public to improve outcomes for communities.
- 6.6.108 Paragraph 63 – “the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”.
- 6.6.109 Paragraph 64 – where a need is identified, on-site affordable housing should be provided unless off-site provision or a financial contribution can be robustly justified.
- 6.6.110 Paragraph 75 – “Local planning authorities should monitor their deliverable land supply against their housing requirement as set out in adopted strategic policies.”
- 6.6.111 Paragraph 85 – “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”
- 6.6.112 Paragraph 96 – “Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which...promotes social interaction; are safe and accessible; and enable and support healthy lifestyles.”
- 6.6.113 Paragraph 108 – “transport issues should be considered in development proposals, including opportunities to promote walking, cycling and public transport.”
- 6.6.114 Paragraph 110 – polices should “support an appropriate mix of uses to minimise journeys needed for employment, shopping and leisure.”
- 6.6.115 Paragraph 123 – “decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”
- 6.6.116 Paragraph 124 – decisions should “give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs” in addition to supporting development of “under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained”
- 6.6.117 Paragraph 128 – “Planning policies and decisions should support development that makes efficient use of land”
- 6.6.118 Paragraph 131 – “good design, the creation of high-quality buildings and effective

engagement throughout the process is a key aspect to sustainable development.”

- 6.6.119 Paragraph 135 – “Planning policies and decisions should ensure that developments...will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic...while not preventing or discouraging innovation (such as increased densities); establish or maintain a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other space); create places that are safe inclusive and accessible”

Relevant Local Supplementary Planning Guidance and Documents

- 6.6.120 Residential Design Guidance SPD (2016)
- 6.6.121 Tall Buildings Study (2010)
- 6.6.122 Tall Buildings Study Update (2019)
- 6.6.123 Barnet Characterisation Study (2010)
- 6.6.124 Affordable Housing SPD (2007)
- 6.6.125 Planning Obligations SPD (2013)
- 6.6.126 Delivering Skills, Employment, Enterprise and Training (SEET) SPD (2014)
- 6.6.127 Barnet Green Infrastructure SPD (2017)
- 6.6.128 Barnet Sustainable Design and Construction (2016)
- 6.6.129 Barnet Authorities Monitoring Report 2019/20 (2020)
- 6.6.130 The Mayor has issued for consultation the draft London Plan Guidance on Optimising Site Capacity: A Design-led Approach (February 2022)
- 6.6.131 Affordable Housing & Viability SPG (2017)
- 6.6.132 Strategic Housing Market Assessment (Mayor of London, Nov 2017)
- 6.6.133 Strategic Housing Land Availability Assessment (Mayor of London, Nov 2017)
- 6.6.134 The Mayor's Housing SPG (2016)
- 6.6.135 The Mayor's Sustainable Design and Construction SPG (2014)
- 6.6.136 The Mayor's Accessible London SPG (2014)
- 6.6.137 The Mayor's Play and Informal Recreation SPG (2012)
- 6.6.138 The Mayor has issued for consultation the draft London Plan Guidance on Fire Safety (February 2022)
- 6.6.139 The Mayor has issued for consultation the draft London Plan Guidance on Fire Safety

(February 2022)

6.6.140 Draft Local Plan Examination Document 79 - LBB Note on Tall Buildings (updated 170323)

6.6.141 Draft Local Plan Examination Document 143 Inspectors' Interim Findings and Next Steps Letter - August 2023

6.6.142 Draft Local Plan Examination Document 143A Inspectors' Interim Findings and Next Steps Letter Appendix - August 2023

6.7 Both parties agree that Section 38(5) of the Planning and Compulsory Purchase Act 2004 applies to Policies CS5, DM05 and D9 stated in RfR1. Section 38(5) states:

“If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”

6.8 On this basis, it is agreed by both parties that the locational requirements referred to in Policies CS5 and DM05 conflict with Policy D9, in that local policy states tall buildings will “not be acceptable” outside in the identified locations. However, both London Plan and LB Barnet policy promote an evidence-based approach to identifying locations suitable for tall buildings. In accordance with S38(5), it is resolved that Policy D9 is the precedent policy for the consideration of tall buildings.

6.9 With regards to emerging policy, The Inspector in his Interim Findings Letter of 17 August 2023 does not suggest any changes to Part A of Policy CDH04 – locations that may be suitable for tall buildings. North London Business Park is not an area identified suitable for tall buildings. The Council in their letter to the Inspector (Examination Document 79) (CD11.002) confirmed to the Inspector that Policy CDH04 is aligned to Policy D9, in that tall buildings outside identified areas may also be suitable subject to criteria set out in the policy.

7 Areas of Agreement

- 7.1 The following matters are agreed between the Council and the Appellant, where there are benefits, the Parties do not agree on whether these benefits outweigh any perceived harm.
- 7.2 Principle of Mixed-Use Residential-Led Development
- 7.2.1 The basic principle of the redevelopment of the North London Business Park for a residential-led mixed-use development including the proposed school building has already been established by the Original and Existing Scheme.
- 7.3 Compliance with Adopted and Emerging Tall Building Policies
- 7.3.1 The Secretary of State's decision on the Original Scheme (**Appendix 9**) is a material consideration of the Appeal Scheme.
- 7.3.2 The Secretary of State's view that the existing character of the Site is entirely different to the surrounding area, and that as existing it does not contribute towards the character and appearance of the area is a material consideration to the determination of this appeal. This being said, it is agreed that any emerging scheme does have the potential to affect the wider character of the area. This is also a material consideration.
- 7.3.3 As with the Original and Existing Scheme, the Site is not in a location designated as suitable for tall buildings as per adopted local Policy CS5 and DM05. The Master Brewer judgement of the High Court which can be found at **Appendix 10** (London Borough of Hillingdon, R (On the Application Of) v Mayor of London [2021] EWHC 3387 (Admin) (15 December 2021)) is a material consideration and confirms that there is no wording which indicates that Part A and/or Part B of Policy D9 are gateways, or pre-conditions, to Part C, which requires development proposals to address a number of impacts
- 7.3.4 Policy D9 supersedes adopted local Policy CS5 and DM05, in so far as there is conflict on tall building policy. Policy CS5 is relevant on wider character considerations and the officer's report to committee concluded that when taken as a whole the Appeal Scheme accords with the development plan. It is accepted that Members did not agree with the conclusions in the report and their opinion was that there were character concerns which were not outweighed by the scheme benefits. .
- 7.3.5 The GLA Stage 2 Report confirmed that the proposed development could comply with the qualitative criteria in Part C of Policy D9, noting that the visual, functional, environmental, and cumulative impact of the Appeal Scheme and the principle of the proposed tall buildings are acceptable, albeit noting that the proposed development would have a more noticeably greater visual impact in views from the west, and the development would be prominent in these views, altering the background context in the suburban street scene and representing a step change in height and massing within what is a suburban area. However, GLA officers did not consider that the proposed development would cause a significant detrimental harm to the townscape character, given the clear separation from the suburban context due to railway line and topography and due to the fact that the proposed scheme would be viewed as a more distant contemporary development at a higher density within in the suburban context.
- 7.3.6 In relation to emerging Policy CDH04 of the draft Local Plan Review, Page 4 of the Examination Document 79 of the Local Plan Review Examination (**Appendix 11**) confirms that emerging Policy CDH04 accords with the Master Brewer judgement, stating that Policy CDH04(d) "*makes clear that all proposals for tall or very tall buildings (therefore irrespective of their location), need to be assessed in accordance with the impacts outlined in London Plan Policy D9 Part C as well as other relevant Local Plan policies*". As above, the Inspector in his Interim Findings Letter of 17 August 2023 does not suggest any changes to Part A of

Policy CDH04 – locations that may be suitable for tall buildings. North London Business Park is not an area identified in Policy CDH04 as suitable for tall buildings. However North London Business Park does appear in Map 4 of the draft Local Plan as a strategic tall building location. The Council has confirmed that, in accordance with Policy D9, emerging Policy CDH04 does not limit tall buildings to specifically identified areas.

7.4 Acceptability of Loss of Employment space

- 7.4.1 The loss of the existing employment space has already been established by the Original Scheme which proposed 5,177 sqm of non-residential floorspace. The Appeal Scheme proposes 7,148 sqm of Class E and F floorspace which would include a re-provision of Class E(g) (previously B1) starter units along with a health centre, a multi-faith community space, and a small-scale nursery, representing an increase in proposed non-residential floorspace above the Original and Existing Scheme.

7.5 New Non-Residential Floorspace

- 7.5.1 The Appeal Scheme will deliver up to 7,148 sqm of non-residential floor space (use Class E and F) including small scale health care facilities, nursery, retail and flexible commercial units for SME's.
- 7.5.2 This represents an uplift of 1,971 sqm of non-residential floorspace including a 1,398sqm increase in community floorspace, 55sqm increase in retail floorspace and a 660sqm increase in childcare floorspace over the Existing Scheme. The total amount of proposed community floorspace in the Appeal Scheme is 1,908sqm and this is a benefit above that offered by the Existing Scheme that is agreed..
- 7.5.3 In addition to the long-term additional employment which will be generated on the site, there would also be an increase in the number of jobs created during the construction period which will be of benefit to the local public, above that which would be delivered by the Existing Scheme..

7.6 Education

- 7.6.1 Barnet has seen an unprecedented recent growth in demand for school places, with the Borough already operating at almost full capacity in the secondary sector. The provision of additional forms of entry at St Andrew the Apostle School would contribute towards meeting this requirement. The new School would represent both a qualitative and quantitative improvement and is wholly appropriate in land use terms. With regards to primary school capacity, the Education and Children's Services confirmed that the demand for primary school places as a result of the development could be absorbed by primary schools in the wider area. This is a benefit that is agreed.

7.7 Delivery of New Housing and Housing Density

- 7.7.1 The delivery of 2,419 new homes would be a significant benefit brought by the Appeal Scheme and would represent a significant uplift against the 1,350 homes delivered under the Existing Scheme. The gross density of the proposed development would equate to 147 units per hectare which follows a design-based approach in accordance with Policies D1, D1A, D1B, and D3 of the London Plan. The applicable policies are dealt with and agreed separately within this SOCG.
- 7.7.2 The provision of housing will make an important contribution to local construction employment and council tax receipts whilst household expenditure generated by future residents will also help to support economic activity locally. The increased volume of housing in the Appeal Scheme when compared to the Existing Scheme will increase each

of these benefits.

7.8 Affordable Housing

7.8.1 The proposed affordable housing offer of 95 units in Phase 1, comprising of 38 London Affordable Rent units and 57 shared ownership units, is the maximum viable amount that can be delivered in Phase 1, which is agreed between Appellant and the Council's advisor as a result of interrogation of the Appellant's viability appraisal, in line with local Policy CS4 and London Plan Policy H5. The overall proposed affordable housing offer of 532 units (21% in total) represents 35% of the uplift in housing across the Appeal Scheme when compared to the Original and Existing Scheme. The overall affordable housing offer comprises 246 Affordable Rent units and 266 Shared Ownership units and is the maximum viable amount that can be delivered on the site. The exact mix will depend on detailed design of the later phases and will be confirmed at reserved matters stage for each outline phase. This is a benefit that is agreed.

7.9 Unit Mix

7.9.1 The mix of housing proposed through the Application is appropriate in respect of the mix of 1, 2, 3, and 4-bed units to address housing preference and need in accordance with local policy DM08 and H10 of the London Plan.

7.10 Community Infrastructure Levy Contribution

7.10.1 The Appeal Scheme will deliver approximately £34 million in CIL over the Existing Scheme.

7.11 Sports Facilities

7.11.1 Whilst the northern area of the Site was historically used as a private sports field for business occupiers, this has not been in use since the 1990s. The provision of an all-weather sports pitch, indoor sports hall and MUGA which will be available for the School and the wider community will provide significant social and community benefits and the proposed sports facilities provision would be a major benefit to both the School and the wider community. This is a benefit that is agreed.

7.12 Car and Cycle Parking

7.12.1 There are no issues regarding the levels of car and cycle parking proposed through the Appeal Scheme. The proposed maximum parking ratios for PTAL 1 & 2 are 1.25 and 0.75, respectively. The proposed parking ratio of 0.8 was considered an appropriate balance for this location following a robust assessment of the potential trip generation which demonstrated that overspill parking would not be problematic for the surrounding streets. Therefore, the levels of car parking are within the maximum proposed through Policy T6 of the London Plan, whilst the quantity of cycle parking is more than the minimum standards set through the London Plan.

7.13 Access and Highways

7.13.1 There are no issues regarding the proposed access and highways strategy proposed through the Appeal Scheme, as agreed with Council Highways Officers and TfL, subject to conditions and obligations to be secured through the proposal. The Appeal Scheme will provide site access and transport infrastructure improvements, including new public

transport, new permeable pedestrian and cycle linkages through the site.

7.14 Noise and Disturbance

7.14.1 Subject to suitable conditions there are no issues regarding noise and general disturbance because of the Appeal Scheme, in line with adopted local Policy DM04, London Plan Policy D14 and emerging Policy GSS11 of the Local Plan Review.

7.15 Air Quality

7.15.1 Subject to suitable conditions there are no issues regarding air quality as a result of the Appeal Scheme, in line with adopted local Policy DM04 and CS13, London Plan Policy S11 and emerging Policy ECC02 of the Local Plan Review.

7.16 Daylight and Sunlight

7.16.1 There are no issues regarding daylight and sunlight impacts on existing and proposed neighbouring residential properties as a result of the Appeal Scheme, in line with local Policy DM01, London Plan Policy D6 and emerging Policy CDH01 of the Local Plan Review.

7.17 Energy and Sustainability

7.17.1 There are no issues regarding the energy and sustainability strategy, whole life cycle carbon and circular economy conclusions, in line with adopted local Policy DM04, CS13, the energy hierarchy as set out in the London Plan and emerging Policy CDH02 of the Local Plan Review.

7.18 Landscaping and Trees

7.18.1 There are no issues regarding the proposed landscaping of the site, in line with adopted local Policy DM01 and CS7, London Plan Policy S4 and emerging Policy CDH07 of the Local Plan Review. The proposals will achieve an Urban Greening Factor of 0.42 across the completed masterplan which exceeds the London Plan requirements.

7.19 Play Space and Open Space

7.19.1 The quality and quantity of play space and open space provision is fully compliant, in line with local Policy CS7, DM02, London Plan Policy S4 and emerging Policy GSS11 and CDH07 of the Local Plan Review. The site as currently laid out does not provide any public open space. The public open space brought by the Appeal Scheme will be open and available to the wider community to use and this is a benefit of the Appeal Scheme that is agreed.

7.20 Amenities of Neighbouring and Future Residents

7.20.1 The majority of the proposed buildings are located over 11m from the site boundaries, being located 30-55m from rear elevations of surrounding properties. These separation distances ensure no demonstrable loss of daylight/ sunlight or privacy. The only instance where buildings are located closer than 11m to the respective boundaries are in the case of the flank walls of the 3-storey wings to Blocks 1E and 1F, however the Council is satisfied that a condition ensuring glazed windows on this elevation will ensure no impact on privacy.

7.20.2 It is agreed by both parties that the visual amenity of adjoining occupiers is acceptable and

is no longer being pursued under RfR1.

7.21 Quality of Accommodation

7.21.1 The quality of accommodation is fully compliant having regard to minimum space standards for internal accommodation and external amenity space, whilst all units will be built to either M4(2) or M4(3) standards and 10% of all units will be built to wheelchair standards in accordance with London Plan Policy D7.

7.22 Safety and Security

7.22.1 The Appeal Scheme is considered to enhance safety and security and mitigate the potential of crime over and above the existing estate in line with adopted local Policy CS12 and London Plan policy D11.

7.23 Fire Safety

7.23.1 There are no issues regarding fire safety, in line with London Plan Policy D12.

7.24 Conservation and Archaeology

7.24.1 There are no issues regarding conservation or archaeology, in line with adopted local Policy DM06 and CS5, London Plan Policy HC1 and emerging Policy CDH08 of the Local Plan Review.

7.25 Biodiversity

7.25.1 There are no issues regarding biodiversity in line with adopted local Policy DM01, DM16 and CS7, London Plan Policy G6 and emerging Policy CDH01 and CDH07 of the Local Plan Review.

7.26 Flood Risk and Drainage

7.26.1 There are no issues regarding flood risk and drainage, in line with adopted local Policy DM04, London Plan Policy S112 and emerging Policy ECC02A of the Local Plan Review.

7.27 Utilities

7.27.1 Each phase of the Appeal Scheme can be delivered without any abnormal utility constraints. Given the inclusion of renewable energies and rainwater harvesting within the Appeal Scheme, there are not expected to be any future capacity restrictions or abnormal reinforcement requirements.

7.28 Ground Conditions and Contamination

7.28.1 The submitted Environmental Statement acknowledges that remediation will be required due to the previous historic use of the site and the Council's Environmental Health Team are satisfied that appropriate contamination remediation conditions are attached to the permission.

7.28.2 It is agreed that the only issue between the Appellant and the Council is whether the scale, height and massing of the proposed development would have a harmful impact on the character and appearance of the area.

8 Planning Obligations and Conditions

Draft Planning Obligations

- 8.1 As noted in the Appellant's Statement of Case (SoC), a revised decision notice was issued on 10 May 2023 (but is dated 23 March 2023) which included a second Reason for Refusal (RFR2) relating to the lack of a formal undertaking to secure the necessary planning obligations. However, the original decision notice was not revoked and there is no mechanism for the Council to re-issue an amended decision notice and therefore the revised decision notice is not considered to be valid.
- 8.2 Nevertheless, both parties agree that a Section 106 Agreement should be entered into. The Appellant and the Council are working together to progress the Section 106 agreement in advance of the inquiry with an agreed version to be provided before the Inquiry opens and, subject to any comments the Inspector has, a signed and dated copy to be provided before close of the Inquiry or in accordance with any other direction of the Inspector. Irrespective of the validity of RFR2, both parties anticipate that progression of this agreement should result in RFR2 falling away ahead of the inquiry and will update the Inspector in due course.
- 8.3 The benefits relating to affordable housing, community and health care space, highways contributions, carbon offsetting and ecology will be secured through the section 106 agreement and the Parties will work together to agree all matters prior to the Inquiry. The following Heads of Terms are agreed.
- 8.3.1 **Legal Professional Costs Recovery** - Paying the Council's legal and professional costs of preparing the Agreement and any other enabling arrangements.
- 8.3.2 **Enforceability** - All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority.
- 8.3.3 **Affordable Housing** – 21% affordable housing (512 units) to be provided across the whole development (2,419 units), comprising 246 Affordable Rent units and 266 Shared Ownership units being the maximum viable amount that can be delivered on the site. The exact mix will depend on detailed design of the later phases and will be confirmed at reserved matters stage for each outline phase. The principle of the affordable housing contribution above is agreed and details will be secured in the S106 Agreement.
- 8.3.4 **School Plot** - Provision of a plot for a five-form entry school.
- 8.3.5 **Community Use Agreement (School)** – the principle of a Community Use Agreement with the School is agreed and details will be secured in the S106 Agreement.
- 8.3.6 **Details of Delivery of SME Business Space including new start-up units** – the principle of providing SME workspace, tenancy details and rental costs will be agreed in the S106 Agreement
- 8.3.7 **Provision of Community and Health Care Space** – the principle of providing community and health care space, and the quantum proposed through the Appeal Scheme is acceptable and details will be agreed in the S106 Agreement:
- 1) Comer to deliver a long leasehold interest (not less than 99 years) of a shell of the new Centre to CWC (or alternative provider to be agreed in writing with the Local Planning Authority) in a position and configuration agreed by the Council within Block 3A;

- 2) The shell to be available for community provision and uses within Class E;
 - 3) The Lease to reserve a peppercorn rent and a service charge that is directly related to the Centre's uses and not the overall upkeep of the new development;
 - 4) The long leasehold to include the use of appropriate car parking and an ambulance bay in locations agreed by the Council.
- 8.3.8 **Local Employment Agreement** – Shall include forecasting of job opportunities; Notification of job vacancies; Local labour target; Jobs brokerage and skills training; Apprenticeships and work experience; Use of local suppliers and delivery of specific LEA targets in regards to providing identified number of apprenticeships or alternative cash sum.
- 8.3.9 **Provision of minibus services in perpetuity** – details of the number of vehicles, frequency of movement and mechanism of funding to be agreed in the S106 Agreement.
- 8.3.10 **Bus Services Contribution** of up to £1,525,000
- 8.3.11 **Offsite Highway Works and Transport Measures** – Details of the below to be agreed in the S106 Agreement: Funding for measures identified in the ATZ within a 1 mile radius, including accident mitigation, funding for local junction improvements including the main access (Brunswick Park Road) upgrade and signalisation, funding to improve Cycling /walking experience as identified in the TAA, including a new link to Ashbourne Avenue & associated works, provision of signage to direct pedestrians and cyclists to key locations on and off-site, funding to upgrade and widen the footways on Brunswick Park Road (to the south and north bound bus stops) to provide 3m wide footways to each of the respective bus stops, contribution towards a review of the signalised junctions (J1, J3 and J8) will be undertaken with the TfL signals team to determine if any appropriate and proportionate mitigation can be delivered at these locations. contribution towards implementation of the findings, CPZ Monitoring contribution & provision for permit restriction in any future schemes.
- 8.3.12 **Travel Plan Measures and Monitoring** - Including Provision of Travel Plans covering the following:
1. Travel Plan – School
 2. Travel Plan - Residential
 3. Travel Plan – Non Residential
 4. Travel Plan – Nursery
 5. An appropriate Travel Plan Monitoring Fee would also need to be paid
- 8.3.13 **Section 278 Works** - Necessary works to the public highway under section 278 of the Highways Act to facilitate the implementation of the development.
- 8.3.14 **Energy and Sustainability** – A carbon-offsetting contribution will be secured (Currently £4,196,877) in the S106 agreement as per the conclusions of the Energy and Sustainability Assessment submitted.
- 8.3.15 **Reptile Receptor Site Protection, Management and Monitoring** - the principle of reptile receptor site protection, management and monitoring is agreed and details will be secured in the S106 Agreement.
- 8.3.16 **Public Open Space** – the principle of public open space is agreed and details will be secured in the S106 Agreement.
- 8.3.17 **S106 Monitoring Contribution** - the principle of a S106 Monitoring Contribution is agreed

and details will be secured in the S106 Agreement.

8.3.18 All financial contributions listed above to be subject to indexation.

8.4 A statement of compliance with statutory and policy requirements for the conditions and section 106 agreement is to follow once the section 106 agreement is agreed.

Draft Conditions

8.5 The agreed conditions are set in the Scott Schedule at **Appendix 1** and are agreed as the necessary planning conditions should planning permission be granted on appeal. It is agreed that both parties are open to further discussions about conditions prior to the Inquiry.

9 Areas of Disagreement

9.1 The matter in dispute relates to the height, scale and massing of the Appeal Scheme as set out in RFR1 on the decision notice which is referred to below:

1. *“The proposed development would, by virtue of its excessive height, scale, and massing, result in a discordant and visually obtrusive form of development that would demonstrably fail to respect the local context and established pattern of development when viewed from the west of the site on Fernwood Crescent, Denham Road, Oakleigh Close and Oakleigh Road North as well as New Southgate Cemetery to the East, to the detriment of the character and appearance of the area, and the visual amenity of adjoining residential occupiers. The proposal would therefore not create a high-quality development, not constitute a sustainable form of development and would be contrary to the provisions of the NPPF, Policies D3, D4 and D9 of the London Plan 2021 and policies CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies 2012.”*

9.2 Parties disagree on whether the scheme brings harm and, if it does, whether the benefits outweigh any perceived harm.

10 Third Party Representations

- 10.1 There were notable third party representations to the planning application which raise matters associated with the appeal scheme. These representations include matters regarding architecture, design and townscape which form part of the matters of disagreement between the Council and the Appellant which will be expanded upon in evidence.
- 10.2 There were several other matters raised which are not matters of dispute between the Council and the Appellant. These include the following:
- 10.2.1 Impact on local infrastructure
 - 10.2.2 Green and open space provision
 - 10.2.3 Lack of car parking
 - 10.2.4 Lack of demand for flats
 - 10.2.5 Crime and safety
 - 10.2.6 Employment space provision
 - 10.2.7 Impact on residential amenity
 - 10.2.8 Loss of trees
 - 10.2.9 Impact on ecology and biodiversity

11 Core Documents

11.1 The Core Documents list can be found in **Appendix 6**.

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| <u>Signed on behalf of Council:</u> D. Duffin | <u>Signed on behalf of the Appellant:</u> C. Mills |
| <u>Date:</u> 02.01.2024 | <u>Date:</u> 02.01.2024 |
| <u>Name:</u> Dominic Duffin <u>Position:</u> Principal Planning Officer | <u>Name:</u> Charles Mills <u>Position:</u> Partner at Daniel Watney LLP |

Appendix 1

Appeal Reference APP/N5090/W/23/3330577
North London Business Park – Conditions Scott Schedule – v1

| Condition Number | Appellant's Proposed Wording | Council's Proposed Wording / Position |
|------------------|--|---------------------------------------|
| 1 | <p>The development hereby permitted shall be carried out in accordance with the approved plans listed below:</p> <p><i>Parameter Plans</i></p> <p>211_WS_02_00 - Red Line Boundary Plan 211_WS_02_01 Rev D – Proposed Development Zone Plan 211_WS_02_02 - Access & Circulation Zone 211_WS_02_03 - Landscape Treatment Plan 211_WS_02_04 - Ground Floor Frontages Plan 211_WS_02_05 Rev A – Development Zones and Maximum Heights 211_WS_02_06 Rev A – Site Plan 211_WS_02_07 - Development Zones - Horizontal Limits of Deviation 211_WS_02_08 - Proposed Site Levels & Vertical Limits of Deviation 211_WS_02_09 - Proposed Site Basement Levels & Limit of Deviation 211_WS_05_01 - Contextual Sections AA BB 211_WS_05_02 - Contextual Sections CC 211_WS_05_03 - Parameter Sections 1 - 4 211_WS_05_04 Existing Sections 1 – 4</p> <p><i>Supporting Documents</i></p> <p>Design Principles Document (August 2021)</p> <p><i>School Plans (Phase 0)</i></p> <p>FS0200-ALA-XX-XX-DR-L-0001 P06 – Landscape Illustrative Masterplan FS0200-STL-01-00-DR-A-0200 P05 – Teaching Block – Proposed Ground Floor Plan FS0200-STL-01-01-DR-A-0201 P05 - Teaching Block - Proposed First Floor Plan FS0200-STL-01-02-DR-A-0202 P05 - Teaching Block - Proposed Second Floor Plan FS0200-STL-01-B1-DR-A-0204 P05 - Teaching Block - Proposed Basement Plan FS0200-STL-01-EL-DR-A-0300 P05 - Teaching Block - Proposed Elevations North and South FS0200-STL-01-EL-DR-A-0301 P05 - Teaching Block - Proposed Elevation West FS0200-STL-01-EL-DR-A-0302 P05 - Teaching Block - Proposed Elevation East FS0200-STL-01-R1-DR-A-0203 P05 - Teaching Block - Proposed Roof Plan FS0200-STL-01-SX-DR-A-0400 P05 - Teaching Block - Proposed Building Section - Sheet 1 FS0200-STL-01-SX-DR-A-0401 P05 - Teaching Block - Proposed Building Section - Sheet 2 FS0200-STL-01-SX-DR-A-0402 P05 - Teaching Block - Proposed Building Section - Sheet 3 FS0200-STL-02-00-DR-A-0205 P05 - Sports Block - Proposed Ground Floor Plan FS0200-STL-02-EL-DR-A-0303 P05 - Sports Block - Proposed Elevation North and East FS0200-STL-02-EL-DR-A-0304 P05 - Sports Block - Proposed Elevation South and West FS0200-STL-02-R1-DR-A-0206 P05 - Sports Block - Proposed Roof Plan FS0200-STL-02-SX-DR-A-0403 P05 - Sports Block - Proposed Building Section - Sheet 1 FS0200-STL-XX-EL-DR-A-0310 P02 - Overall Site - Proposed Elevation East FS0200-STL-ZZ-XX-DR-A-0900 P05 - Proposed Site Location Plan FS0200-STL-ZZ-XX-VS-A-0050 P05 - Proposed External Views - Visitor Entrance 1 FS0200-STL-ZZ-XX-VS-A-0051 P05 - Proposed External Views - Visitor Entrance 2</p> | Appellant's proposed wording agreed. |

FS0200-STL-ZZ-XX-VS-A-0052 P05 - Proposed External Views - Pupil Entrance
FS0200-STL-ZZ-XX-VS-A-0053 P05 - Proposed External Views - Year 7 Area
FS0200-STL-ZZ-XX-VS-A-0054 P05 - Proposed External Views - Sports Hall Frontage
FS0200-STL-ZZ-XX-VS-A-0055 P05 - Proposed External Views - Aerial 1
FS0200-STL-ZZ-XX-VS-A-0056 P05 - Proposed External Views - Aerial 2
FS0200-STL-ZZ-XX-VS-A-0057 P05 - Proposed External Views - Teaching Block Frontage
FS0200-STL-ZZ-XX-VS-A-0060 P05 - Proposed Internal Views - Entrance Lobby and Reception
FS0200-STL-ZZ-XX-VS-A-0061 P05 - Proposed Internal Views - Chapel Entrance from Corridor
FS0200-STL-ZZ-XX-VS-A-0062 P05 - Proposed Internal Views - View of Main Stair
FS0200-STL-ZZ-XX-VS-A-0063 P05 - Proposed Internal Views - Main Hall
FS0200-STL-ZZ-XX-VS-A-0064 P05 - Proposed Internal Views - Dining Student Entrance
FS0200-STL-ZZ-XX-VS-A-0065 P05 - Proposed Internal Views - Dining View from Staff Office
FS0200-STL-ZZ-XX-VS-A-0066 P05 - Proposed Internal Views - Library
FS0200-STL-ZZ-XX-VS-A-0067 P05 - Proposed Internal Views - Sixth Form
FS0200-STL-ZZ-XX-VS-A-0068 P05 - Proposed Internal Views - General Classroom
FS0200-STL-ZZ-XX-VS-A-0069 P05 - Proposed Internal Views - Science Classroom

Phase 1 Plans

211_1B_01_01 – Block 1B Site Plan
211_1B_02_00 – Block 1B Ground and First Floor Plan
211_1B_02_01 – Block 1B Second Floor Roof Plan
211_1B_04_01 – Block 1B North and East Elevations
211_1B_04_02 – Block 1B South and West Elevations
211_1B_05_01 – Block 1B Cross Section AA and BB
211_1C_01_01 – Block 1C Site Plan
211_1C_02_00 Rev C– Block 1C Ground Floor Plan
211_1C_02_01 Rev C– Block 1C First Floor Plan
211_1C_02_02 Rev C – Block 1C Second Floor Plan
211_1C_02_03 Rev C – Block 1C Third Floor Plan
211_1C_02_04 Rev C – Block 1C Fourth Floor Plan
211_1C_02_05 Rev C – Block 1C Fifth Floor Plan
211_1C_02_06 Rev C – Block 1C Sixth Floor Plan
211_1C_02_07 Rev C – Block 1C Seventh Floor Plan
211_1C_02_08 Rev C – Block 1C Eighth Floor Plan
211_1C_02_09 Rev C – Block 1C Ninth Floor Plan
211_1C_02_10 – Block 1C Roof Plan
211_1C_05_01 – Block 1C Cross Section AA and BB
211_C_09_01 - Block C_1 Bedroom Apartment type 01 & 02
211_C_09_02 - Block C_1 Bedroom Apartment type 03, 04 & 05
211_C_09_03 - Block C_1 Bedroom Apartment type 06 & 07
211_C_09_04 - Block C_1 Bedroom Apartment type 08 & 09
211_C_09_05 - Block C_1 Bedroom Apartment type 10, 11 & 12
211_C_09_06 - Block C_2 Bedroom Apartment type 01 & 02
211_C_09_07 - Block C_2 Bedroom Apartment type 03 & 04
211_C_09_08 - Block C_2 Bedroom Apartment type 05 & 06
211_C_09_09 - Block C_2 Bedroom Apartment type 07 & 08
211_C_09_10 - Block C_2 Bedroom Apartment type 09 & 10

211_C_09_11 - Block C_2 Bedroom Apartment type 11 & 12
211_C_09_12 - Block C_2 Bedroom Apartment type 13
211_C_09_13 - Block C_2 Bedroom Apartment type 14 & 15
211_C_09_14 - Block C_3 Bedroom Apartment type 01
211_C_09_15 - Block C_3 Bedroom Apartment type 02
211_C_09_16 - Block C_3 Bedroom Apartment type 03 & 04
211_C_09_17 - Block C_3 Bedroom Duplex Apartment type 01
211_1C_04_01 Rev C – Block 1C North and East Elevations
211_1C_04_02 Rev B – Block 1C South and West Elevations
211_1D_01_01 – Block 1D Site Plan
211_1D_02_00 Rev A – Block 1D Ground Floor Plan
211_1D_02_01 Rev C – Block 1D First Floor Plan
211_1D_02_02 Rev C – Block 1D Second Floor Plan
211_1D_02_03 Rev C – Block 1D Third Floor Plan
211_1D_02_04 Rev C – Block 1D Fourth Floor Plan
211_1D_02_05 Rev C – Block 1D Fifth Floor Plan
211_1D_02_06 Rev C – Block 1D Sixth Floor Plan
211_1D_02_07 Rev C – Block 1D Seventh Floor Plan
211_1D_02_08 Rev C – Block 1D Eighth Floor Plan
211_1D_02_09 Rev C – Block 1D Ninth Floor Plan
211_1D_02_10 – Block 1D Roof Plan
211_1D_05_01 - Block 1D_Cross Section AA & BB
211_D_09_01 - Block D_1 Bedroom Apartment type 01 & 02
211_D_09_02 - Block D_1 Bedroom Apartment type 03 & 04
211_D_09_03 - Block D_1 Bedroom Apartment type 05 & 06
211_D_09_04 - Block D_1 Bedroom Apartment type 07 & 08
211_D_09_05 - Block D_1 Bedroom Apartment type 09 & 10
211_D_09_06 - Block D_1 Bedroom Apartment type 11 & 12
211_D_09_07 - Block D_1 Bedroom Apartment type 13
211_D_09_08 - Block D_1 Bedroom Apartment type 14
211_D_09_09 - Block D_1 Bedroom Apartment type 15
211_D_09_10 - Block D_2 Bedroom Apartment type 01 & 02
211_D_09_11 - Block D_2 Bedroom Apartment type 03 & 04
211_D_09_12 - Block D_2 Bedroom Apartment type 05 & 06
211_D_09_13 - Block D_2 Bedroom Apartment type 07 & 08
211_D_09_14 - Block D_2 Bedroom Apartment type 09
211_D_09_15 - Block D_2 Bedroom Duplex Apartment type 01
211_D_09_16 - Block D_3 Bedroom Apartment type 01
211_D_09_17 - Block D_3 Bedroom Apartment type 02
211_D_09_18 - Block D_3 Bedroom Apartment type 03
211_D_09_19 - Block D_3 Bedroom Apartment type 04
211_D_09_20 - Block D_3 Bedroom Apartment type 05
211_D_09_21 - Block D_3 Bedroom Apartment type 06
211_D_09_22 - Block D_3 Bedroom Apartment type 07
211_D_09_23 - Block D_3 Bedroom Apartment type 08
211_D_09_24 - Block D_3 Bedroom Duplex Apartment type 01
211_D_09_25 - Block D_3 Bedroom Duplex Apartment type 02

211_D_09_26 - Block D_4 Bedroom Apartment type 01
211_D_09_27 - Block D_4 Bedroom Apartment type 02
211_1D_04_01 Rev C – Block 1D North and East Elevation
211_1D_04_02 Rev B – Block 1D South and West Elevation
211_02_001 - Block 1C & 1D Basement Floor Plan
211_1E_01_01 – Block 1E Site Plan
211_1E_02_001 – Block 1E Basement Floor Plan
211_1E_02_00 – Block 1E Ground Floor Plan
211_1E_02_01 Rev A – Block 1E First Floor Plan
211_1E_02_02 Rev A – Block 1E Second Floor Plan
211_1E_02_03 Rev A – Block 1E Third Floor Plan
211_1E_02_04 Rev A – Block 1E Fourth Floor Plan
211_1E_02_05 Rev A – Block 1E Fifth Floor Plan
211_1E_02_06 Rev A – Block 1E Sixth Floor Plan
211_1E_02_07 Rev A – Block 1E Seventh Floor Plan
211_1E_02_08 Rev A – Block 1E Roof Plan
211_1E_04_01 Rev A – Block 1E North and East Elevation
211_1E_04_02 Rev A – Block 1E South and West Elevation
211_1E_05_01 Rev A - Block 1E Cross Section AA and BB
211_E_09_01 Rev A – Block E_1 Bedroom Apartment Type 01 and 02
211_E_09_02 - Block E_1 Bedroom Apartment type 03 & 04
211_E_09_03 Rev A – Block E_1 Bedroom Apartment Type 05 and 06
211_E_09_04 Rev A – Block E_1 Bedroom Apartment Type 07 and 08
211_E_09_05 - Block E_2 Bedroom Apartment type 01 & 02
211_E_09_06 - Block E_2 Bedroom Apartment type 03 & 04
211_E_09_07 - Block E_3 Bedroom Apartment type 01
211_E_09_08 Rev A – Block E_2 Bedroom Duplex Apartment Type 01
211_E_09_09 Rev A – Block E_2 Bedroom Duplex Apartment Type 02
211_E_09_10 Rev A – Block E_3 Bedroom Duplex Apartment Type 01
211_E_09_11 Rev A – Block E_3 Bedroom Duplex Apartment Type 02
211_1F_01_01 – Block 1F Site Plan
211_1F_02_00 – Block 1F Ground Floor Plan
211_1F_02_01 Rev B – Block 1F First Floor Plan
211_1F_02_02 Rev B – Block 1F Second Floor Plan
211_1F_02_03 Rev B – Block 1F Third Floor Plan
211_1F_02_04 Rev B – Block 1F Fourth Floor Plan
211_1F_02_05 Rev B – Block 1F Fifth Floor Plan
211_1F_02_06 - Block 1F Sixth Floor Plan
211_1F_02_07 - Block 1F Seventh Floor Plan
211_1F_02_08 - Block 1F Roof Plan
211_1F_05_01 - Block 1F Cross Section AA & BB
211_F_09_01 - Block F_1 Bedroom Apartment type 01 & 02
211_F_09_02- Block F_2 Bedroom Apartment type 01 & 02
211_F_09_03 - Block F_2 Bedroom Apartment type 03 & 04
211_F_09_04 – Block F_2 Bedroom Apartment type 05
211_F_09_05 - Block F_3 Bedroom Apartment type 01
211_F_09_06 – Block F_3 Bedroom Apartment type 02

211_F_09_07 - Block F_3 Bedroom Apartment type 03
211_1F_04_01 - Block 1F North and East Elevation
211_1F_04_02 Rev B – Block 1F South and West Elevation

Landscape Drawings (detailed phase)

HED-1140-RBP-P1-1001 – Phase 01 GA
HED-1140-RBP-P1-1002 – Hard Landscaped Area 01 (LR)
HED-1140-RBP-P1-1003 – Hard Landscaped Area 02
HED-1140-RBP-P1-1004 – Hard Landscaped Area 03
HED-1140-RBP-P1-1005 – Landscape Planting Area 01
HED-1140-RBP-P1-1006 – Landscape Planting Area 02
HED-1140-RBP-P1-1007 – Landscape Planting Area 03
HED-1140-RBP-P1-1013 – Trees for Retention Proposed Removal Plan
HED-1140-RBP-P1-1014 – Landscape Terraces
HED-1140-RBP-P1-1016 – Residential Street
HED-1140-RBP-P1-1017 – Lake and Board Walk
HED-1140-RBP-P1-1018 – Private Gardens
HED-1140-RBP-P1-1019 – Bike Shelter with Cycle Stands
HED-1140-RBP-P1-1020 – Parkway Street Section
HED-1140-RBP-P1-1021 – Intensive Green Roof
HED-1140-RBP-P1-1022 – Green Roof Strategy
HED-1140-RBP-P1-1023 – Play Areas Park 1
HED-1140-RBP-P1-1024 – Play Areas Park 2
HED-1140-RBP-P1-1025 – Play Areas Courtyard 01
HED-1140-RBP-P1-1026 – Play Areas Courtyard 02
HED-1140-RBP-P1-1027 – Play Areas Courtyard 03
HED-1140-RBP-P1-1028 – Play Areas Courtyard 04
HED-1140-RBP-P1-1029 – Play Equipment
HED-1140-RBP-P1-1030 – Sustainable Drainage
HED-1140-RBP-P1-1031 – Hard Landscape Finish 1
HED-1140-RBP-P1-1032 – Hard Landscape Finish 2
HED-1140-RBP-P1-1033 – Hard Landscape
HED-1140-RBP-P1-1034 – Street Furniture
HED-1140-RBP-P1-1035 – Fences and Gates
HED-1140-RBP-P1-1036 – Planting Details
HED-1140-RBP-P1-1037 – Green Screen
HED-1140-RBP-P1-1038 – Landscape Terrace Principles
HED-1140-RBP-P1-1039 – Landscape Terraces
HED-1140-RBP-P1-1040 – Planting Mix Images
HED-1140-RBP-P1-1041 – Entrances Sections 01
HED-1140-RBP-P1-1042 – Landscape Sections 02
HED-1140-RBP-P1-1043 – Landscape Sections 03
HED-1140-RBP-P1-1044 – Urban Greening Factor

Landscape Plans (Outline Phase)

HED-1140-RBP-LA-1001 – Illustrative Plan
HED-1140-RBP-LA -1002 – Phasing Plan

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| | <p>HED-1140-RBP-LA -1003 – General Arrangement Plan - Park HED-1140-RBP-LA -1004 – Landscape Sections – The Parkway HED-1140-RBP-LA -1005 – Landscape Sections – Park North HED-1140-RBP-LA -1006 – Landscape Sections – Central Park South HED-1140-RBP-LA -1007 – Landscape Sections - Courtyard HED-1140-RBP-LA -1008 – Trees for Retention Proposed Removal HED-1140-RBP-LA -1009 – Planting Strategy HED-1140-RBP-LA -1010 – SUDs Strategy Plan HED-1140-RBP-LA -1011 – Urban Greening Factor</p> <p><i>Highways Drawings, prepared by Stomor</i> ST-3013-717-Brunswick Park Road Signalised Access Option with Right Turn Lane and ASL ST-3013-700-Means of Access Rev 5 ST-3013-804-Swept Path Analysis-Fire Tender Site Access ST-3013-805-Swept Path Analysis-Refuse Vehicle 9.6 Brunswick Park Rd</p> | |
| 2 | <p>Either Phase 0, or Phase 1, hereby permitted shall begin no later than 3 years from the date of this permission.</p> | <p>Appellant's proposed wording agreed.</p> |
| 3 | <p>In respect of each of Phase 0 and Phase 1, no development in the relevant Phase, other than Ground Works and Site Preparation Works (site clearance, site hoarding, decontamination and demolition) shall commence until a Construction Environmental Management Plan in respect of the relevant Phase, setting out the construction and environmental management measures associated with the development of that phase (either 0 or 1), has been submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the ES and shall include:</p> <p><i>Construction site and works</i></p> <ul style="list-style-type: none"> i. Site information (including a site plan and management structure); ii. Description of works, equipment and storage; iii. Programme of works; iv. Temporary hoarding and fencing; v. Temporary works; vi. Interim drainage strategy; vii. Intrusive site investigation works and monitoring (the scope to be agreed in writing with the Local Planning Authority); <p><i>Construction management and procedures</i></p> <ul style="list-style-type: none"> viii. Code of Construction Practice; ix. Consultation and neighbourhood liaison; x. Staff training and briefing procedures; xi. Schedule of environmental legislation and good practice; xii. Register of permissions and consents required; xiii. Environmental Audit Programme; | <p>Agree with Appellant that if 23/2436/CON is approved before this permission is granted, Condition 3 will be updated so that part of this condition relating to Phase 0 cross-refers to being in accordance with the above application instead.</p> |

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| | <p>xiv. Environmental Risk Register; xv. Piling Works Risk Assessment; xvi. Health and safety measures; xvii. Complaints procedures; xviii. Monitoring and reporting procedures;</p> <p><i>Demolition and waste management</i></p> <p>xix. Demolition audit; xx. Site clearance and waste management plan; xxi. Asbestos survey and disposal strategy;</p> <p><i>Construction traffic</i></p> <p>xxii. Construction traffic routes; xxiii. Construction traffic management (including access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution)</p> <p><i>Environmental Management</i></p> <p>xxiv. Ecology surveys and management plan (as required by the ES) in relation to any existing ecological features that may be affected by works in that Development Phase. xxv. Measures to minimise visual impact during construction xxvi. Measures to minimise noise and vibration levels during construction; xxvii. Measures to minimise dust levels during construction; xxviii. Measures to control pollution during construction (including a Pollution Response Plan); xxix. Construction lighting strategy, including measures to minimise light spill; xxx. Measures to reduce water usage during construction; xxxi. Measures to reduce energy usage during construction; xxxii. Any other precautionary and mitigation measures in relation to demolition and construction as identified in the ES and the EIA Mitigation Register;</p> <p>Phase 0 and Phase 1 shall thereafter be implemented in accordance with the Construction Environmental Management Plan relevant to each individual phase as approved by the LPA.</p> | |
| 4 | <p>A contamination remediation scheme shall be submitted to and approved in writing by the Local Planning Authority before development is commenced, other than Ground Works and Site Preparation Works (site clearance, site hoarding, decontamination and demolition). The scheme shall be in accordance with the approach to remediation set out in the Environmental Statement.</p> | <p>Appellant's proposed wording agreed.</p> |

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| | The parts of the remediation scheme requiring works on the land within Phase 0 shall be implemented as approved prior to the occupation of Phase 0. The parts of the remediation scheme requiring works on the land within Phase 1 shall be implemented as approved prior to the occupation of Phase 1. | |
| 5 | In accordance with the ES, and unless otherwise agreed with the Local Planning Authority, no construction works shall occur outside of the following times: 08:00 - 18:00 hours weekdays; 08:00 - 13:00 hours Saturdays. | Appellant's proposed wording agreed. |
| 6 | Vegetation clearance should take place outside the bird breeding season (October to February). In accordance with the ES, any clearance of vegetation with the potential to support nesting birds during this period may only occur following a check by a qualified ecologist. If any active nests are found, works must cease, the area left in situ and an appropriate buffer zone established until such time as a qualified ecologist confirms that the nest is no longer in active use. | Appellant's proposed wording agreed. |
| 7 | In respect of each of Phase 0 and Phase 1, no development of the relevant Phase (with the exception of Ground Works, Site Preparation Works and demolition) shall commence until a scheme of Advanced Infrastructure Works for that phase is submitted to and approved in writing by the Local Planning Authority. The scheme shall include: i. Underground drainage details; ii. Below ground energy infrastructure; iii. Below ground services and utilities; iv. Ground Works, earthworks, contouring and levels; v. A statement of compliance with the site wide strategies Development of Phase 0 and Phase 1 shall be carried out in accordance with the approved scheme for that relevant phase. | Agree with Appellant that if 22/4279/CON is approved before this permission is granted, Condition 7 will be updated so that part of this condition relating to Phase 0 cross-refers to being in accordance with the above application instead. |
| 8 | No Surface Infrastructure Works shall commence within Phase 1 until a scheme of Landscaping Works for Phase 1 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: i. Design and location of electricity sub stations, including surface treatment and means of enclosure; ii. Vehicle parking and surfacing treatment (including petrol / oil interceptors); iii. Surface drainage details; iv. Surface materials and finishes; v. Cycle parking locations and details; vi. Highways details (e.g. crossing and kerb heights); vii. Access and wayfinding strategy; viii. Materials, types and siting of all fencing, boundary treatments, gates or other enclosures (including temporary arrangements to be in place until the site is completed in full); ix. Street furniture, lighting and signage; x. Children's play spaces and play provision; | Appellant's proposed wording agreed. |

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| | <p>xi. Details of all proposed trees, hedge, shrub and other planting and all planting proposed for green walls and other soft landscaped structures, including proposed species, plant sizing, density and arrangement;</p> <p>xii. Ecological enhancements (in accordance with ES);</p> <p>xiii. The position of any existing trees and hedges to be retained or removed and the crown spread of each retained tree;</p> <p>xiv. Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;</p> <p>xv. The position of any proposed excavation within the recommended protective distance referred to in BS5837:2012;</p> <p>xvi. Means of planting, staking and tying of trees, including tree guards, and a detailed landscape maintenance schedule for regular pruning, watering and fertiliser use.</p> <p>xvii. Details and specifications of all play, sport and recreational features to be included within the landscaped areas;</p> <p>xviii. Details of all proposed hard landscape works, including proposed materials, samples and details of special techniques to minimise damage to retained trees and details of techniques to be used to provide conditions appropriate for new plantings.</p> <p>xix. Timing of planting.</p> <p>The Landscaping Works shall be carried out in accordance with the approved details.</p> | |
| 9 | Prior to the occupation of each building within Phase 0 and Phase 1, a scheme of bird and bat boxes for that building shall be submitted to and approved in writing by the Local Planning Authority. The bird and bat boxes approved shall be installed and maintained over the lifetime of the development. | Appellant's proposed wording agreed. |
| 10 | Phase 0 and Phase 1 shall be undertaken in accordance with the drainage strategy outlined in the Environmental Statement. No foul or surface water from each of Phase 0 and Phase 1 shall be discharged into the public system until the drainage works set out in the strategy in respect of that Phase have been completed. | Appellant's proposed wording agreed. |
| 11 | If within a period of five years from the date of planting of any tree within Phase 0 or Phase 1, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place in the next available planting season. | Appellant's proposed wording agreed. |
| 12 | A Car Parking Management Strategy for Phase 1 shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of Phase 1. This should also include details of proposed electric charging and disabled parking provision. The strategy shall be in accordance with that set out in the Transport Assessment and Addendum. The Strategy shall thereafter be implemented as approved. | Appellant's proposed wording agreed. |
| 13 | 10% of residential units in Phase 1 shall be designed to be fully wheelchair accessible or easily adaptable for residents who are wheelchair users. | Appellant's proposed wording agreed. |
| 14 | Phase 0 will be carried out in accordance with approved details under 23/1282/CON or such other details submitted to and approved by the Local Planning Authority in writing. Prior to the construction of each building within Phase 1 the relevant details for that building shall be submitted to and approved in writing by the Local Planning Authority: | Appellant's proposed wording agreed. |

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| | <ul style="list-style-type: none"> i. Full details (including samples, where appropriate) of the materials and finishes to be used on all external surfaces; ii. Doors, entrances, windows (including glazing specifications) and balconies (including drawings and sections showing thresholds to adjacent internal spaces and drawings and sections of privacy screens); iii. Details of the design and access controls for the car park gate(s); iv. Building lighting; v. Podium details (including hard and soft landscaping, planting species, furniture and play provision); vi. Details of bio-diverse roofs; vii. Details of any building security measures including CCTV; <p>Development shall be carried out in accordance with the approved details and the scheme shall thereafter be maintained in secure and good working order for the lifetime of the development.</p> | |
| 15 | <p>Notwithstanding the details submitted with the application, prior to the construction of each building within Phase 0 or Phase 1, the following details shall be submitted to and approved in writing by the Local Planning Authority for that building:</p> <ul style="list-style-type: none"> i. Enclosures, screened facilities and / or internal areas of the proposed buildings to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable; ii. Satisfactory points of collection; and, iii. Details of the refuse and recycling collection arrangements. <p>The refuse and recycling facilities shall be provided fully in accordance with the approved details before the relevant block is occupied and the development shall be managed in accordance with the approved details.</p> | Agree with Appellant that if 23/4420/CON is approved before this permission is granted, Condition 15 will be updated so that part of this condition relating to Phase 0 cross-refers to being in accordance with the above application instead. |
| 16 | <p>Phase 0 will be carried out in accordance with approved details under 23/1756/CON or such other details submitted to and approved by the Local Planning Authority in writing. Prior to the construction of each building within Phase 1, details of all extraction and ventilation equipment to be installed for that building shall be submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by a report carried out by a qualified acoustic consultant that assesses the likely noise impacts from the development of the ventilation and extraction plant, and proposed mitigation measures for the development if necessary. In respect of each of Phase 0 and Phase 1, the development shall be carried out in accordance with approved details before first occupation of each relevant phase and retained as such thereafter</p> | Appellant's proposed wording agreed. |
| 17 | <p>The level of noise emitted from any plant within Phase 0 or Phase 1, including ventilation equipment hereby approved shall be at least 5dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.</p> | Appellant's proposed wording agreed. |

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| 18 | <p>Prior to the occupation of each of Phase 0 and Phase 1, details of the energy supply network for that specific phase shall be submitted to and approved in writing by the Local Planning Authority. Details shall be in accordance with the Energy Statement and Addendum and shall include:</p> <ul style="list-style-type: none"> i. Details of connections available for each building; ii. Proposals for the staged installation of plant within the energy centre and any temporary energy provision required iii. Details of safeguarded connections to an area wide heat network if found to be feasible following further engagement with the local planning authority and GLA. iv. Details of any potential future connections available to nearby buildings; v. A statement of compliance with the site wide Energy Statement and Addendum. <p>The relevant phase shall thereafter be implemented in accordance with the approved strategy.</p> | Appellant's proposed wording agreed. |
| 19 | CHP and / or biomass boilers must not exceed the Band B Emission Standards for Solid Biomass Boilers and CHP Plant as listed in Appendix 7 of the London's Plan Sustainable Design and Construction SPG document. | Appellant's proposed wording agreed. |
| 20 | Prior to the construction of any building in Phase 1, a rainwater and grey water feasibility study, investigating the potential for incorporating rainwater or grey water recycling into buildings across Phase 1, shall be submitted to and approved in writing by the Local Planning Authority | Appellant's proposed wording agreed. |
| 21 | Prior to occupation of each of Phase 0 and Phase 1, an External Lighting Assessment of lighting proposed within that specific phase shall be submitted to and approved in writing by the Local Planning Authority. The external lighting assessment submitted shall detail the existing average night time luminance and light spread levels at night, identify the levels of light pollution received at the windows to residential properties within the development and, where appropriate, identify the measures to be used to mitigate any impacts to species including bats. Any light pollution mitigation identified in the lighting assessment in respect of the relevant Phase shall be implemented in full prior to occupation of that Phase. | Appellant's proposed wording agreed. |
| 22 | In respect of each of Phase 0 and Phase 1, no building within the relevant shall be occupied until a Delivery and Servicing Management Plan in respect of each building in that respective phase has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the strategy set out in the Transport Assessment and Addendum and each building shall be carried out in accordance with the approved Plan. | Appellant's proposed wording agreed. |
| 23 | No residential unit within Phase 1 shall be occupied until the access roads and highways works (on and off-site) as identified in the Highways Drawings hereby approved through Condition 1 are made available for use. | Appellant's proposed wording agreed. |
| 24 | No residential unit within the <u>relevant</u> block in Phase 1 shall be occupied until the private and/or communal amenity space provision (excluding public open space) associated with the relevant block within which the unit is located is available for use in accordance with the approved plans. | Appellant's proposed wording agreed. |
| 25 | Prior to occupation of each residential block within Phase 1 a scheme for the provision of communal/centralised satellite and television reception equipment for that block shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed prior to first occupation of that block and shall thereafter be retained and made available for use by all occupiers of that block. | Appellant's proposed wording agreed. |
| 26 | Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and reenacting that Order) the following operations shall not be | Appellant's proposed wording agreed. |

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| | undertaken without planning permission being granted by the Local Planning Authority: The installation of any structures or apparatus for purposes relating to telecommunications or any part of the development hereby approved, including any structures or development otherwise permitted under Part 24 and Part 25 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any equivalent Order revoking and re-enacting that order. | |
| 27 | Phase 0 will be carried out in accordance with the details approved under 23/1303/CON or such other details submitted to and approved by the Local Planning Authority in writing. In respect of Phase 1 no piling within the relevant Phase shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) for the relevant phase has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement for that relevant phase. | Agree with Appellant that if 23/1303/CON is approved before this permission is granted, Condition 27 will be updated so that part of this condition relating to Phase 0 cross-refers to being in accordance with the above application instead |
| 28 | Notwithstanding the plans hereby approved and prior to the commencement of the relevant part of Phase 1 details of a scheme of measures to enhance and promote biodiversity within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of measures shall be implemented in full accordance with the approved details before Phase 1 is first occupied. | Appellant's proposed wording agreed. |
| 29 | No works within Phase 1 shall be commenced before a method statement including temporary tree protection measures, detailing the precautions to be taken to minimise damage to trees adjacent to Phase 1, in accordance with British Standard BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of the location, extent and depth of all excavations for drainage and other services in relation to trees to be retained, or trees on adjacent sites. Phase 1 shall be carried out in full accordance with the approved details. | Appellant's proposed wording agreed. |
| 30 | Cycle parking for Phase 0 and Phase 1 shall be provided in accordance with the approved plans and in respect of each Phase, shall be available for use prior to occupation of that phase, and shall be maintained thereafter | Appellant's proposed wording agreed. |
| 31 | Before Blocks 1E and 1F hereby permitted are first occupied windows in the eastern wing elevations of these blocks facing properties in Howard Close and Brunswick Park Gardens shall be non-openable below 1.7m and glazed with obscure glass only, and shall be permanently retained as such thereafter | Appellant's proposed wording agreed. |
| 32 | In relation to archaeological recording, (a) For Phase 0, the development shall be carried out in accordance with the Written Scheme of Investigation approved under 23/1281/CON. Other than infrastructure and demolition works in relation to Phase 1, no development within Phase 1 shall take place until a Written Scheme of Investigation has been submitted to and agreed in writing by the Local Planning Authority.. (b) Prior to occupation of the relevant Phase 1, a programme of archaeological recording of the existing air raid shelters and any finds of industrial heritage, in accordance with the written scheme of investigation approved under (a), will be submitted to and agreed in writing by the Local Planning Authority | Agree with the Appellant that if 22/0625/CON is approved before this permission is granted, Condition 32 will be updated so that part of this condition relating to Phase 1 cross-refers to being in accordance with the above application instead. |
| 33 | The development of the outline elements of the proposal hereby permitted shall be carried out in accordance with the following approved plans: <i>Parameter Plans</i> 211_WS_02_00 - Red Line Boundary Plan | Appellant's proposed wording agreed. |

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| | <p>211_WS_02_01 Rev D – Proposed Development Zone Plan 211_WS_02_02 - Access & Circulation Zone 211_WS_02_03 - Landscape Treatment Plan 211_WS_02_04 - Ground Floor Frontages Plan 211_WS_02_05 Rev A – Development Zones and Maximum Heights 211_WS_02_06 Rev A – Site Plan 211_WS_02_07 - Development Zones - Horizontal Limits of Deviation 211_WS_02_08 - Proposed Site Levels & Vertical Limits of Deviation 211_WS_02_09 - Proposed Site Basement Levels & Limit of Deviation 211_WS_05_01 - Contextual Sections AA BB 211_WS_05_02 - Contextual Sections CC 211_WS_05_03 - Parameter Sections 1 - 4 211_WS_05_04 Existing Sections 1 – 4</p> <p><i>Supporting Documents</i> Design Principles Document (August 2021)</p> <p><i>Landscape Plans (Outline Phase)</i> HED-1140-RBP-LA-1001 – Illustrative Plan HED-1140-RBP-LA -1002 – Phasing Plan HED-1140-RBP-LA -1003 – General Arrangement Plan - Park HED-1140-RBP-LA -1004 – Landscape Sections – The Parkway HED-1140-RBP-LA -1005 – Landscape Sections – Park North HED-1140-RBP-LA -1006 – Landscape Sections – Central Park South HED-1140-RBP-LA -1007 – Landscape Sections - Courtyard HED-1140-RBP-LA -1008 – Trees for Retention Proposed Removal HED-1140-RBP-LA -1009 – Planting Strategy HED-1140-RBP-LA -1010 – SUDs Strategy Plan HED-1140-RBP-LA -1011 – Urban Greening Factor</p> | |
| 34 | <p>Applications for the approval of reserved matters (being scale, layout, appearance and landscaping) for Phases 2, 3, 4 and 5 shall be made to the Local Planning Authority before the following:</p> <p>i. Applications for Reserved Matters for Phase 2 shall be made within 3 years from the date of this permission; ii. Applications for Reserved Matters for Phase 3 shall be made within 4 years from the date of this permission; iii. Applications for Reserved Matters for Phase 4 shall be made within 5 years from the date of this permission; iv. Applications for Reserved Matters for Phase 5 shall be made within 7 years from the date of this permission.</p> | Appellant's proposed wording agreed. |

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| 35 | The development hereby permitted in the later phases shall begin no later than 2 years from the final approval of the last Reserved Matters application in relation to each phase made pursuant to Condition 34. | Appellant's proposed wording agreed. |
| 36 | <p>As part of Reserved Matters applications, details of the energy supply for each building in Development Phases 2 - 5 shall be submitted to and approved in writing by the Local Planning Authority. Details shall accord with the Energy Statement and Addendum or any Energy Statement or Addendum subsequently approved by the Council and shall include:</p> <p>i. Details of the energy supply for each building connection, including a statement of compliance with the Energy Statement and Addendum;</p> <p>ii. Details of any temporary energy provision required;</p> <p>iii. A statement of compliance with the site wide Energy Statement and Addendum</p> | Appellant's proposed wording agreed. |
| 37 | The development shall be carried out in accordance with the approved phasing plans which show development phases 0 to 5, or in accordance with such alternative phasing details as submitted to and approved in writing by the Local Planning Authority. | Appellant's proposed wording agreed. |
| 38 | No development shall be occupied until confirmation has been provided that either:- 1. Capacity exists off site to serve the development, or 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or 3. All wastewater network upgrades required to accommodate the additional flows from the development have been completed. | Appellant's proposed wording agreed. |
| 39 | No development other than demolition of any phase other than Phase 0 shall take place until a detailed surface water drainage strategy has been submitted to, and approved in writing by the London Borough of Barnet Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. | Appellant's proposed wording agreed. |
| 40 | The development, including any works of demolition shall be carried out in full accordance with the Air Quality Assessment and Air Quality Neutral Assessment as submitted in accordance with the Environmental Statement. | Appellant's proposed wording agreed. |
| 41 | The development shall be carried out in accordance with the fire prevention measures stated in the fire strategy by Dr Raymond Connolly at Fire Risk Solutions hereby approved. | Appellant's proposed wording agreed. |
| 42 | Prior to above ground works of a building within the relevant Development Plot, details shall be submitted demonstrating that the building has been designed using the principles of Secure by Design. The development shall be carried out in accordance with the approved details and thereafter retained. | Appellant's proposed wording agreed. |
| 43 | <p>Within 6 months of completion, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the Circular Economy Statement, prepared by Greengage approved pursuant to this application, shall be submitted to the GLA at: circulareconomystatements@london.gov.uk, along with any supporting evidence as per the GLA's Circular Economy Statement Guidance.</p> <p>The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation</p> | Appellant's proposed wording agreed. |
| 44 | Prior to commencement details of works within Phase 2: The following shall be undertaken : | Appellant's proposed wording agreed. |

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| | <p>i) Details of the required translocation shall be submitted and approved by the LPA in line with the recommendations outlined within Section 5.5 of the submitted Phase 2 Ecology Survey Report (Greengage Environmental Ltd, September 2021). The details shall include the timing of the translocation, the persons responsible, the location of the required reptile exclusion fencing, and the reptile protection and mitigation measures necessary to complete the translocation, and the supervised clearance measure for the removal of suitable sheltering and hibernation habitat within phase 2.</p> <p>ii) The translocation works shall be undertaken in strict accordance with the approved translocation details outlined above. The reptiles captured shall be translocated to the to be approved receptor site in accordance with the agreed S106 agreement.</p> <p>iii) The field data on the translocation including the number, age and species or reptiles translocated shall be collated and submitted within the conditioned Reptile Mitigation Strategy.</p> | |
| 45 | <p>Prior to the commencement of any ground-breaking works with Phase 2 (including mobilisation, and ground works) a detailed Reptile Mitigation Strategy must be submitted to the Local Planning Authority and be approved.</p> <p>This document is to include the following:</p> <p>i) Reptile surveys to be undertaken within the remnant habitat for 21 days during the active reptile survey season (March to July and September inclusive).</p> <p>ii) Detailed mitigation plan outlining the measures to enhance the site for reptiles, the location and specification of the reptile exclusion fencing and, the methods for undertaking the required 30-day translocation.</p> <p>iii) The 30-day translocation exercise shall be undertaken during the active reptile survey season (April to July, September). All reptiles captured during the translocation exercise shall be carefully translocated to the receptor site to be agreed within the S106.</p> <p>iv) Details of protective measures for avoidance of harm to existing reptiles on site and on adjoining land.</p> <p>v) The result of the translocation exercise shall be provided to the Local Authority within the document.</p> <p>vi) Details of the appointed Ecologist who will oversee all aspects of the safeguarding of onsite ecology and habitats.</p> | Appellant's proposed wording agreed. |
| 46 | <p>Prior to commencement of works in the relevant phase, a detailed Landscape and Ecological Management Plan (LEMP) (BNG) and supporting plan that demonstrates the habitat creation, enhancement, management and monitoring measures that will result in the expected biodiversity net gain including water features shall be submitted and approved by the local planning authority.</p> <p>1. This document shall include details of habitat creation, enhancement measures for biodiversity gains that accord with the submitted Defra Metric calculation within the Biodiversity Impact Assessment of "4.06 % for area-based units and a net gain of 77.70% for hedgerow units" (Greengage, August 2021). This shall be incorporated into the scheme of the hard and soft landscaping, of the development. This scheme will include details of existing trees to be retained and size, species, planting heights, densities, positions of any soft landscaping, and habitat enhancements such as bird and bat boxes log piles etc appropriate to location shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development.</p> | Appellant's proposed wording agreed. |

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| | <p>2. All work comprised in the approved scheme of landscaping and biodiversity enhancements shall be carried at the most optimal time wildlife and plantings. All works must be completed within 12 months after occupation before the end of the first planting and seeding season and when most optimal for when following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.</p> <p>3. An updated Biodiversity Impact Assessment using the Defra 3.0 tool will be required prior to commencement of occupancy, in which it will be required to show that the final design delivers a net gain.</p> <p>4. Details for the required monitoring of the habitats over a mandatory 30 year period including person responsible, timing shall be submitted and a condition assessment shall be undertaken periodically over the 30 year period and contingency landscaping measures put in place to remediate any habitats which are not projected to achieve their desired BNG condition and score.</p> | |
| 47 | <p>Prior to occupation of the relevant phase of the development hereby approved, details of external lighting proposed within that Development Plot shall be submitted to and approved in writing by the Local Planning Authority. The details of the external lighting shall include the existing average night time luminance and light spread levels across the application site at night, identify the levels of light pollution received at the windows to residential properties within proposed development and, where appropriate, identify the measures to be used to mitigate the impacts of light pollution on the future occupiers proposed dwellings as well as mitigate any impacts to species including bats. Any light pollution mitigation identified shall be implemented in full prior to occupation of the relevant phase.</p> | Appellant's proposed wording agreed. |
| 48 | <p>Prior to first occupation of any development plot within the Phases 2, 3, 4 and 5 of this development a Car Parking Management Plan demonstrating compliance with the Site Wide Car Parking Strategy shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed, the details shall include:</p> <ul style="list-style-type: none"> i. Location and layout of car parking spaces; ii. Allocation of car parking spaces (for residential, non-residential users and visitors); iii. On-site parking controls and charges (if any); iv. The enforcement details of unauthorised parking in line with the Council's parking regime in Colindale within the development's surrounding area; v. 'Blue badge' space quantities in accordance with the London Plan; vi. Location of car club space (if required) in accordance with Site Wide Parking Strategy; vii. Electric Charging Points: Location and specification. For residential parking spaces, delivery of the 20% of parking spaces which shall be active and 20% which shall be passive electric charging points. For non-residential spaces, provision at 20% of spaces shall be undertaken with potential provision at a further 10% of spaces; viii. Car parking reconciliation (evidence that the number of vehicular spaces proposed for each Development Plot is proportionate having to the Site Wide Parking Strategy); | Appellant's proposed wording agreed. |

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| | The car parking spaces shall not thereafter be used for any purpose other than for the parking and turning of vehicles associated with the development. The Car Parking Management Plan and the abovementioned provisions shall be implemented in accordance with the approved details before the buildings hereby permitted are occupied and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority. | |
| 49 | Prior to above ground works for each Development Plot further details of cycle parking including the location and number of cycle spaces and cycle storage facilities in accordance with the London Plan should be submitted to and approved by the Local Planning Authority and such spaces shall be permanently retained thereafter. Minimum aisle widths, as set out in London Cycling Design Standards, must be met and 5% of space should be provided for the storage of non-standard cycles. | Appellant's proposed wording agreed. |
| 50 | Across the permitted scheme, within Phases 0-5, no building heights shall exceed 13 storeys (including ground floor) as shown on the approved parameter plans unless otherwise approved in writing by the Local Planning Authority | Appellant's proposed wording agreed. |

Appendix 2

Appeal Reference APP/N5090/W/23/3330577

North London Business Park – RfR1 (Views) Scott Schedule – v3

| Refusal Reason/Issue | | |
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| RfR1 | | |
| The proposed development would, by virtue of its excessive height, scale, and massing, result in a discordant and visually obtrusive form of development that would demonstrably fail to respect the local context and established pattern of development when viewed from the west of the site on Fernwood Crescent, Denham Road, Oakleigh Close and Oakleigh Road North as well as New Southgate Cemetery to the East, to the detriment of the character and appearance of the area, and the visual amenity of adjoining residential occupiers. The proposal would therefore not create a high-quality development, not constitute a sustainable form of development and would be contrary to the provisions of the NPPF, Policies D3, D4 and D9 of the London Plan 2021 and policies CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies 2012. | | |
| | Summary of Appellant's Position | Summary of Council's Position |
| The proposed development is of an excessive height, scale and massing...when viewed from the west of the site on: | | |
| RfR1 View 1 (R1-V1) | | |
| Fernwood Crescent | <p>The image in the Appeal Scheme TVIA (TVIA view 16) shows the parameter plan volumes. In the completed project the view would be of a high quality development with appropriate details and materials designed accordance with the design guidelines and subject to reserved matters approval by the local authority.</p> <p>Part of the Appeal Scheme would appear in the background of the view. It would appear at a lower apparent height than houses close to the viewpoint; the height, scale and massing are appropriate and not excessive. The Appeal Scheme could be clearly understood as lying in the middle distance, on the other side of the railway line.</p> <p>The Appeal Scheme would appear as a coherent set of buildings, with variation in the heights and forms of the buildings providing some visual interest on the skyline.</p> <p>The Appeal Scheme would be more noticeable than the Existing Scheme in this view because the blocks are taller, but as with the Existing Scheme it would not be discordant or visually obtrusive.</p> | <p>The immediate character along Fernwood Crescent is traditionally suburban – 2-3 storey residential properties, which is the defining characteristic of the immediate area, and indeed across the borough.</p> <p>In this immediate low rise residential context, buildings as high as 13 storeys would appear starkly out of keeping, and a significant increase on the approved scheme – which strikes a better balance in assimilating into the existing context.</p> <p>The visual impact would be only partly relieved by the buffer of the railway line, but this would not have the effect of suitably mitigating against the out of keeping scale and height of the buildings when seen in the immediate context, which is clearly discernible.</p> <p>The height, scale and massing are considered excessive in this setting, in contrast to the established pattern of development, and harmful to the visual amenity of the area.</p> |
| RfR1 View 2 (R1-V2) | | |
| Denham Road | The view image, to be provided for the inquiry, is not available at the time of writing. The viewpoint is comparable with V1 and the same comments will apply in general terms. | The appellant is in the process of providing a TVIA View for Denham Road, but the council analysis is the same as above, Denham Road is a residential road that runs parallel to Oakwood Crescent and it is anticipated the views will confirm the impacts, as per the council's case, will be broadly similar. |
| RfR1 View 3 (R1-V3) | | |
| Oakleigh Close and Oakleigh Road North | The image in the Appeal Scheme TVIA (TVIA view 18) shows the parameter plan volumes. In the completed project the view would be of a | The council consider, whilst TVIA Views are very useful in forming positions on impacts, much better appreciation is achieved as part of a kinetic experience |

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| | <p>high quality development with appropriate details and materials designed accordance with the design guidelines and subject to reserved matters approval by the local authority.</p> <p>The Appeal Scheme would appear behind buildings on Oakleigh Close, in the background of the view. The Appeal Scheme would appear noticeably lower than the buildings on Oakleigh Road North; the height, scale and massing are appropriate and not excessive. The Appeal Scheme could be clearly appreciated as lying in the middle distance, on the other side of the railway line.</p> <p>The variation in the height and form of the buildings within the proposed development would provide visual interest on the skyline, in contrast to the monotonous roof line of the existing buildings on the Site.</p> <p>The Appeal Scheme would be more noticeable than the Existing Scheme in this view because the blocks are taller, but as with the Existing Scheme it would not be discordant or visually obtrusive.</p> | <p>on the ground – such as at an officer site visit, or in this case during the appeal site visit, whilst walking the streets.</p> <p>For example, whilst TVIA 18 is labelled “Oakleigh Close and Oakleigh Road North” - view 19 is labelled “Oakleigh Road South” but is part of Oakleigh Road North, and as per the council Statement of Case, the impacts can be appreciated from this viewpoint, and at other parts of Oakleigh Road North.</p> <p>The buildings, when viewed from Oakleigh Close and Oakleigh Road North, are set back but would be clearly perceptible, and notwithstanding this, the buildings as a whole would still be seen as a tall, dominant, bulky and materially out of scale form of development when seen against the surrounding lower set residential buildings.</p> <p>The effect would be to materially disrupt the general consistency of height to the buildings within the residential streets, thereby causing unacceptable harm to the positive and distinctive characteristic of the immediate locality.</p> <p>The height, scale and massing are considered excessive in this setting.</p> |
| RfR1 View 4 (R1-V4) | | |
| (and) New Southgate Cemetery to the East | <p>The image in the Appeal Scheme TVIA (TVIA view 7) shows the detailed design for Phase 0 and 1 buildings and parameter plan volumes for some Phase 3 buildings. In the completed project the view of the Phase 3 buildings would be of a high quality development with appropriate details and materials designed accordance with the design guidelines and subject to reserved matters approval by the local authority; the form and massing of the Phase 0, 1 and 3 building relate coherently as a group.</p> <p>The Appeal Scheme would appear in the middle distance, forming a background layer of development within the view. While the apparent scale of the buildings within the Appeal Scheme would be greater than that of existing buildings, its overall scale would sit comfortably in the view, and there would be variety in the height and scale of the visible buildings. The height, scale and massing as seen in this view are appropriate and not excessive.</p> <p>The school would form a calm backdrop for the cemetery entrance gates. The apartment blocks within Phase 1 would be the most visible elements within the Appeal Scheme, particularly Block D, although they would be obscured by the trees to some extent. They would appear as high quality residential buildings, with the use of brick relating well to the school and existing buildings outside the Site.</p> <p>The Appeal Scheme would be more noticeable than the Existing Scheme in this view because the blocks are taller, but as with the Existing Scheme it would not be discordant or visually obtrusive.</p> | <p>Immediately to the north-east of the site is New Southgate Cemetery. The cemetery is bordered by housing, typically 2 stories in height, or other areas of open land. The cemetery maintains the local suburban scale, which is a positive attribute of the local area.</p> <p>The appeal scheme would dominate this setting, and proposes a significant increase in development when view from the cemetery.</p> <p>The extant scheme does not impact unduly on the existing suburban setting. In contrast the appeal scheme would dominate the outlook in this direction.</p> <p>From views using the cemetery, the sheer heights, bulk and scale of the proposed buildings would be harmful to the overall lower set scale that is a character trait of the area.</p> |

Appendix 3

Design Review

North London Business Park

Date Thursday 15th April 2021, 09:30 – 12:30
Venue Online via Zoom

Design Advisors

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|----------------|---------------------|
| Fred Manson | Chair |
| Mellis Haward | Archio |
| Heike Neurohr | Hawkins Brown |
| Esther Kurland | Urban Design London |
| Paul Dodd | Urban Design London |

Guests

| | |
|-----------------------------|-------------------|
| Des Twomey | Plus Architecture |
| Dafydd Coe | HED |
| Charles Mills | Daniel Watney |
| Nadia Shojaie | Daniel Watney |
| Paula Cullen | Stomor |
| Simon Young | Stomor |
| Jack O'Brien | Comer Homes |
| David Donnellan | Comer Homes |
| Brian Comer | Comer Homes |
| Paul Kerwood | MKPQ |
| Andrew Dillon | LB Barnet |
| Konstantinos Kalogeropoulos | LB Barnet |
| Athina Gkremi | LB Barnet |
| Syndsey Ballet | LB Barnet |

Observers

| | |
|--------------------|---------------------|
| Matilde Migliorero | Urban Design London |
| Susan May | Urban Design London |
| Michela Leoni | WCC |

Introduction

The Chair welcomed the Design Team and the Panel to the Design Review. The Panel confirmed there were no conflicts of interest. The Review was undertaken online.

Des Twomey (Plus Architecture) and Dafydd Coe (HED) presented the scheme.

The site is located in the London Borough of Barnet, c.8 miles to the north-west of Central London. The scheme comprises the redevelopment of North London Business Park, converting c.17 Hectares of Brownfield land to residential use. The site is currently predominantly undeveloped, with c.13 Hectares of the site occupied by grassland, a lake and unplanned vegetative cover. Principle structures on site include office buildings, an above-ground car-parking structure and an office building currently in use as a secondary school. Other structures on site include security huts, a banqueting hall and unoccupied office buildings.

The redevelopment will provide 2 to 3 storey dwellings, open spaces and landscaping improvements. New Brunswick Park will be at the heart of the development and will provide 7525m² of open space. The Masterplan is said to be designed around existing trees to maximise retention and a number of Tree Preservation Orders are in place. Biodiverse living roofs would be provided to help create multi-level green coverage. A substantial lake occupies the lower section of the site and the Masterplan proposes that this remains and the lake becomes an attractive site feature for both residents and local habitat. The most striking feature of the site is its topography.

The Design Team are currently preparing a planning application to revise a scheme granted planning permission at appeal in February 2020. The original consent was for 1,350 residential units, commercial space and a new 5 Form Entry Secondary School.

The revised scheme seeks to deliver circa 2,500 residential units, through additional height, changes to internal layouts and reduction of building access cores. When presenting the revised scheme, the Design Team focused on Phase 1 (Block C to F).

Design Review

The Chair thanked the Design Team for their presentation. The Panel discussed the scheme. The following Note summarises the Panel's view in relation to Masterplanning and Architecture.

Discussion

The Masterplan

The Panel noted the importance of the site's topography and urged the Design Team to consider how the scheme responds to this and fits in the surrounding area. The site is unique and can offer future residents a high quality of life - if designed well.

The Design Team were encouraged to consider how people will move through the new neighbourhood, the quality of the pedestrian experience, and people will get to and use the proposed open spaces. The masterplan is primarily composed of tall continuous perimeter blocks enclosing podium courtyards and the Panel queried whether this typology addresses the needs of people looking for a suburban experience taking into account what people may look for in a post-pandemic era (such as more flexible homes with working from home spaces and local working hub facilities, an increased connection to private amenity and generous public open space).

The Design Team were encouraged to set high standards for urban greening given the opportunity for integrated green and blue infrastructure the site offers. The Design Team were asked to demonstrate how they will create and maintain a biodiverse landscape across the masterplan area, linking the open spaces. They were also asked how they would response to climate change, for example by ensuring both internal and external spaces do not overheat in the summer.

The Panel welcomed the new public spaces and highlighted the need to further develop the character and intimacy of the spaces and invited the Design Team to develop a stronger interface between the new buildings, streets and spaces. For example, there is potential to remodel New Brunswick Park to provide a better quality public realm to the frontage of the proposed ground floor commercial block.

The Panel encouraged the Design Team to provide streets that; provide inclusive access for all, focus on active travel and prioritise walking and cycling over vehicle movement and access. Although the proposed street layout is both rational and connected, the Design Team should now consider how the street design will create a 'slow speed' walkable neighbourhood were vehicle traffic is subservient to pedestrian movement.

It was noted that although long uninterrupted views (along the Parkway for example) aid legibility, the Design Team should provide detailed layout plans in plan and section that demonstrate how the street design will maintain slow speeds. The Design Team were encouraged to explore the different character and function of separate streets and parts of streets, for example creating some very quiet or event vehicle free sections that relate positively to the topography, building entrances and landscaping.

The Panel stressed the importance of having a sustainable water management strategy for the entire site. The current approach to conveying surface water to the existing pond does not reflect best practice and the designer was encouraged to provide a detailed SuDS strategy that responds to the site topography and determines a SuDS management train for the site. The Panel strongly advised the Design Team to work with an experienced SuDS designer to develop a strategy which is fully integrated into the streetscape and green spaces. This approach can reduce costs and help create beautiful biodiverse neighbourhood that attract residents and increases value.

The landscape can be used to bring people together through community uses and increasing neighbours' connections. The Design Team was encouraged to carefully think about how that might manifest here in 21st century modern suburbia through green spaces, a peaceful and quiet environment and a personalised space as well as productive landscapes such as fruiting trees and allotments. The Panel thus invited the Design Team to consider how their scheme can be made into an exemplar modern suburban neighbourhood. Further exploration of opportunities to increase provision of non-residential uses which will enrich local living is encouraged.

The Design Team was asked if the existing car park could be retained to reduce the carbon footprint of the development. The Design Team should also consider how the proposed internal parking courts will be designed to allow for reuse in the future.

Architecture

The Panel advised the Design Team to carefully consider what type of housing is appropriate for this area, taking into account demand and how residents will use their homes. The Panel were not convinced that the proposed buildings would provide the most appropriate the type of homes people for this particular site. The Panel underlined the importance of homeworking – widely adopted during the Covid-19 pandemic – which is a key aspect to consider here. Housing design should be flexible enough for people to personalise their space. The Panel noted the large size of the site and suggested the creation of a variety of flexible housing typologies which could include multi-generational housing.

The Panel welcomed the simplicity of the buildings' façades and the fact that these are not overdesigned. However, comments regarding the importance of creating a positive character in this suburban location, and concern over the type and variety of homes provided, also relate to the architecture. The architecture should contribute to clear aspirations on the character to be created.

The Panel would like to see more detail on the vehicle entrance points, how servicing works and the impact on the quality of street. The ground floors of the buildings need more work – with clarity as to how internal privacy alongside overlooking of public areas will be achieved. Entrances should be clear, welcoming and good focal points for local residents. The way level changes are accommodated across the blocks should be clearly set out, ensuring views through to internal open spaces, inclusively accessible entrances and access to bin and bike stores without blank walls to streets. The panel were not convinced these issues had been resolved.

The Revised Scheme

The revised scheme seeks to increase the quantum on the site to circa 2,500 units through; improved internal efficiencies, changes in fire strategy and alterations to core arrangement and additional height. It was noted that detailed layout plans for the blocks were not provided.

The Panel were concerned with the quality of internal and external spaces that would be created. For example the blocks' internal courtyards would not be easy for people to get to would lack privacy and could be overshadowed and noisy due to the nature of the perimeter blocks proposed. As such they are unlikely to provide useful amenity space.

The reduction in cores and revised internal layouts have resulted in long internal corridors that; result in numerous single aspect units, and reduce potential for residents to access the courtyard from ground floor units and reduces the ease that all residents can both access the space and overlook it.

The Design Team was invited to refer to the GLA's recent Housing Supplementary Planning Guidance for further advice on internal layouts and different building typologies that can be used to create blocks.

In order to address these problems the Panel encouraged the Design Team to consider alternative typologies. Separate mansion blocks for example arranged as a discontinuous perimeter block would provide multiple benefits vis a vis sun lighting /daylighting to the courtyards and ground floor units, greater potential for dual aspect, greater variety of units and architectural response which in turn would provide greater value.

Summary

The current planning approval application was considered to be rationally laid out, but it will need to be thought about in fine detail going forward. The scheme should reflect people's needs and what has changed in the last few months due to the Covid-19 pandemic.

The Design Team must carefully think about how the open and private spaces within the scheme respond to the existing topography and how they will be used by the residents on a daily basis.

The Chair stressed the importance of putting any possible improvements from the previous Masterplan forward without hesitation to the Borough to consider.

With respect to the revised scheme the Panel is concerned about the quality of the proposal and does not consider that the proposed changes to the internal building layouts and the increased density across the site are currently justified on design grounds.

The Panel look forward to seeing the Scheme again as it progresses.

UDL April 2021

Appendix 4

Subject:

RE: NLBP Design Workshop 1 - Actions

From:

Sent: 06 April 2021 10:29

To:

Cc:

Subject: NLBP Design Workshop 1 - Actions

Hi all,

Following the first design workshop with [REDACTED] last Thursday, please find below the comments made by Officers and the subsequent actions arising for the team.

- **Plus** – [REDACTED] mentioned the potential use of balconies to get better aspects for north facing units. Look carefully at ground floor courtyard facing, potentially bigger windows? [REDACTED] noted the requirement for 1.5m of 'aspect' on a second flank to be considered dual aspect which we'll need to demonstrate on the tighter units;
- **Plus / HED** – Commented that Block F (Page 3) has best cores but would like to see the design celebrate entrance (height and depth all matter);
- **Plus** - Looking at Block D 2-bed unit as example - Ancillary spaces at 3.6sqm should take advantage of washing machines etc efficiency there will help (seems quite large). Quite a linear kitchen space- have another look as kitchen could be bigger;
- **HED** - [REDACTED] would like to see landscaping sections next time showing where the external stairs are located and how they will look. He mentioned that we could potentially remove some stairs and increase angles to lengthen pedestrian way;
- **HED** - Provide details of threshold spaces and highlight inclusive play. Wants to know more about how the buildings meet the street and to consider more than pedestrian experience.
- **Plus** - Overall [REDACTED] had no red flags – he wants to see how the buildings will manifest now he understands mass. [REDACTED] to work up elevations etc for next workshop.
- **Plus/ HED** – [REDACTED] mentioned that we should have more digestible plans ready for public consultation;
- **DW following receipt from Plus** - Send pdf's shown in workshop to [REDACTED]
- **DW** – Design Review Panel: [REDACTED] tying up with [REDACTED] DW to follow up
- **DW** - GLA pre app on 21 April. Send invitation to [REDACTED]
- **DW/ Barnet** - Happy to look at anything ahead of DRP (15 April) and have offered to touch base before the DRP. DW to arrange.

Kind regards,

Appendix 5

Planning and Building Control
2 Bristol Avenue, Colindale, London, NW9 4EW
Contact Number: 0208 359 4729

Comer Homes Group
C/O Agent Daniel Watney
165 Fleet Street
London
EC4A 2DW

Application Number: **21/4433/OUT**
Registered Date: 10 August 2021

TOWN AND COUNTRY PLANNING ACT 1990

REFUSAL OF OUTLINE PLANNING PERMISSION

TAKE NOTICE that the Barnet London Borough Council, in exercise of its powers as Local Planning Authority under the above Act, hereby:

REFUSES OUTLINE PLANNING PERMISSION for:

Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential-led mixed use development. The detailed element comprises up to 452 residential units in five blocks reaching 9 storeys, the provision of a 5 form entry secondary school, a gymnasium, a multi-use sports pitch and associated changing facilities and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road and; the outline element comprises up to 1,967 additional residential units in buildings ranging from three to twelve storeys, up to 7,148 sqm of non-residential floor space (use Class E and F) and public open space. Associated site preparation/enabling work, transport infrastructure and junction work, landscaping and car parking., , ,

At: North London Business Park, Oakleigh Road South, London, N11 1GN

as referred to in your application and shown on the accompanying plan(s):

For the following reason(s):

- 1 The proposed development would, by virtue of its excessive height, scale, and massing, result in a discordant and visually obtrusive form of development that would demonstrably fail to respect the local context and established pattern of development when viewed from the west of the site on Fernwood Crescent, Denham Road, Oakleigh Close and Oakleigh Road North as well as New Southgate Cemetery to the East, to the detriment of the character and appearance of the area, and the visual amenity of adjoining residential occupiers. The proposal would therefore not create a high-quality development, not constitute a sustainable

form of development and would be contrary to the provisions of the NPPF, Policies D3, D4 and D9 of the London Plan 2021 and policies CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies 2012.

INFORMATIVE(S):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.

The applicant sought formal pre-application advice which was provided. Unfortunately the submitted scheme is not considered to accord with the Development Plan. If the applicant wishes to submit a further application, the Council is willing to assist in identifying possible solutions through the pre-application advice service.

- 2 This is a reminder that should an application for appeal be allowed, then the proposed development would be deemed as 'chargeable development', defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Therefore the following information may be of interest and use to the developer and in relation to any future appeal process:

We believe that your development is liable for CIL. The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £60 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. The London Borough of Barnet first adopted a CIL charge on 1st May 2013. A new Barnet CIL Charging Schedule applies from 1 April 2022 (<https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>) which applies a charge to all residential (including sui generis residential), hotel, retail and employment uses.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL is recorded to the register of Local Land Charges as a legal charge upon a site, payable should development commence. The Mayoral CIL charge is collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail.

The assumed liable party will be sent a 'Liability Notice' providing full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the original applicant for permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice; also available from the Planning Portal website.

The Community Infrastructure Levy becomes payable upon commencement of development. A 'Notice of Commencement' is required to be submitted to the Council's CIL Team prior to commencing on site; failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of any appeal being allowed, please contact us: cil@barnet.gov.uk.

Relief or Exemption from CIL

If social housing or charitable relief applies to your development or your development falls within one of the following categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

You can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf
2. Residential Annexes or Extension: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.
3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk.

Please visit

www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil for further details on exemption and relief.

Date of Decision: 23 March 2023

Signed:



Fabien Gaudin
Service Director – Planning and Building Control

NOTE(S):

1. Your attention is drawn to the attached Schedule which sets out the rights of an applicant who is aggrieved by a decision of the Local Planning Authority.
2. This Notice relates solely to the refusal of planning permission and does not purport to convey any approval or consent which may be required under the Building Regulations or any other statutory purpose.

For more information about making a Building Regulations application, please contact the Barnet Council Building Control team by email (building.control@barnet.gov.uk), telephone (0208 359 4500), or see our website at www.barnet.gov.uk/building-control.

APPEAL GUIDANCE:

Should you (an applicant or agent) feel aggrieved by the decision of the Council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Sections 78 and 195 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning with the date of the decision notice (unless an extended period has been agreed in writing with the Council):

- Six months: Full (excluding householder and minor commercial applications), listed building (including Certificate of Lawfulness in relation to a listed building), Section 73 'variation/removal', Section 73 'minor material amendment', extension of time and prior approval applications.
- 12 weeks: Householder planning, householder prior approval and minor commercial applications.
- 8 weeks: Advertisement consent applications
- No timescale: Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued, the appeal period may be significantly reduced, subject to the following criteria:

- Where the development proposed by your application is the same or substantially the same as development that is the subject of an enforcement notice served within the last two years you must appeal within 28 days of the date of the application decision
- Where an enforcement notice is served on or after the decision date on your application relating to the same or substantially the same land and development as in your application and if you want to appeal against the Council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective date stated on the Enforcement Notice.

Appeals must be made using the prescribed form(s) of The Planning Inspectorate (PINS) obtained from www.planning-inspectorate.gov.uk or by contacting 03034445000. A copy of any appeal should be sent both to PINS and the Council.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are exceptional special circumstances. The Secretary of State can refuse to consider an appeal if the Council could not have granted planning permission for the proposed development or could not have granted without the conditions it imposed, having regard to the statutory requirements and provision of the Development Order and to any direction given under the Order. In practice it is uncommon for the Secretary of State to refuse to consider appeals solely because the Council based its decision on a direction given by the Secretary of State.

PURCHASE NOTICES:

If either the Local Planning Authority or the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor can he/she render that land capable of a reasonable beneficial use by carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a Purchase Notice on the District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix 6

North London Business Park - APP/N5090/W/23/3330577

Live Core Documents List – 2 January 2024

| Core Document Ref No. | Core Document |
|--|--|
| CD 01 – Application Documents and Plans | |
| Parameter Plans | |
| 1.001 | 211_WS_02_00 - Red Line Boundary Plan |
| 1.002 | 211_WS_02_01 Rev D – Proposed Development Zone Plan |
| 1.003 | 211_WS_02_02 - Access & Circulation Zone |
| 1.004 | 211_WS_02_03 - Landscape Treatment Plan |
| 1.005 | 211_WS_02_04 - Ground Floor Frontages Plan |
| 1.006 | 211_WS_02_05 Rev A – Development Zones and Maximum Heights |
| 1.007 | 211_WS_02_06 Rev A – Site Plan |
| 1.008 | 211_WS_02_07 - Development Zones - Horizontal Limits of Deviation |
| 1.009 | 211_WS_02_08 - Proposed Site Levels & Vertical Limits of Deviation |
| 1.010 | 211_WS_02_09 - Proposed Site Basement Levels & Limit of Deviation |
| 1.011 | 211_WS_05_01 - Contextual Sections AA BB |
| 1.012 | 211_WS_05_02 - Contextual Sections CC |
| 1.013 | 211_WS_05_03 – Parameter Sections 1 - 4 |
| 1.014 | 211_WS_05_04 Existing Sections 1 - 4 |
| Detailed (Phase 0) School Plans | |
| 1.015 | FS0200-ALA-XX-DR-L-0001 P06 – Landscape Illustrative Masterplan |
| 1.016 | FS0200-STL-01-00-DR-A-0200 P05 – Teaching Block – Proposed Ground Floor Plan |
| 1.017 | FS0200-STL-01-01-DR-A-0201 P05 - Teaching Block - Proposed First Floor Plan |
| 1.018 | FS0200-STL-01-02-DR-A-0202 P05 - Teaching Block - Proposed Second Floor Plan |
| 1.019 | FS0200-STL-01-B1-DR-A-0204 P05 - Teaching Block - Proposed Basement Plan |
| 1.020 | FS0200-STL-01-EL-DR-A-0300 P05 - Teaching Block - Proposed Elevations North and South |
| 1.021 | FS0200-STL-01-EL-DR-A-0301 P05 - Teaching Block - Proposed Elevation West |
| 1.022 | FS0200-STL-01-EL-DR-A-0302 P05 - Teaching Block - Proposed Elevation East |
| 1.023 | FS0200-STL-01-R1-DR-A-0203 P05 - Teaching Block - Proposed Roof Plan |
| 1.024 | FS0200-STL-01-SX-DR-A-0400 P05 - Teaching Block - Proposed Building Section - Sheet 1 |
| 1.025 | FS0200-STL-01-SX-DR-A-0401 P05 - Teaching Block - Proposed Building Section - Sheet 2 |
| 1.026 | FS0200-STL-01-SX-DR-A-0402 P05 - Teaching Block - Proposed Building Section - Sheet 3 |
| 1.027 | FS0200-STL-02-00-DR-A- 0205 P05 - Sports Block - Proposed Ground Floor Plan |
| 1.028 | FS0200-STL-02-EL-DR-A- 0303 P05 - Sports Block - Proposed Elevation North and East |
| 1.029 | FS0200-STL-02-EL-DR-A-0304 P05 - Sports Block - Proposed Elevation South and West |
| 1.030 | FS0200-STL-02-R1-DR-A-0206 P05 - Sports Block - Proposed Roof Plan |
| 1.031 | FS0200-STL-02-SX-DR-A-0403 P05 - Sports Block - Proposed Building Section - Sheet 1 |
| 1.032 | FS0200-STL-XX-EL-DR-A-0310 P02 - Overall Site - Proposed Elevation East |
| 1.033 | FS0200-STL-ZZ-XX-DR-A-0900 P05 - Proposed Site Location Plan |
| 1.034 | FS0200-STL-ZZ-XX-VS-A-0050 P05 - Proposed External Views - Visitor Entrance 1 |
| 1.035 | FS0200-STL-ZZ-XX-VS-A-0051 P05 - Proposed External Views - Visitor Entrance 2 |
| 1.036 | FS0200-STL-ZZ-XX-VS-A-0052 P05 - Proposed External Views - Pupil Entrance |
| 1.037 | FS0200-STL-ZZ-XX-VS-A-0053 P05 - Proposed External Views - Year 7 Area |
| 1.038 | FS0200-STL-ZZ-XX-VS-A-0054 P05 - Proposed External Views - Sports Hall Frontage |
| 1.039 | FS0200-STL-ZZ-XX-VS-A-0055 P05 - Proposed External Views - Aerial 1 |
| 1.040 | FS0200-STL-ZZ-XX-VS-A-0056 P05 - Proposed External Views - Aerial 2 |
| 1.041 | FS0200-STL-ZZ-XX-VS-A-0057 P05 - Proposed External Views - Teaching Block Frontage |
| 1.042 | FS0200-STL-ZZ-XX-VS-A-0060 P05 - Proposed Internal Views - Entrance Lobby and Reception |
| 1.043 | FS0200-STL-ZZ-XX-VS-A-0061 P05 - Proposed Internal Views - Chapel Entrance from Corridor |
| 1.044 | FS0200-STL-ZZ-XX-VS-A-0062 P05 - Proposed Internal Views - View of Main Stair |
| 1.045 | FS0200-STL-ZZ-XX-VS-A-0063 P05 - Proposed Internal Views - Main Hall |
| 1.046 | FS0200-STL-ZZ-XX-VS-A-0064 P05 - Proposed Internal Views - Dining Student Entrance |
| 1.047 | FS0200-STL-ZZ-XX-VS-A-0065 P05 - Proposed Internal Views - Dining View from Staff Office |
| 1.048 | FS0200-STL-ZZ-XX-VS-A-0066 P05 - Proposed Internal Views - Library |
| 1.049 | FS0200-STL-ZZ-XX-VS-A-0067 P05 - Proposed Internal Views - Sixth Form |

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|---|--|
| 1.050 | FS0200-STL-ZZ-XX-VS-A-0068 P05 - Proposed Internal Views - General Classroom |
| 1.051 | FS0200-STL-ZZ-XX-VS-A-0069 P05 - Proposed Internal Views - Science Classroom |
| Detailed (Phase 1 – Block 1B) Plans | |
| 1.052 | 211_1B_01_01 – Block 1B Site Plan |
| 1.053 | 211_1B_02_00 – Block 1B Ground and First Floor Plan |
| 1.054 | 211_1B_02_01 – Block 1B Second Floor Roof Plan |
| 1.055 | 211_1B_04_01 – Block 1B North and East Elevations |
| 1.056 | 211_1B_04_02 – Block 1B South and West Elevations |
| 1.057 | 211_1B_05_01 – Block 1B Cross Section AA and BB |
| Detailed (Phase 1 – Block 1C) Plans | |
| 1.058 | 211_1C_01_01 – Block 1C Site Plan |
| 1.059 | 211_1C_02_00 Rev C – Block 1C Ground Floor Plan |
| 1.060 | 211_1C_02_01 Rev C – Block 1C First Floor Plan |
| 1.061 | 211_1C_02_02 Rev C – Block 1C Second Floor Plan |
| 1.062 | 211_1C_02_03 Rev C – Block 1C Third Floor Plan |
| 1.063 | 211_1C_02_04 Rev C – Block 1C Fourth Floor Plan |
| 1.064 | 211_1C_02_05 Rev C – Block 1C Fifth Floor Plan |
| 1.065 | 211_1C_02_06 Rev C – Block 1C Sixth Floor Plan |
| 1.066 | 211_1C_02_07 Rev C – Block 1C Seventh Floor Plan |
| 1.067 | 211_1C_02_08 Rev C – Block 1C Eighth Floor Plan |
| 1.068 | 211_1C_02_09 Rev C – Block 1C Ninth Floor Plan |
| 1.069 | 211_1C_02_10 – Block 1C Roof Plan |
| 1.070 | 211_1C_05_01 – Block 1C Cross Section AA and BB |
| 1.071 | 211_C_09_01 - Block C_1 Bedroom Apartment type 01 & 02 |
| 1.072 | 211_C_09_02 - Block C_1 Bedroom Apartment type 03, 04 & 05 |
| 1.073 | 211_C_09_03 - Block C_1 Bedroom Apartment type 06 & 07 |
| 1.074 | 211_C_09_04 - Block C_1 Bedroom Apartment type 08 & 09 |
| 1.075 | 211_C_09_05 - Block C_1 Bedroom Apartment type 10, 11 & 12 |
| 1.076 | 211_C_09_06 - Block C_2 Bedroom Apartment type 01 & 02 |
| 1.077 | 211_C_09_07 - Block C_2 Bedroom Apartment type 03 & 04 |
| 1.078 | 211_C_09_08 - Block C_2 Bedroom Apartment type 05 & 06 |
| 1.079 | 211_C_09_09 - Block C_2 Bedroom Apartment type 07 & 08 |
| 1.080 | 211_C_09_10 - Block C_2 Bedroom Apartment type 09 & 10 |
| 1.081 | 211_C_09_11 - Block C_2 Bedroom Apartment type 11 & 12 |
| 1.082 | 211_C_09_12 - Block C_2 Bedroom Apartment type 13 |
| 1.083 | 211_C_09_13 - Block C_2 Bedroom Apartment type 14 & 15 |
| 1.084 | 211_C_09_14 - Block C_3 Bedroom Apartment type 01 |
| 1.085 | 211_C_09_15 - Block C_3 Bedroom Apartment type 02 |
| 1.086 | 211_C_09_16 - Block C_3 Bedroom Apartment type 03 & 04 |
| 1.087 | 211_C_09_17 - Block C_3 Bedroom Duplex Apartment type 01 |
| 1.088 | 211_1C_04_01 Rev C – Block 1C North and East Elevations |
| 1.089 | 211_1C_04_02 Rev B – Block 1C South and West Elevations |
| Detailed (Phase 1 – Block 1D) Plans and Elevations | |
| 1.090 | 211_1D_01_01 – Block 1D Site Plan |
| 1.091 | 211_1D_02_00 Rev A – Block 1D Ground Floor Plan |
| 1.092 | 211_1D_02_01 Rev C – Block 1D First Floor Plan |
| 1.093 | 211_1D_02_02 Rev C – Block 1D Second Floor Plan |
| 1.094 | 211_1D_02_03 Rev C – Block 1D Third Floor Plan |
| 1.095 | 211_1D_02_04 Rev C – Block 1D Fourth Floor Plan |
| 1.096 | 211_1D_02_05 Rev C – Block 1D Fifth Floor Plan |
| 1.097 | 211_1D_02_06 Rev C – Block 1D Sixth Floor Plan |
| 1.098 | 211_1D_02_07 Rev C – Block 1D Seventh Floor Plan |
| 1.099 | 211_1D_02_08 Rev C – Block 1D Eighth Floor Plan |
| 1.100 | 211_1D_02_09 Rev C – Block 1D Ninth Floor Plan |
| 1.101 | 211_1D_02_10 – Block 1D Roof Plan |
| 1.102 | 211_1D_05_01 - Block 1D_Cross Section AA & BB |
| 1.103 | 211_D_09_01 - Block D_1 Bedroom Apartment type 01 & 02 |

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|---|--|
| 1.104 | 211_D_09_02 - Block D_1 Bedroom Apartment type 03 & 04 |
| 1.105 | 211_D_09_03 - Block D_1 Bedroom Apartment type 05 & 06 |
| 1.106 | 211_D_09_04 - Block D_1 Bedroom Apartment type 07 & 08 |
| 1.107 | 211_D_09_05 - Block D_1 Bedroom Apartment type 09 & 10 |
| 1.108 | 211_D_09_06 - Block D_1 Bedroom Apartment type 11 & 12 |
| 1.109 | 211_D_09_07 - Block D_1 Bedroom Apartment type 13 |
| 1.110 | 211_D_09_08 - Block D_1 Bedroom Apartment type 14 |
| 1.111 | 211_D_09_09 - Block D_1 Bedroom Apartment type 15 |
| 1.112 | 211_D_09_10 - Block D_2 Bedroom Apartment type 01 & 02 |
| 1.113 | 211_D_09_11 - Block D_2 Bedroom Apartment type 03 & 04 |
| 1.114 | 211_D_09_12 - Block D_2 Bedroom Apartment type 05 & 06 |
| 1.115 | 211_D_09_13 - Block D_2 Bedroom Apartment type 07 & 08 |
| 1.116 | 211_D_09_14 - Block D_2 Bedroom Apartment type 09 |
| 1.117 | 211_D_09_15 - Block D_2 Bedroom Duplex Apartment type 01 |
| 1.118 | 211_D_09_16 - Block D_3 Bedroom Apartment type 01 |
| 1.119 | 211_D_09_17 - Block D_3 Bedroom Apartment type 02 |
| 1.120 | 211_D_09_18 - Block D_3 Bedroom Apartment type 03 |
| 1.121 | 211_D_09_19 - Block D_3 Bedroom Apartment type 04 |
| 1.122 | 211_D_09_20 - Block D_3 Bedroom Apartment type 05 |
| 1.123 | 211_D_09_21 - Block D_3 Bedroom Apartment type 06 |
| 1.124 | 211_D_09_22 - Block D_3 Bedroom Apartment type 07 |
| 1.125 | 211_D_09_23 - Block D_3 Bedroom Apartment type 08 |
| 1.126 | 211_D_09_24 - Block D_3 Bedroom Duplex Apartment type 01 |
| 1.127 | 211_D_09_25 - Block D_3 Bedroom Duplex Apartment type 02 |
| 1.128 | 211_D_09_26 - Block D_4 Bedroom Apartment type 01 |
| 1.129 | 211_D_09_27 - Block D_4 Bedroom Apartment type 02 |
| 1.130 | 211_1D_04_01 Rev C – Block 1D North and East Elevation |
| 1.131 | 211_1D_04_02 Rev B – Block 1D South and West Elevation |
| Detailed (Phase 1 – Block 1C and 1D) Plan | |
| 1.132 | 211_02_001 - Block 1C & 1D Basement Floor Plan |
| Detailed (Phase 1 – Block 1E) Plans, Sections and Elevations | |
| 1.133 | 211_1E_01_01 – Block 1E Site Plan |
| 1.134 | 211_1E_02_001 – Block 1E Basement Floor Plan |
| 1.135 | 211_1E_02_00 – Block 1E Ground Floor Plan |
| 1.136 | 211_1E_02_01 Rev A – Block 1E First Floor Plan |
| 1.137 | 211_1E_02_02 Rev A – Block 1E Second Floor Plan |
| 1.138 | 211_1E_02_03 Rev A – Block 1E Third Floor Plan |
| 1.139 | 211_1E_02_04 Rev A – Block 1E Fourth Floor Plan |
| 1.140 | 211_1E_02_05 Rev A – Block 1E Fifth Floor Plan |
| 1.141 | 211_1E_02_06 Rev A – Block 1E Sixth Floor Plan |
| 1.142 | 211_1E_02_07 Rev A – Block 1E Seventh Floor Plan |
| 1.143 | 211_1E_02_08 Rev A – Block 1E Roof Plan |
| 1.144 | 211_1E_04_01 Rev A – Block 1E North and East Elevation |
| 1.145 | 211_1E_04_02 Rev A – Block 1E South and West Elevation |
| 1.146 | 211_1E_05_01 Rev A - Block 1E Cross Section AA and BB |
| 1.147 | 211_E_09_01 Rev A – Block E_1 Bedroom Apartment Type 01 and 02 |
| 1.148 | 211_E_09_02 - Block E_1 Bedroom Apartment type 03 & 04 |
| 1.149 | 211_E_09_03 Rev A – Block E_1 Bedroom Apartment Type 05 and 06 |
| 1.150 | 211_E_09_04 Rev A – Block E_1 Bedroom Apartment Type 07 and 08 |
| 1.151 | 211_E_09_05 - Block E_2 Bedroom Apartment type 01 & 02 |
| 1.152 | 211_E_09_06 - Block E_2 Bedroom Apartment type 03 & 04 |
| 1.153 | 211_E_09_07 - Block E_3 Bedroom Apartment type 01 |
| 1.154 | 211_E_09_08 Rev A – Block E_2 Bedroom Duplex Apartment Type 01 |
| 1.155 | 211_E_09_09 Rev A – Block E_2 Bedroom Duplex Apartment Type 02 |
| 1.156 | 211_E_09_10 Rev A – Block E_3 Bedroom Duplex Apartment Type 01 |
| 1.157 | 211_E_09_11 Rev A – Block E_3 Bedroom Duplex Apartment Type 02 |
| Detailed (Phase 1 – Block 1F) Plans | |
| 1.158 | 211_1F_01_01 – Block 1F Site Plan |
| 1.159 | 211_1F_02_00 – Block 1F Ground Floor Plan |
| 1.160 | 211_1F_02_01 Rev B – Block 1F First Floor Plan |

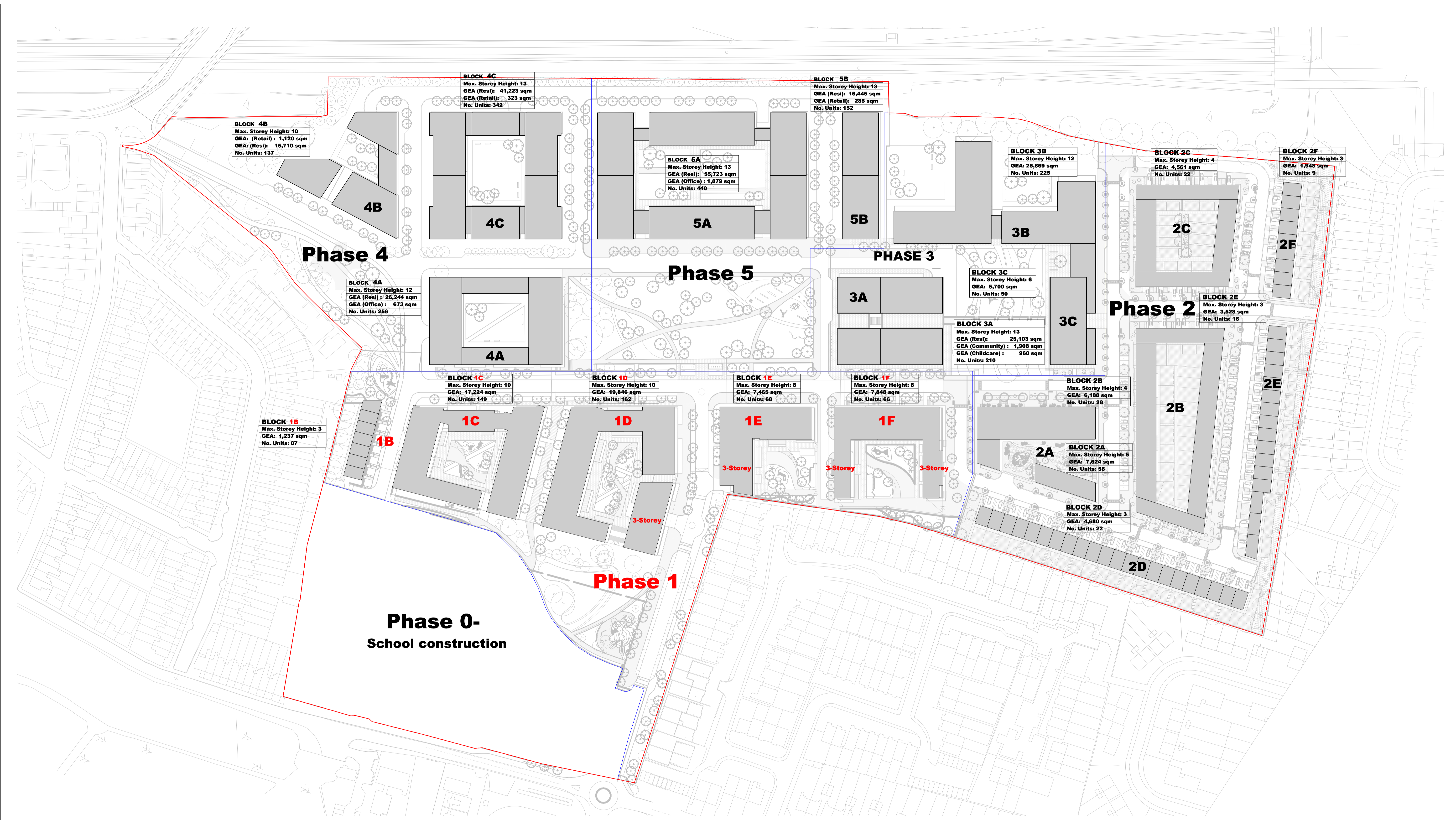
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| 1.161 | 211_1F_02_02 Rev B – Block 1F Second Floor Plan |
| 1.162 | 211_1F_02_03 Rev B – Block 1F Third Floor Plan |
| 1.163 | 211_1F_02_04 Rev B – Block 1F Fourth Floor Plan |
| 1.164 | 211_1F_02_05 Rev B – Block 1F Fifth Floor Plan |
| 1.165 | 211_1F_02_06 - Block 1F Sixth Floor Plan |
| 1.166 | 211_1F_02_07 - Block 1F Seventh Floor Plan |
| 1.167 | 211_1F_02_08 - Block 1F Roof Plan |
| 1.168 | 211_1F_05_01 - Block 1F Cross Section AA & BB |
| 1.169 | 211_F_09_01 - Block F_1 Bedroom Apartment type 01 & 02 |
| 1.170 | 211_F_09_02- Block F_2 Bedroom Apartment type 01 & 02 |
| 1.171 | 211_F_09_03 - Block F_2 Bedroom Apartment type 03 & 04 |
| 1.172 | 211_F_09_04 – Block F_2 Bedroom Apartment type 05 |
| 1.173 | 211_F_09_05 - Block F_3 Bedroom Apartment type 01 |
| 1.174 | 211_F_09_06 – Block F_3 Bedroom Apartment type 02 |
| 1.175 | 211_F_09_07 - Block F_3 Bedroom Apartment type 03 |
| 1.176 | 211_1F_04_01 - Block 1F North and East Elevation |
| 1.177 | 211_1F_04_02 Rev B – Block 1F South and West Elevation |
| Detailed (Phase 1) Landscaping Plans | |
| 1.178 | HED-1140-RBP-LA-1001 – Illustrative Plan |
| 1.179 | HED-1140-RBP-LA -1002 – Phasing Plan |
| 1.180 | HED-1140-RBP-LA -1003 – General Arrangement Plan - Park |
| 1.181 | HED-1140-RBP-LA -1004 – Landscape Sections – The Parkway |
| 1.182 | HED-1140-RBP-LA -1005 – Landscape Sections – Park North |
| 1.183 | HED-1140-RBP-LA -1006 – Landscape Sections – Central Park South |
| 1.184 | HED-1140-RBP-LA -1007 – Landscape Sections - Courtyard |
| 1.185 | HED-1140-RBP-LA -1008 – Trees for Retention Proposed Removal |
| 1.186 | HED-1140-RBP-LA -1009 – Planting Strategy |
| 1.187 | HED-1140-RBP-LA -1010 – SUDs Strategy Plan |
| 1.188 | HED-1140-RBP-LA -1011 – Urban Greening Factor |
| 1.189 | HED-1140-RBP-P1-1001 – Phase 01 GA |
| 1.190 | HED-1140-RBP-P1-1002 – Hard Landscaped Area 01 (LR) |
| 1.191 | HED-1140-RBP-P1-1003 – Hard Landscaped Area 02 |
| 1.192 | HED-1140-RBP-P1-1004 – Hard Landscaped Area 03 |
| 1.193 | HED-1140-RBP-P1-1005 – Landscape Planting Area 01 |
| 1.194 | HED-1140-RBP-P1-1006 – Landscape Planting Area 02 |
| 1.195 | HED-1140-RBP-P1-1007 – Landscape Planting Area 03 |
| 1.196 | HED-1140-RBP-P1-1013 – Trees for Retention Proposed Removal Plan |
| 1.197 | HED-1140-RBP-P1-1014 – Landscape Terraces |
| 1.198 | HED-1140-RBP-P1-1016 – Residential Street |
| 1.199 | HED-1140-RBP-P1-1017 – Lake and Board Walk |
| 1.200 | HED-1140-RBP-P1-1018 – Private Gardens |
| 1.201 | HED-1140-RBP-P1-1019 – Bike Shelter with Cycle Stands |
| 1.202 | HED-1140-RBP-P1-1020 – Parkway Street Section |
| 1.203 | HED-1140-RBP-P1-1021 – Intensive Green Roof |
| 1.204 | HED-1140-RBP-P1-1022 – Green Roof Strategy |
| 1.205 | HED-1140-RBP-P1-1023 – Play Areas Park 1 |
| 1.206 | HED-1140-RBP-P1-1024 – Play Areas Park 2 |
| 1.207 | HED-1140-RBP-P1-1025 – Play Areas Courtyard 01 |
| 1.208 | HED-1140-RBP-P1-1026 – Play Areas Courtyard 02 |
| 1.209 | HED-1140-RBP-P1-1027 – Play Areas Courtyard 03 |
| 1.210 | HED-1140-RBP-P1-1028 – Play Areas Courtyard 04 |
| 1.211 | HED-1140-RBP-P1-1029 – Play Equipment |
| 1.212 | HED-1140-RBP-P1-1030 – Sustainable Drainage |
| 1.213 | HED-1140-RBP-P1-1031 – Hard Landscape Finish 1 |
| 1.214 | HED-1140-RBP-P1-1032 – Hard Landscape Finish 2 |
| 1.215 | HED-1140-RBP-P1-1033 – Hard Landscape |
| 1.216 | HED-1140-RBP-P1-1034 – Street Furniture |
| 1.217 | HED-1140-RBP-P1-1035 – Fences and Gates |
| 1.218 | HED-1140-RBP-P1-1036 – Planting Details |
| 1.219 | HED-1140-RBP-P1-1037 – Green Screen |

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|--|---|
| 1.220 | HED-1140-RBP-P1-1038 – Landscape Terrace Principles |
| 1.221 | HED-1140-RBP-P1-1039 – Landscape Terraces |
| 1.222 | HED-1140-RBP-P1-1040 – Planting Mix Images |
| 1.223 | HED-1140-RBP-P1-1041 – Entrances Sections 01 |
| 1.224 | HED-1140-RBP-P1-1042 – Landscape Sections 02 |
| 1.225 | HED-1140-RBP-P1-1043 – Landscape Sections 03 |
| 1.226 | HED-1140-RBP-P1-1044 – Urban Greening Factor |
| Highways Drawings and Documents | |
| 1.227 | ST-3013-717-Brunswick Park Road Signalised Access Option |
| 1.228 | ST-3013-700-Means of Access Rev 5 |
| 1.229 | ST-3013-804-Swept Path Analysis-Fire Tender Site Access |
| 1.230 | ST-3013-805-Swept Path Analysis Refuse Vehicle |
| 1.231 | ST-3013-820-Proposed Off- Site Highways Improvements |
| 1.232 | Stage 1 Road Safety Audit Ref. 2022/058/0151-01 |
| Documents | |
| 1.233 | Application Form, prepared by Daniel Watney LLP |
| 1.234 | CIL Form, prepared by Daniel Watney LLP |
| 1.235 | Design and Access Statement, prepared by Plus Architecture |
| 1.236 | Design Principles Document, prepared by Plus Architecture |
| 1.237 | Townscape and Visual Impact Assessment, prepared by Peter Stewart Consultancy |
| 1.238 | Daylight and Sunlight Assessment, prepared by eb7 |
| 1.239 | Internal Daylight Assessment, prepared by eb7 |
| 1.240 | Arboricultural Impact Assessment, prepared by Greengage |
| 1.241 | Noise Impact Assessment, prepared by RSK Acoustics |
| 1.242 | Planning Application Specification Document, prepared by Daniel Watney LLP |
| 1.243 | Preliminary Ecological Appraisal, prepared by Greengage |
| 1.244 | Statement of Community Involvement, prepared by BECG |
| 1.245 | Travel Plan, prepared by Stomor |
| 1.246 | Environmental Statement Volume 1 – Main Text and Figures, prepared by Greengage, September 2021 |
| 1.247 | Environmental Statement Volume 2 – Appendices, prepared by Greengage, September 2021 |
| 1.248 | Environmental Statement Volume 3 - Non-Technical Summary prepared by Greengage, September 2021 |
| 1.249 | EIA Compliance Statement, prepared by Greengage, August 2022 |
| 1.250 | Updated Transport Assessment, prepared by Stomor, submitted September 2021 (dated August 2021 with corrected car parking numbers) |
| 1.251 | Transport Assessment Addendum, prepared by Stomor, October 2022 |
| 1.252 | Utilities Report, prepared by MKP, August 2021 |
| 1.253 | Planning Statement, prepared by Daniel Watney LLP, August 2021 |
| 1.254 | Phase 2 Geo-environmental and Geotechnical Assessment, prepared by RSL, April 2021 |
| 1.255 | Overheating Assessment, prepared by MKP, August 2021 |
| 1.256 | Energy and Sustainability Assessment, prepared by MKP, August 2021 |
| 1.257 | Viability Assessment, prepared by Douglas Birt Consulting |
| 1.258 | Phase 1 Drainage Strategy Plan drawing no. ST-3013- 500, prepared by Stomor |
| 1.259 | St Andrew the Apostle Flood Risk Assessment and Drainage Strategy Report, prepared by Curtins, May 2021 |
| 1.260 | St Andrew the Apostle Design and Access Statement |
| 1.261 | Internal Daylight Addendum, prepared by eb7, July 2022 |
| 1.262 | Planning Fire Safety Statement (Phase 1) R3, prepared by FRS |
| 1.263 | Response to LLFA Comments, prepared by Stomor, November 2021 |
| 1.264 | Flood Risk Assessment and Drainage Statement (Rev 2), prepared by Stomor |
| 1.265 | Pedestrian Level Wind Microclimate Assessment (Rev B) (25 October 2021), prepared by RWDI |
| 1.266 | HED Issue Sheet 2021 |
| 1.267 | Updated Drawing Schedule, July 2023 |
| 1.268 | Cover Letter (August 2022) prepared by Daniel Watney LLP |
| 1.269 | Housing Quality Assessment Rev C (July 2022) |
| 1.270 | Area Calculation (August 2021) |
| CD 02 – Plans and Documents Originally Submitted but Superseded | |
| 2.001 | 211_WS_02_01 – Proposed Development Zone Plan |
| 2.002 | 211_WS_02_01 Rev B – Proposed Development Zone Plan |
| 2.003 | 211_WS_02_05 - Development Zones and Maximum Heights |
| 2.004 | 211_WS_02_06 – Site Plan |

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| 2.005 | 211_1C_02_00 – Block 1C Ground Floor Plan |
| 2.006 | 211_1C_02_01 – Block 1C First Floor Plan |
| 2.007 | 211_1C_02_02 – Block 1C Second Floor Plan |
| 2.008 | 211_1C_02_03 – Block 1C Third Floor Plan |
| 2.009 | 211_1C_02_04 – Block 1C Fourth Floor Plan |
| 2.010 | 211_1C_02_05 – Block 1C Fifth Floor Plan |
| 2.011 | 211_1C_02_06 – Block 1C Sixth Floor Plan |
| 2.012 | 211_1C_02_07 – Block 1C Seventh Floor Plan |
| 2.013 | 211_1C_02_08 – Block 1C Eighth Floor Plan |
| 2.014 | 211_1C_02_09 – Block 1C Ninth Floor Plan |
| 2.015 | 211_1C_04_01 – Block 1C North and East Elevations |
| 2.016 | 211_1C_04_02 – Block 1C South and West Elevations |
| 2.017 | 211_1D_02_00 – Block 1D Ground Floor Plan |
| 2.018 | 211_1D_02_01 – Block 1D First Floor Plan |
| 2.019 | 211_1D_02_02 – Block 1D Second Floor Plan |
| 2.020 | 211_1D_02_03 – Block 1D Third Floor Plan |
| 2.021 | 211_1D_02_04 – Block 1D Fourth Floor Plan |
| 2.022 | 211_1D_02_05 – Block 1D Fifth Floor Plan |
| 2.023 | 211_1D_02_06 – Block 1D Sixth Floor Plan |
| 2.024 | 211_1D_02_07 – Block 1D Seventh Floor Plan |
| 2.025 | 211_1D_02_08 – Block 1D Eighth Floor Plan |
| 2.026 | 211_1D_02_09 – Block 1D Ninth Floor Plan |
| 2.027 | 211_1D_04_01 – Block 1D North and East Elevation |
| 2.028 | 211_1D_04_02 – Block 1D South and West Elevation |
| 2.029 | 211_1E_02_01 – Block 1E First Floor Plan |
| 2.030 | 211_1E_02_02 – Block 1E Second Floor Plan |
| 2.031 | 211_1E_02_03 – Block 1E Third Floor Plan |
| 2.032 | 211_1E_02_04 – Block 1E Fourth Floor Plan |
| 2.033 | 211_1E_02_05 – Block 1E Fifth Floor Plan |
| 2.034 | 211_1E_02_06 – Block 1E Sixth Floor Plan |
| 2.035 | 211_1E_02_07 – Block 1E Seventh Floor Plan |
| 2.036 | 211_1E_02_08 – Block 1E Roof Plan |
| 2.037 | 211_1E_04_01 – Block 1E North and East Elevation |
| 2.038 | 211_1E_04_02 – Block 1E South and West Elevation |
| 2.039 | 211_1E_05_01 – Block 1E Cross Section AA and BB |
| 2.040 | 211_E_09_01 – Block E_1 Bedroom Apartment Type 01 and 02 |
| 2.041 | 211_E_09_03 – Block E_1 Bedroom Apartment Type 05 and 06 |
| 2.042 | 211_E_09_04 – Block E_1 Bedroom Apartment Type 07 and 08 |
| 2.043 | 211_E_09_08 – Block E_3 Bedroom Apartment type 02 |
| 2.044 | 211_1F_02_01 – Block 1F First Floor Plan |
| 2.045 | 211_1F_02_02 – Block 1F Second Floor Plan |
| 2.046 | 211_1F_02_03 – Block 1F Third Floor Plan |
| 2.047 | 211_1F_02_04 – Block 1F Fourth Floor Plan |
| 2.048 | 211_1F_02_05 – Block 1F Fifth Floor Plan |
| 2.049 | 211_1F_04_02 – Block 1F South and West Elevation |
| 2.050 | Transport Assessment, prepared by Stomor, submitted August 2021 (dated August 2021) |
| 2.051 | Flood Risk and Drainage Statement (July 2021) (Rev 1) |
| 2.052 | Plus Drawing Schedule (August 2021) |
| 2.053 | Housing Quality Assessment, (August 2021) |
| 2.054 | 211_WS_02_01 Rev C – Proposed Development Zone Plan |
| CD 03 – Pre-application Discussions | |
| 3.001 | GLA Pre-app Advice June 2021 |
| 3.002 | Design Review Panel Note April 2021 |
| 3.003 | Design Workshop 1 Actions |
| CD 04 – Decision Making | |
| 4.001 | SoS Decision on Original Scheme |
| 4.002 | GLA Stage 1 Report |
| 4.003 | GLA Stage 2 Report |
| 4.004 | LBB December 2022 Committee Report |
| 4.005 | LBB December 2022 Committee Report Addendum |

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|---|--|
| 4.006 | LBB December 2022 Committee Printed Minutes |
| 4.007 | LBB January 2023 Committee Report |
| 4.008 | LBB Original Decision Notice (23 March 2023) |
| 4.009 | Invalid LBB Updated Decision Notice (10 May 2023) |
| CD 05 – Development Plan | |
| 5.001 | LBB Core Strategy 2012 |
| 5.002 | LBB Development Management Policies 2012 |
| 5.003 | London Plan 2021 |
| 5.004 | NPPF September 2023 |
| CD 06 – Emerging Development Plan and Evidence Base Documents | |
| 6.001 | Regulation 19 (Submission Version) LBB Draft Local Plan (Nov 2021) |
| 6.002 | LBB Local Plan Review EIP Inspectors Interim Findings (EXAM 143) |
| 6.003 | LBB Local Plan EIP Note on Tall Buildings (EXAM 79) |
| 6.004 | Tall Buildings Update 2019 |
| CD 07 – Planning Guidance Documents | |
| 7.001 | Barnet Characterisation Study 2010 |
| 7.002 | Residential Design Guidance SPD 2016 |
| 7.003 | NLBP Planning Brief 2016 |
| CD 08 – Relevant Appeal and High Court Decisions | |
| 8.001 | 117 Station Road Appeal Decision |
| 8.002 | 679 High Road Appeal Decision |
| 8.003 | Broadway Retail Park Appeal Decision |
| 8.004 | Master Brewer’s High Court Judgement |
| 8.005 | North London Business Park Secretary of State Decision (February 2020) |
| CD 09 – Appellant’s Case | |
| 9.001 | Appellant’s Statement of Case |
| 9.002 | ... |
| 9.003 | ... |
| 9.004 | ... |
| 9.005 | ... |
| 9.006 | ... |
| CD 10 – Council’s Evidence | |
| 10.001 | Council’s Statement of Case |
| 10.002 | ... |
| 10.004 | ... |
| 10.005 | ... |
| 10.006 | ... |
| CD 11 – Agreed Documents | |
| 11.001 | 3D Illustration drawing clarifying proposed building heights |
| 11.002 | Barnet Draft Local Plan Examination Document 79 |
| 11.003 | ... |
| CD 12 – Inquiry Documents (to be added during course of the inquiry) | |
| 12.001 | ... |
| 12.002 | ... |
| 12.003 | ... |
| 12.004 | ... |

Appendix 7



General Notes

- 1. Development Zones (within which development can occur) and public open spaces are identified on drawing number 211_WS_02_01
- 2. Access and circulation routes are identified on Drawing number 211_WS_02_02.
- 3. Landscape treatments are identified on drawing number 211_WS_02_03
- 4. Allowable uses at ground floor frontages are identified on Drawing number 211_WS_02_04
- 5. Allowable horizontal limits of deviations are identified on Drawing number 211_WS_02_05
- 6. Proposed site ground levels and allowable vertical deviations are identified on Drawing number 211_WS_02_06
- 7. Heights and allowable vertical deviations are identified on Drawing number 211_WS_02_07
- 8. Basement extents and allowable horizontal and vertical deviation are identified on Drawing number 211_WS_02_08

Legend

- Planning Application Boundary
- Public Open Space
- Detailed Application Zone Blocks
- 1A Detailed Application Zone Block Reference
- + 57.00 Proposed Ground Floor Level
- Denotes Phasing Boundaries
- Phase 1 Detailed Application Zone Reference

Additional Notes

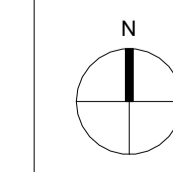
- 1. Refer to the Design Principles Document for further guidance on the Development Zone.
- 2. Refer to the Design Principles Document for further guidance on the Public Open Space Zones, access routes typologies, and landscaping treatments of streets and spaces.
- 3. Refer to the Design Principles Document for further guidance on the streets and circulation routes.

NOTES:

| REV. | DATE: | DETAILS: | INITIALS: |
|------|------------|---|-----------|
| A | 11/02/2022 | Adjustment to Phasing Lines | |
| B | 02/08/2022 | Block 3A break-down of figures | |
| C | 31/07/2023 | Block 3A typographical error corrected | |
| D | 11/12/2023 | All maximum storey heights expressed including ground level | |

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NORTH POINT:



KEY PLAN:



Chancery Lane, Dublin 8, D08 C8X8, Ireland. W: www.plusarchitecture.ie T: 353 (0)1 521 3378

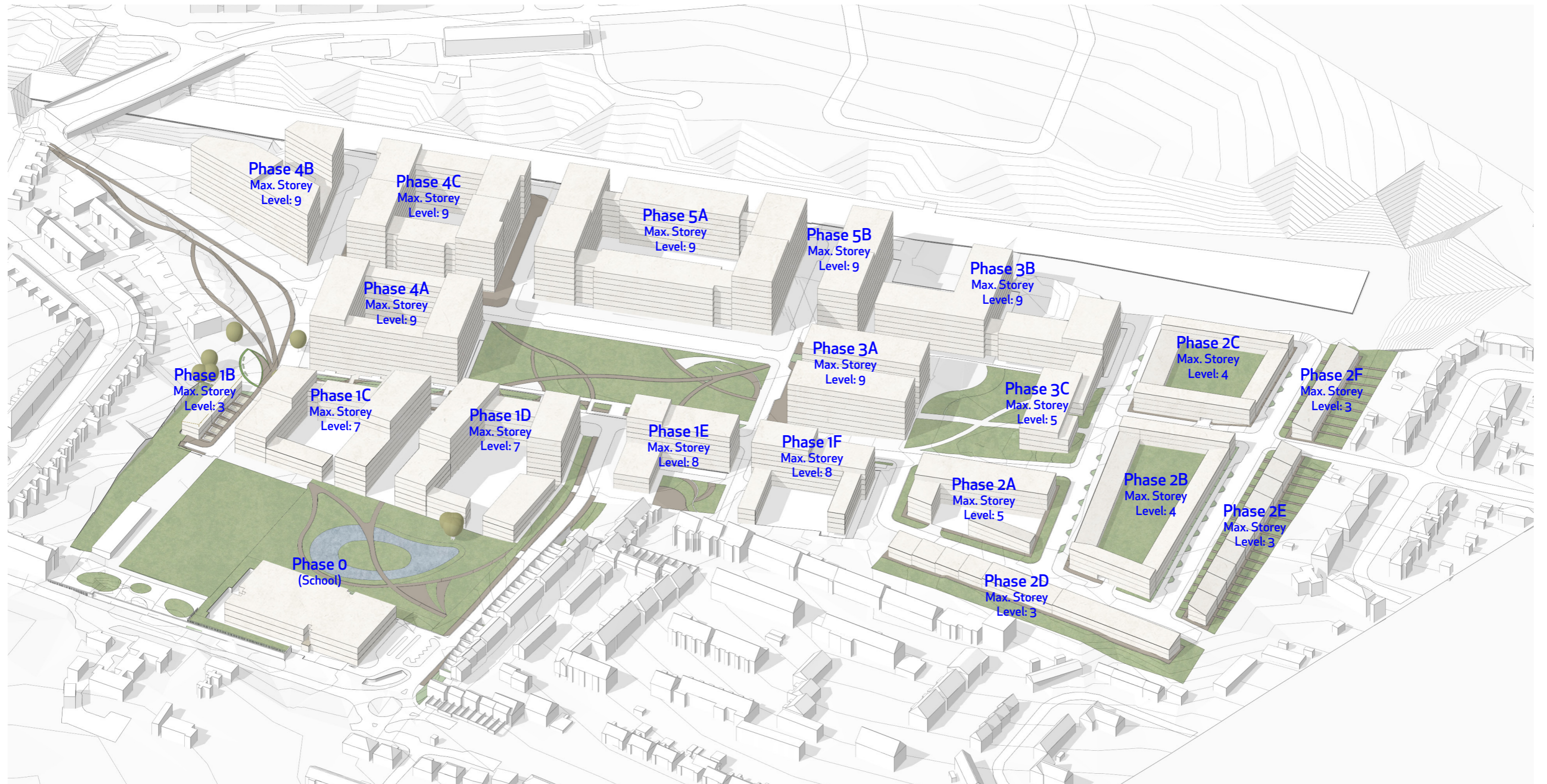
| | | |
|--|---|---|
| PROJECT: North London Business Park_Phase 3 CLIENT: The Corner Group TITLE: Proposed Development Zone Plan ISSUE TYPE: Planning | PROJECT: 211 DRAWING NO.: 211_WS_02_01 DRAWN BY: JG CHECKED BY: DT | DATE: 02/08/2022 REVISION NO.: D SCALE AT A1: 1:1000 SCALE AT A3: 1:2000 |
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Appendix 8

Proposed Redevelopment of North London Business Park | Brunswick Park, East Barnet

The Original Scheme Maximum Building Heights

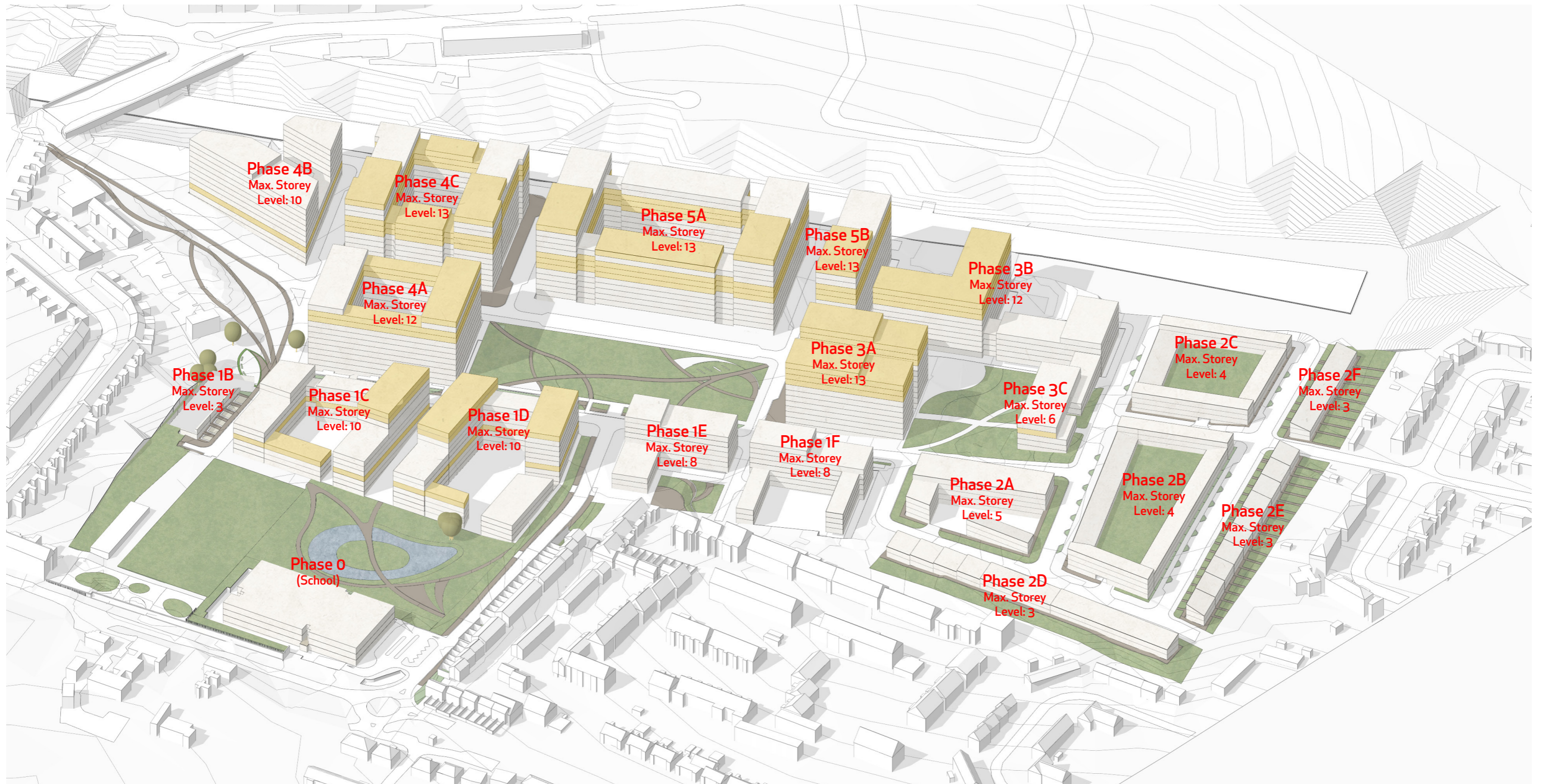
- All expressed storey heights include ground level



Proposed Redevelopment of North London Business Park | Brunswick Park, East Barnet

The Appeal Scheme Maximum Building Heights

- All expressed storey heights include ground level



Appendix 9



Ministry of Housing,
Communities &
Local Government

Mr C Mills
Daniel Watney LLP
165 Fleet Street
London
EC4A 2DW

Our Ref: APP/N5090/W/17/3189843

Date: 24 February 2020

Dear Sir,

**CORRECTION NOTICE UNDER SECTION 57 OF THE PLANNING AND COMPULSORY
PURCHASE ACT 2004
APPEAL MADE BY COMER HOMES GROUP
NORTH LONDON BUSINESS PARK, OAKLEIGH ROAD SOUTH, LONDON, N11 1GN
APPLICATION REF: 15/07932/OUT**

1. Requests for corrections have been received from Taylor Wessing LLP on behalf of Comer Homes Group, in respect of the Secretary of State's decision letter on the above case dated 22 January 2020. These requests were made before the end of the relevant period for making such corrections under section 56 of the Planning and Compulsory Purchase Act 2004 (the Act), and a decision has been made by the Secretary of State to correct the error.
2. Accordingly, he has amended the description of development at paragraph 1 of the Decision Letter, the description of development at paragraph 37, and has amended Condition 33 in Annex B of the Decision Letter. The Secretary of State has no powers to make such amendments to the Inspector's report.
3. Under the provisions of section 58(1) of the Act, the effect of the correction referred to above is that the original decision is taken not to have been made. The decision date for this appeal is the date of this notice, and an application may be made to the High Court within six weeks from the day after the date of this notice for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
4. A copy of this letter has been sent to the London Borough of Barnet.

Yours faithfully

Jean Nowak

Jean Nowak
Authorised by Secretary of State to sign in that behalf

Jean Nowak, Decision Officer
Ministry of Housing, Communities &
Local Government
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 44 41626
Email: PCC@communities.gov.uk



Ministry of Housing,
Communities &
Local Government

Mr C Mills
Daniel Watney LLP
165 Fleet Street
London
EC4A 2DW

Our ref: APP/N5090/W/17/3189843
Your ref: n/a

24 February 2020

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY COMER HOMES GROUP
NORTH LONDON BUSINESS PARK, OAKLEIGH ROAD SOUTH, LONDON, N11 1GN
APPLICATION REF: 15/07932/OUT**

1. I am directed by the Secretary of State to refer to his letter of 22 January 2020 and to say that consideration has been given to the report of John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI, who held a public local inquiry from 9-11 October 2018 and on 9 November 2018 into your client's appeal against the decision of the London Borough of Barnet (LBB) to refuse your client's hybrid application for planning permission for;
 - Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development. The detailed element comprises 376 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and; The outline element comprises up to 824 additional residential units in buildings ranging from two to eleven storeys, up to 5,177 sq m of non-residential floorspace (Use Classes A1-A4, B1 and D1) and 2.9 hectares of public open space, Associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking, as amended (IR10) to;
 - Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and; the outline element comprises up to 990 additional residential units in buildings ranging from two to nine storeys, up to

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5,177 sq m of non-residential floor space (Use Classes A1-A4, B1 and D1) and 2.54 hectares of public open space. Associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking.

in accordance with application ref: 15/07932/OUT, dated 18 December 2015.

2. The Secretary of State notes that his letter of 22 January 2020 included an out-of-date description of development at paragraph 1 and at paragraph 37 (IR10), and included an out-of-date version of Condition 33 in Annex A. This letter has corrected these errors. The corrected condition sets out the drawings that were submitted as part of the March 2017 amendments, and those drawings were put to Committee and were put to the Inquiry parties and the Inspector. The Secretary of State considers that no prejudice would be caused by determining the appeal on the basis of the amended proposals and has proceeded on that basis.
3. A copy of the Secretary of State's letter of 22 January 2020 is enclosed at Annex C and forms part of the decision in this case. All paragraph references are to that letter, unless prefixed by IR, in which case they are references to the Inspector's Report.
4. On 12 January 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

5. The Inspector recommended that the appeal be allowed, and planning permission be granted subject to conditions.
6. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

7. On 21 February 2019, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the results of the Housing Delivery Test, which were published on 19 February 2019. A list of representations received in response to this letter is at Annex A(i). These representations were circulated to the main parties on 14 March 2019.
8. The Planning Inspectorate received correspondence from the Rt Hon Theresa Villiers MP, dated 18 February 2019, concerning availability of local healthcare services. This letter was separately sent to Comer Homes Group, who forwarded their response to the Planning Casework Unit on 7 March 2019. The original letter was circulated to the LBB on 18 March 2019.

9. The Secretary of State also received correspondence from the Rt Hon Theresa Villiers MP, dated 20 February 2019, stating her opposition to the residential aspects of the proposal. This was not circulated to parties as it was reaffirming an existing position.
10. On 28 March 2019 the Office for National Statistics published updated housing affordability ratios for England. As the London Plan provides an up-to-date housing requirement, the Secretary of State did not consider that the publication of these ratios raised any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.
11. A list of all the other representations which have been received since the inquiry is at Annex A(ii). Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
12. An application for a full award of costs was made by Comer Homes Group against the LBB (IR1). This application is the subject of a separate decision letter, which is also being issued today.

Policy and statutory considerations

13. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
14. In this case the development plan consists of the Barnet Core Strategy (CS) and Development Management (DM) documents (both 2012), and the London Plan (2017, consolidated with alterations since 2011) (LP).
15. The Secretary of State agrees with the Inspector (IR5-8) that the policies of most relevance are:
 - CS5, which defines a tall building as one of eight storeys or more, and sets out locations where they may be appropriate;
 - DM05, which restricts tall buildings to identified locations;
 - DM01, which requires proposals to preserve local character and respect the appearance, scale, mass, height and pattern of their surroundings; and
 - LP7.7, which states that tall buildings should be part of a plan-led approach, should not have an unacceptably harmful impact on their surroundings, and need to be accompanied by an urban design analysis, especially where they are proposed for locations not identified in a plan.
16. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated

planning guidance ('the Guidance'), and the North London Business Park planning brief, adopted by the LBB in 2016. The revised Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the revised Framework.

Emerging plan

17. The emerging plan comprises the revised Barnet Local Plan, and the New London Plan. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
18. The revised Barnet Local Plan has not yet been published for public consultation, and the Secretary of State therefore considers it carries no weight.
19. The draft New London Plan (NLoP) has completed its Examination in Public, and the Panel's report to the Mayor of London was issued in October 2019. The Mayor published online and submitted his "Intend to Publish" version of the plan to the Secretary of State on 9 December 2019. In line with the Framework, the Secretary of State considers that the NLoP policies carry moderate weight.

Main issues

Impact of the proposal on the character and appearance of the area

20. The Secretary of State agrees with the Inspector that the effect of the proposed development on the character and appearance of the area is a main issue in this case (IR62).
21. The Secretary of State has carefully considered the Inspector's assessment of the impact the proposal would have on the surrounding area (IR64-69). He agrees with the Inspector that, as the local authority do not object to residential redevelopment in principle, it is the elements over seven storeys and the scale and massing of the development that form the primary matters of concern.
22. The Secretary of State has carefully considered the Inspector's assessment of the impact the proposal would have on the surrounding area (IR64-69). He notes that the surrounding area is predominantly two-storey residential dwellings, while the site is currently occupied by a low-density campus-style business park. For the reasons given at IR64, he agrees with the Inspector that, as the existing character of the site is entirely different to the surrounding area, it does not contribute to the character and appearance of the area. In considering the proposed site layout, he notes that the taller buildings would be located away from existing development, in the interior of the site (IR66, IR68) or adjacent to the railway lines (IR65) that provide a buffer to existing development; while the buildings proposed closest to existing development would be three storeys (IR65, IR66). He also notes that open space would be retained between blocks (IR67). For

these reasons, he agrees with the Inspector that the proposal is appropriate to the current character of the site (IR65), and that the taller buildings would not be visually obtrusive (IR68) to those living around the site.

23. In considering the impact of the proposal outside the immediate surroundings, the Secretary of State agrees with the Inspector at IR68 that, while the taller buildings would be visible from locations in the surrounding area, they would primarily be part of the background cityscape, a characteristic of London even in the suburbs.
24. For the reasons given above, The Secretary of State agrees with the Inspector that the proposal is designed in such a way as to respect the existing character of the area while maximising the potential of the site (IR65), and that the appearance, scale, mass, height and pattern would not adversely affect the character and appearance of the area. For these reasons, the Secretary of State agrees with the Inspector (IR69, IR74) that the proposal is acceptable in terms of scale, massing and design, and would not harm the character and appearance of the area, thereby complying with DM01.
25. However, for the reasons given at IR72, the Secretary of State agrees with the Inspector that there is a conflict with the local plan, as tall buildings are not envisioned for this site. He considers that the proposal conflicts with CS5 and DM05, and that, while LP7.7 could be favoured as a more recent policy and would be more permissive of a tall building at this location, there is still conflict with the elements of the policy that require tall buildings to be plan-led. The Secretary of State gives this significant weight against the proposal.

Housing land supply

26. The Guidance states that in principle an authority will need to be able to demonstrate a five years' land supply at any point to deal with applications and appeals unless it is choosing to confirm its five years' land supply - in which case it need demonstrate it only once per year. In this case, LBB has not 'confirmed' its five years' land supply and the Secretary of State notes (IR33) that the best case in terms of housing supply is 5.1 years while the worst case is a 4.8-year supply, both of which estimates include the dwellings which would be delivered on the site in this proposal.
27. The Secretary of State agrees with the Inspector at IR76 that five years of housing land supply is a minimum requirement, and that the scheme would boost the supply of housing, a principal Government objective. For these reasons, he considers that the provision of 1350 market and affordable homes represents a clear benefit, and that it attracts significant weight in favour of the proposal.

Other matters

28. For the reasons given at IR75, the Secretary of State considers that the provision of a serviced plot for a replacement secondary school carries great weight in favour of the proposal.
29. The Secretary of State agrees with the Inspector (IR77-78) that the public accessibility to the sports facilities, the provision of public open space, the provision of community

floorspace, and the Community Infrastructure Levy generated by the proposal are all significant and substantial benefits of the proposal which carry significant weight in favour of the proposal. As no evidence has been put before him that the New Homes Bonus would be used to help make the proposal acceptable in planning terms, he has not given it any weight in the planning balance.

30. The Secretary of State has considered the Inspector's analysis of the potential for traffic congestion (IR80-81) along Brunswick Park Road and agrees with his conclusions that the development would not adversely affect the amenity of surrounding developments. As such the Secretary of State considers this to be neutral in the balance and to carry no weight either way.

Planning conditions

31. The Secretary of State has given consideration to the Inspector's analysis at IR60, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

32. Having had regard to the Inspector's analysis at IR61, the planning obligation dated 8 November 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR61 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

33. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with policies CS5, DM05 and LP7.7 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
34. The development plan restricts tall buildings to identified locations, and the proposal would include them on a site not identified as suitable for them. This conflict carries significant weight against the proposal
35. The proposal has been designed to respect the existing character of the local area, while maximising the potential for delivering homes. It would deliver a replacement secondary school alongside new open space, sports facilities and community space. The local authority is unable to demonstrate a five-year supply of housing land without taking account of this site, and the proposal would provide 1350 new homes. The provision of the housing and the ancillary facilities both carry significant weight in favour of the proposal.

36. The Secretary of State considers that there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan, and therefore concludes that the appeal should be allowed and planning permission granted.

Formal decision

37. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development, in accordance with application ref: 15/07932/OUT, dated 18 December 2015, as amended (IR10) to a detailed element comprising 360 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and an outline element comprising up to 990 additional residential units in buildings ranging from two to nine storeys, up to 5,177 sq m of non-residential floorspace (Use Classes A1-A4, B1 and D1) and 2.54 hectares of public open space, and associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking.
38. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

39. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
40. With regard to elements of this proposal that are in outline only, an applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
41. A copy of this letter has been sent to the LBB, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Annex A: Schedule of representations
Annex B: List of conditions

Annex A – Schedule of Representations

SCHEDULE OF REPRESENTATIONS

(i) Representations received in response to the Secretary of State's letter of 21 February 2019

| Party | Date |
|---|---------------|
| Daniel Watney LLP for Comer Homes Group | 7 March 2019 |
| London Borough of Barnet | 7 March 2019 |
| Daniel Watney LLP for Comer Homes Group – response to London Borough of Barnet's letter of 7 March 2019 | 21 March 2019 |

(ii) General representations

| Party | Date |
|--|------------------|
| Rt Hon Theresa Villiers MP re healthcare services | 18 February 2019 |
| Rt Hon Theresa Villiers MP re opposition to residential elements of proposal | 20 February 2019 |
| Daniel Watney LLP for Comer Homes Group – response to letter of 18 February 2019 | 7 March 2019 |

Annex B – List of Conditions

DETAILED CONDITIONS FOR PHASE 1

1. The development of Phase 1 hereby permitted shall be carried out in accordance with the following approved plans:

Block 1A - School

211_1A_02_001-Rev B - Basement Plan;
211_1A_02_00-Rev B - Ground Floor Plan;
211_1A_02_01-Rev B - First Floor Plan;
211_1A_02_02-Rev B - Second Floor Plan;
211_1A_02_03-Rev B - Roof Level - MUGA;
211_1A_02_04-Rev B - Roof Level - Parapet;
211_1A_04_01-Rev B - School North & South Elevation;
211_1A_04_02-Rev B - School East & West Elevation;
211_1A_04_02A-Rev B - Detailed West Elevation - Wall fronting Brunswick Park Road;
211_1A_04_03-Rev B - Sports Hall Elevations;
211_1A_05_01-Rev B - School Sections;

Block 1B

211_1B-02_00-Rev A - Block 1B, Ground Floor and First Floor Plan;
211_1B_02_01-Rev A - Block 1B, Attic Floor and Roof Plan;
211_1B-04_01 - Block 1B, North & South Elevations;
211_1B_04_02-Rev A - Block 1B, East & West Elevations and Section AA;

Block 1C & 1D

211_B1CB2D_02_001 - Basement Plan;
211_B1CB2D_02_00-Rev A - Ground Floor Plan;
211_B1CB2D_02_01-Rev A - First Floor Plan;
211_B1CB2D_02_02-Rev A - Second Floor Plan;
211_B1CB2D_02_03-Rev A - Third Floor Plan;
211_B1CB2D_02_04-Rev A - Fourth Floor Plan;
211_B1CB2D_02_05-Rev A - Fifth Floor Plan;
211_B1CB2D_02_06-Rev A - Sixth Floor Plan;
211_B1CB2D_02_07-Rev A - Seventh Floor Plan;
211_B1CB2D_02_08-Rev B - Roof Level;
211_B1CB2D_04_01-Rev A - Block 1C and Block 1D, East Elevation;
211_B1CB2D_04_02 - Block 1C and Block 1D, West Elevation;
211_B1CB2D_04_03 - Block 1C, South and North Elevation;
211_B1CB2D_04_04 - Block 1D, South Elevation;
211_B1CB2D_04_05-Rev A - Block 1D, North Elevations;
211_B1CB2D_05_01-Rev A - Block 1C and Block 1D Section AA;
211_B1CB2D_05_02-Rev A - Block 1C and Block 1D Section BB;
211_B1CB2D_05_03 - Block 1C Section DD and CC;
211_B1CB2D_05_04-Rev A - Block 1D Section EE and FF;

Block 1E & 1F

211_B1EB1F_02_001 - Basement Plan
211_B1EB1F_02_00-Rev A - Ground Floor Plan;
211_B1EB1F_02_01-Rev A - First Floor Plan;
211_B1EB1F_02_02-Rev A - Second Floor Plan;
211_B1EB1F_02_03-Rev A - Third Floor Plan;
211_B1EB1F_02_04-Rev A - Fourth Floor Plan;
211_B1EB1F_02_05-Rev A - Fifth Floor Plan;
211_B1EB1F_02_06-Rev A - Sixth Floor Plan;
211_B1EB1F_02_07-Rev A - Seventh Floor Plan;
211_B1EB1F_02_08-Rev B - Roof Plan;
211_B1EB1F_04_01 - B1EB1F - West Elevation;
211_B1EB1F_04_02-Rev A - B1EB1F East Elevation;
211_B1EB1F_04_03-Rev A - B1F North Elevation & South Elevation;
211_B1EB1F_04_04-Rev A - B1E North & South Elevations;
211_B1EB1F_05_01-Rev A - Block 1E & Block 1F, Section AA;
211_B1EB1F_05_02-Rev A - Block 1F, Section BB & CC;
211_B1EB1F_05_03-Rev A - Block 1E, Section DD

Landscape Drawings

HED_1140_RBP_P1_0001-Rev 03 - Phase 1 Landscape: General Arrangement;
HED_1140_RBP_P1_0002-Rev 03 - Phase 1 Hard Landscape: Area 01;
HED_1140_RBP_P1_0003-Rev 01 - Phase 1 Hard Landscape: Area 02;
HED_1140_RBP_P1_0004-Rev 03 - Phase 1 Hard Landscape: Area 03;
HED_1140_RBP_P1_0005-Rev 03 - Phase 1 Landscape Planting: Area 01;
HED_1140_RBP_P1_0006-Rev 01 - Phase 1 Landscaping Planting: Area 02;
HED_1140_RBP_P1_0007-Rev 02 - Phase 1 Landscaping Planting: Area 03;
HED_1140_RBP_P1_0008-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0009-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0010-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0011-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0012-Rev 00 - Phase 1 Illustrative Materials Palette;
HED_1140_RBP_P1_0013-Rev 02 - Phase 1 Trees for Retention + Proposed + Removal;
HED_1140_RBP_P1_0014-Rev 00 - Phase 1 Landscape Terraces;
HED_1140_RBP_P1_0015-Rev 00 - Phase 1 School Play Area;
HED_1140_RBP_P1_0016-Rev 00 - Phase 1 Residential Street;
HED_1140_RBP_P1_0017-Rev 00 - Phase 1 Lake & Board Walk;
HED_1140_RBP_P1_0018-Rev 00 - Phase 1 Private Gardens (front);
HED_1140_RBP_P1_0020-Rev 00 - Phase 1 Street Section (Parkway);
HED_1140_RBP_P1_0021-Rev 00 - Phase 1 Intensive Green Roof;

Highways Drawings

0031-PHL-01-Rev C - Preliminary Highway Layout Sheet 1;
0031-PHL-02-Rev C - Preliminary Highways Layout Sheet 2;
0031-PHL-03-Rev C - Preliminary Highway Profile Sheet 1;
0031-PHL-04-Rev C - Preliminary Highway Profile Sheet 2;
0031-PHL-05-Rev C - Preliminary Highway Profile Sheet 3;
0031-PHL-06-Rev B - Preliminary Highway Profile Sheet 4;

0031-PHL-07-Rev B - Phase 1 Highway Layout;
0031-PHL-08-Rev A - Highway Access Plan;
0031-PHL-12-Rev B - Preliminary Eastern Access Arrangement and Benfleet Way Access Plan;
0031-PDL-100-Rev A - Phase 1 Preliminary Drainage Layout;
0031-PDL-101-Rev A - Proposed Detention Basin;
0031-PDL-200-Rev A - Preliminary Drainage Layout.

2. Phase 1 hereby permitted shall begin no later than 3 years from the date of this permission.

3. Other than Ground Works and Site Preparation Works (site clearance, site hoarding, decontamination) no development shall commence within Phase 1 until a Construction Environmental Management Plan, setting out the construction and environmental management measures associated with the development of Phase 1, has been submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the ES and shall include:

Construction site and works

- i. Site information (including a site plan and management structure);
- ii. Description of works, equipment and storage;
- iii. Programme of works;
- iv. Temporary hoarding and fencing;
- v. Temporary works;
- vi. Interim drainage strategy;
- vii. Intrusive site investigation works and monitoring (the scope to be agreed in writing with the Local Planning Authority);

Construction management and procedures

- viii. Code of Construction Practice;
- ix. Consultation and neighbourhood liaison;
- x. Staff training and briefing procedures;
- xi. Schedule of environmental legislation and good practice;
- xii. Register of permissions and consents required;
- xiii. Environmental Audit Programme;
- xiv. Environmental Risk Register;
- xv. Piling Works Risk Assessment;
- xvi. Health and safety measures;
- xvii. Complaints procedures;
- xviii. Monitoring and reporting procedures;

Demolition and waste management

- xix. Demolition audit;
- xx. Site clearance and waste management plan;
- xxi. Asbestos survey and disposal strategy;

Construction traffic

- xxii. Construction traffic routes;

- xxiii. Construction traffic management (including access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution)

Environmental Management

- xxiv. Ecology surveys and management plan (as required by the ES) in relation to any existing ecological features that may be affected by works in that Development Phase.
- xxv. Measures to minimise visual impact during construction
- xxvi. Measures to minimise noise and vibration levels during construction;
- xxvii. Measures to minimise dust levels during construction;
- xxviii. Measures to control pollution during construction (including a Pollution Response Plan);
- xxix. Construction lighting strategy, including measures to minimise light spill;
- xxx. Measures to reduce water usage during construction;
- xxxi. Measures to reduce energy usage during construction;
- xxxii. Any other precautionary and mitigation measures in relation to demolition and construction as identified in the ES and the EIA Mitigation Register;

Phase 1 shall thereafter be implemented in accordance with the Construction Environmental Management Plan as approved by the LPA.

4. A contamination remediation scheme shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The scheme shall be in accordance with the approach to remediation set out in the Environmental Statement, and the remediation scheme shall be implemented as approved prior to the occupation of Phase 1.

5. No construction works shall occur outside 0800 - 1800 hours on weekdays and 0800 - 1300 hours on Saturdays and shall not occur at all on Public Holidays.

6. Vegetation clearance shall take place outside the bird breeding season (October to February). Any clearance of vegetation with the potential to support nesting birds shall only occur following a check by a qualified ecologist. If any active nests are found an appropriate buffer zone shall be established and works must cease within this buffer zone until such time as a qualified ecologist confirms that the nest is no longer in active use.

7. No development within Phase 1 shall commence (with the exception of Ground Works and Site Preparation Works) until a scheme of Advanced Infrastructure Works is submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- i. Underground drainage details;
- ii. Below ground energy infrastructure;
- iii. Below ground services and utilities;
- iv. Ground Works, earthworks, contouring and levels;
- v. A statement of compliance with the site wide strategies (including the DAS Volume I and Addendum sections 6.19, 7.1 - 7.16, 8.1 - 8.3 and approved Primary Control Documents).

Development of Phase 1 shall be carried out in accordance with the approved scheme.

8. No Surface Infrastructure Works shall commence within Phase 1 until a scheme of Landscaping Works for Phase 1 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- i. Design and location of electricity sub stations, including surface treatment and means of enclosure;
- ii. Vehicle parking and surfacing treatment (including petrol / oil interceptors);
- iii. Surface drainage details;
- iv. Surface materials and finishes;
- v. Cycle parking locations and details;
- vi. Highways details (e.g. crossing and kerb heights);
- vii. Access and wayfinding strategy;
- viii. Materials, types and siting of all fencing, boundary treatments, gates or other enclosures (including temporary arrangements to be in place until the site is completed in full);
- ix. Street furniture, lighting and signage;
- x. Children's play spaces and play provision;
- xi. Details of all proposed trees, hedge, shrub and other planting and all planting proposed for green walls and other soft landscaped structures, including proposed species, plant sizing, density and arrangement;
- xii. Ecological enhancements (in accordance with ES);
- xiii. The position of any existing trees and hedges to be retained or removed and the crown spread of each retained tree;
- xiv. Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
- xv. The position of any proposed excavation within the recommended protective distance referred to in BS5837:2012;
- xvi. Means of planting, staking and tying of trees, including tree guards, and a detailed landscape maintenance schedule for regular pruning, watering and fertiliser use.
- xvii. Details and specifications of all play, sport and recreational features to be included within the landscaped areas;
- xviii. Details of all proposed hard landscape works, including proposed materials, samples and details of special techniques to minimise damage to retained trees and details of techniques to be used to provide conditions appropriate for new plantings.
- xix. Timing of planting.

The Landscaping Works shall be carried out in accordance with the approved details.

9. Prior to the occupation of each building within Phase 1, a scheme of bird and bat boxes for that building shall be submitted to and approved in writing by the Local Planning Authority. The bird and bat boxes approved shall be installed and maintained over the lifetime of the development.

10. Phase 1 shall be undertaken in accordance with the drainage strategy outlined in the Environmental Statement. No foul or surface water from the site shall be discharged into the public system until the drainage works set out in the strategy have been completed.

11. If within a period of five years from the date of planting of any tree within Phase 1, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place in the next available planting season.

12. A Car Parking Management Strategy for Phase 1 shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of Phase 1. The strategy shall be in accordance with that set out in the Transport Assessment and Addendum. The Strategy shall thereafter be implemented as approved.

13. 10% of residential units in Phase 1 shall be designed to be fully wheelchair accessible or easily adaptable for residents who are wheelchair users.

14. Prior to the construction of any building within Phase 1 the following details for that building shall be submitted to and approved in writing by the Local Planning Authority:

- i. Full details (including samples, where appropriate) of the materials and finishes to be used on all external surfaces;
- ii. Doors, entrances, windows (including glazing specifications) and balconies (including drawings and sections showing thresholds to adjacent internal spaces and drawings and sections of privacy screens);
- iii. Details of the design and access controls for the car park gate(s);
- iv. Building lighting;
- v. Podium details (including hard and soft landscaping, planting species, furniture and play provision);
- vi. Details of bio-diverse roofs;
- vii. Details of any building security measures including CCTV;

Development shall be carried out in accordance with the approved details and the scheme shall thereafter be maintained in secure and good working order for the lifetime of the development.

15. Notwithstanding the details submitted with the application, prior to the construction of any building within Phase 1, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- i. Enclosures, screened facilities and / or internal areas of the proposed buildings to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable;
- ii. Satisfactory points of collection; and,
- iii. Details of the refuse and recycling collection arrangements.

The refuse and recycling facilities shall be provided fully in accordance with the approved details before the relevant block is occupied and the development shall be managed in accordance with the approved details.

16. Prior to the construction of any building within Phase 1, details of all extraction and ventilation equipment to be installed for that building shall be submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by a report carried out by a qualified acoustic consultant that assesses the likely noise impacts from the development of the ventilation and extraction plant, and proposed mitigation measures for the development if necessary.

The development shall be carried out in accordance with approved details before first occupation of Phase 1.

17. The level of noise emitted from any plant within Phase 1, including ventilation equipment hereby approved shall be at least 5dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

18. Prior to the occupation of Phase 1, details of the energy supply network shall be submitted to and approved in writing by the Local Planning Authority. Details shall be in accordance with the Energy Statement and Addendum and shall include:

- i. Details of connections available for each building;
- ii. Proposals for the staged installation of plant within the energy centre and any temporary energy provision required
- iii. Details of safeguarded connections to an area wide heat network if found to be feasible following further engagement with the local planning authority and GLA.
- iv. Details of any potential future connections available to nearby buildings;
- v. A statement of compliance with the site wide Energy Statement and Addendum.

Phase 1 shall thereafter be implemented in accordance with the approved strategy.

19. CHP and/or biomass boilers must not exceed the Band B Emission Standards for Solid Biomass Boilers and CHP Plant as listed in Appendix 7 of the London Plan's Sustainable Design and Construction SPG document.

20. Prior to the construction of any residential building in Phase 1, a rainwater and grey water feasibility strategy, relating to incorporating rainwater or grey water recycling into buildings across Phase 1, shall be submitted to and approved in writing by the Local Planning Authority.

Phase 1 shall thereafter be implemented in accordance with the approved strategy.

21. Prior to occupation of Phase 1 an External Lighting Assessment of lighting proposed within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The external lighting assessment submitted shall detail the existing average night time luminance and light spread levels at night, identify the levels of light pollution received at the windows to residential properties within the development and, where appropriate, identify the measures to be used to mitigate any impacts to species including bats. Any light pollution mitigation identified in the lighting assessment shall be implemented in full prior to occupation of Phase 1.

22. No building within Phase 1 shall be occupied until a Delivery and Servicing Management Plan in respect of each Phase 1 building has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the strategy set out in the Transport Assessment and Addendum and Phase 1 shall be carried out in accordance with the approved Plan.

23. No residential unit within Phase 1 shall be occupied until the access roads and highways works (on and off-site) as identified in the Highways Drawings hereby approved through Condition 1 are made available for use.

24. No residential unit within Phase 1 shall be occupied until the private and/or communal amenity space provision (excluding public open space) associated with the block within which the unit is located is available for use in accordance with the approved plans.

25. Prior to occupation of each residential block within Phase 1 a scheme for the provision of communal/centralised satellite and television reception equipment for that block shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed prior to first occupation of that block and shall thereafter be retained and made available for use by all occupiers of that block.

26. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without planning permission being granted by the Local Planning Authority:

The installation of any structures or apparatus for purposes relating to telecommunications or any part of the development hereby approved, including any structures or development otherwise permitted under Part 24 and Part 25 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any equivalent Order revoking and re-enacting that order.

27. No piling within Phase 1 shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) for Phase 1 has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

28. Notwithstanding the plans hereby approved and prior to the commencement of Phase 1 details of a scheme of measures to enhance and promote biodiversity within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of measures shall be implemented in full accordance with the approved details before Phase 1 is first occupied.

29. No works within Phase 1 shall be commenced before a method statement including temporary tree protection measures, detailing the precautions to be taken to minimise damage to trees adjacent to Phase 1, in accordance with British Standard BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of the location, extent and depth of all excavations for drainage and other services in relation to trees to be retained, or trees on adjacent sites. Phase 1 shall be carried out in full accordance with the approved details.

30. Cycle parking for Phase 1 shall be provided in accordance with the approved plans, shall be available for use prior to occupation of Phase 1, and shall be maintained thereafter.

31. Before Blocks 1E and 1F hereby permitted are first occupied windows in the eastern wing elevations of these blocks facing properties in Howard Close and Brunswick Park Gardens shall be non-openable below 1.7m and glazed with obscure glass only, and shall be permanently retained as such thereafter.

32. Other than infrastructure works in relation to Phase 1, no development within Phase 1 shall take place until a programme of archaeological recording of the existing air raid shelters and any finds of industrial heritage, in accordance with a written scheme of investigation to be submitted to and agreed in writing by the Local Planning Authority, has been carried out.

CONDITIONS FOR PHASES 2-5

33. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Parameter Plans

211_WS_02_00 - Red Line Boundary Plan;
211_WS_02_01-Rev C - Proposed Development Zone Plan;
211_WS_02_02-Rev A - Access & Circulation Zone;
211_WS_02_03-Rev A - Landscape Treatment Plan;
211_WS_02_04-Rev A - Ground Floor Frontages Plan;
211_WS_02_05-Rev A - Development Zones - Horizontal Limits of Deviation;
211_WS_02_06-Rev A - Proposed Site Levels & Vertical Limits of Deviation;
211_WS_02_07-Rev A - Development Zones & Maximum Heights;
211_WS_02_08-Rev A - Proposed Site Basement Levels & Limit of Deviation;
211_WS_02_09-Rev A - Site Plan
HED_1140_RBP_LA_0004-00 - Illustrative Landscape Sections: The Parkway;

Sections

211_WS_05_01-Rev B - Contextual Sections AA BB;
211_WS_05_02-Rev B - Contextual Sections CC DD;
211_WS_05_10-Rev B - Parameter Sections 1 - 4;
211_WS_05_11-Rev B - Existing Sections 1 - 4;

Landscape Drawings

HED_1140_RBP_LA_0001-Rev 01 - Illustrative Landscape Plan;
HED_1140_RBP_LA_0002-Rev 03 - Landscape GA;
HED_1140_RBP_LA_0003-Rev 03 - General Arrangement, Central Park;
HED_1140_RBP_LA_0004-Rev 01 - Illustrative Landscape Sections: The Parkway;
HED_1140_RBP_LA_0005-Rev 02 - Illustrative Sections: Park (North);
HED_1140_RBP_LA_0006-Rev 01 - Illustrative Sections: Central Park (South);
HED_1140_RBP_LA_0007-Rev 00 - Illustrative Landscape Sections: Courtyard;
HED_1140_RBP_LA_0008-Rev 02 - Trees for Retention + Proposed + Removal

Supporting Documents

Design Principles Document - Rev B, March 2017;

34. Applications for the approval of reserved matters (being scale, layout, appearance and landscaping) for Phases 2, 3, 4 and 5 shall be made to the Local Planning Authority before the following:

- i. Applications for Reserved Matters for Phase 2 shall be made within 3 years from the date of this permission;
- ii. Applications for Reserved Matters for Phase 3 shall be made within 4 years from the date of this permission;
- iii. Applications for Reserved Matters for Phase 4 shall be made within 5 years from the date of this permission;
- iv. Applications for Reserved Matters for Phase 5 shall be made within 7 years from the date of this permission.

35. The development hereby permitted in the later phases shall begin no later than 2 years from the final approval of the last Reserved Matters application in relation to each phase made pursuant to Condition 34.

36. As part of Reserved Matters applications, details of the energy supply for each building in Development Phases 2 - 5 shall be submitted to and approved in writing by the Local Planning Authority. Details shall accord with the Energy Statement and Addendum and shall include:

- i. Details of the energy supply for each building connection, including a statement of compliance with the Energy Statement and Addendum;
- ii. Details of any temporary energy provision required;
- iii. A statement of compliance with the site wide Energy Statement and Addendum.

ANNEX C – The Secretary of State’s letter of 22 January 2020



Ministry of Housing,
Communities &
Local Government

Mr C Mills
Daniel Watney LLP
165 Fleet Street
London
EC4A 2DW

Our ref: APP/N5090/W/17/3189843
Your ref: n/a

22 January 2020

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY COMER HOMES GROUP
NORTH LONDON BUSINESS PARK, OAKLEIGH ROAD SOUTH, LONDON, N11 1GN
APPLICATION REF: 15/07932/OUT**

42. I am directed by the Secretary of State to say that consideration has been given to the report of John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI, who held a public local inquiry from 9-11 October 2018 and on 9 November 2018 into your client’s appeal against the decision of the London Borough of Barnet (LBB) to refuse your client’s hybrid application for planning permission for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development:

- detailed element comprising 376 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and
- outline element comprising up to 824 additional residential units in buildings ranging from two to eleven storeys, up to 5,177m² of non-residential floorspace (Use Classes A1-A4, B1 and D1) and 2.9 hectares of public open space, associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking,

in accordance with application ref: 15/07932/OUT, dated 18 December 2015.

43. On 12 January 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Ministry of Housing, Communities & Local Government
Jean Nowak, Decision Officer
Planning Casework Unit
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ANNEX C – The Secretary of State’s letter of 22 January 2020

Inspector’s recommendation and summary of the decision

44. The Inspector recommended that the appeal be allowed, and planning permission be granted subject to conditions.
45. For the reasons given below, the Secretary of State agrees with the Inspector’s conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission subject to conditions. A copy of the Inspector’s report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

46. On 21 February 2019, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the results of the Housing Delivery Test, which were published on 19 February 2019. A list of representations received in response to this letter is at Annex A(i). These representations were circulated to the main parties on 14 March 2019.
47. The Planning Inspectorate received correspondence from the Rt Hon Theresa Villiers MP, dated 18 February 2019, concerning availability of local healthcare services. This letter was separately sent to Comer Homes Group, who forwarded their response to the Planning Casework Unit on 7 March 2019. The original letter was circulated to the LBB on 18 March 2019.
48. The Secretary of State also received correspondence from the Rt Hon Theresa Villiers MP, dated 20 February 2019, stating her opposition to the residential aspects of the proposal. This was not circulated to parties as it was reaffirming an existing position.
49. On 28 March 2019 the Office for National Statistics published updated housing affordability ratios for England. As the London Plan provides an up-to-date housing requirement, the Secretary of State did not consider that the publication of these ratios raised any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.
50. A list of all the other representations which have been received since the inquiry is at Annex A(ii). Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
51. An application for a full award of costs was made by Comer Homes Group against the LBB (IR1). This application is the subject of a separate decision letter, which is also being issued today.

Policy and statutory considerations

52. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

ANNEX C – The Secretary of State’s letter of 22 January 2020

53. In this case the development plan consists of the Barnet Core Strategy (CS) and Development Management (DM) documents (both 2012), and the London Plan (2017, consolidated with alterations since 2011) (LP).
54. The Secretary of State agrees with the Inspector (IR5-8) that the policies of most relevance are:
- CS5, which defines a tall building as one of eight storeys or more, and sets out locations where they may be appropriate;
 - DM05, which restricts tall buildings to identified locations;
 - DM01, which requires proposals to preserve local character and respect the appearance, scale, mass, height and pattern of their surroundings; and
 - LP7.7, which states that tall buildings should be part of a plan-led approach, should not have an unacceptably harmful impact on their surroundings, and need to be accompanied by an urban design analysis, especially where they are proposed for locations not identified in a plan.
55. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (‘the Framework’) and associated planning guidance (‘the Guidance’), and the North London Business Park planning brief, adopted by the LBB in 2016. The revised Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the revised Framework.

Emerging plan

56. The emerging plan comprises the revised Barnet Local Plan, and the New London Plan. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
57. The revised Barnet Local Plan has not yet been published for public consultation, and the Secretary of State therefore considers it carries no weight.
58. The draft New London Plan (NLonP) has completed its Examination in Public, and the Panel’s report to the Mayor of London was issued in October 2019. The Mayor published online and submitted his “Intend to Publish” version of the plan to the Secretary of State on 9 December 2019. In line with the Framework, the Secretary of State considers that the NLonP policies carry moderate weight.

Main issues

Impact of the proposal on the character and appearance of the area

ANNEX C – The Secretary of State’s letter of 22 January 2020

59. The Secretary of State agrees with the Inspector that the effect of the proposed development on the character and appearance of the area is a main issue in this case (IR62).
60. The Secretary of State has carefully considered the Inspector’s assessment of the impact the proposal would have on the surrounding area (IR64-69). He agrees with the Inspector that, as the local authority do not object to residential redevelopment in principle, it is the elements over seven storeys and the scale and massing of the development that form the primary matters of concern.
61. The Secretary of State has carefully considered the Inspector’s assessment of the impact the proposal would have on the surrounding area (IR64-69). He notes that the surrounding area is predominantly two-storey residential dwellings, while the site is currently occupied by a low-density campus-style business park. For the reasons given at IR64, he agrees with the Inspector that, as the existing character of the site is entirely different to the surrounding area, it does not contribute to the character and appearance of the area. In considering the proposed site layout, he notes that the taller buildings would be located away from existing development, in the interior of the site (IR66, IR68) or adjacent to the railway lines (IR65) that provide a buffer to existing development; while the buildings proposed closest to existing development would be three storeys (IR65, IR66). He also notes that open space would be retained between blocks (IR67). For these reasons, he agrees with the Inspector that the proposal is appropriate to the current character of the site (IR65), and that the taller buildings would not be visually obtrusive (IR68) to those living around the site.
62. In considering the impact of the proposal outside the immediate surroundings, the Secretary of State agrees with the Inspector at IR68 that, while the taller buildings would be visible from locations in the surrounding area, they would primarily be part of the background cityscape, a characteristic of London even in the suburbs.
63. For the reasons given above, The Secretary of State agrees with the Inspector that the proposal is designed in such a way as to respect the existing character of the area while maximising the potential of the site (IR65), and that the appearance, scale, mass, height and pattern would not adversely affect the character and appearance of the area. For these reasons, the Secretary of State agrees with the Inspector (IR69, IR74) that the proposal is acceptable in terms of scale, massing and design, and would not harm the character and appearance of the area, thereby complying with DM01.
64. However, for the reasons given at IR72, the Secretary of State agrees with the Inspector that there is a conflict with the local plan, as tall buildings are not envisioned for this site. He considers that the proposal conflicts with CS5 and DM05, and that, while LP7.7 could be favoured as a more recent policy and would be more permissive of a tall building at this location, there is still conflict with the elements of the policy that require tall buildings to be plan-led. The Secretary of State gives this significant weight against the proposal.

Housing land supply

65. The Guidance states that in principle an authority will need to be able to demonstrate a five years’ land supply at any point to deal with applications and appeals unless it is choosing to confirm its five years’ land supply - in which case it need demonstrate it only

ANNEX C – The Secretary of State’s letter of 22 January 2020

once per year. In this case, LBB has not ‘confirmed’ its five years’ land supply and the Secretary of State notes (IR33) that the best case in terms of housing supply is 5.1 years while the worst case is a 4.8-year supply, both of which estimates include the dwellings which would be delivered on the site in this proposal.

66. The Secretary of State agrees with the Inspector at IR76 that five years of housing land supply is a minimum requirement, and that the scheme would boost the supply of housing, a principal Government objective. For these reasons, he considers that the provision of 1350 market and affordable homes represents a clear benefit, and that it attracts significant weight in favour of the proposal.

Other matters

67. For the reasons given at IR75, the Secretary of State considers that the provision of a serviced plot for a replacement secondary school carries great weight in favour of the proposal.

68. The Secretary of State agrees with the Inspector (IR77-78) that the public accessibility to the sports facilities, the provision of public open space, the provision of community floorspace, and the Community Infrastructure Levy generated by the proposal are all significant and substantial benefits of the proposal which carry significant weight in favour of the proposal. As no evidence has been put before him that the New Homes Bonus would be used to help make the proposal acceptable in planning terms, he has not given it any weight in the planning balance.

69. The Secretary of State has considered the Inspector’s analysis of the potential for traffic congestion (IR80-81) along Brunswick Park Road and agrees with his conclusions that the development would not adversely affect the amenity of surrounding developments. As such the Secretary of State considers this to be neutral in the balance and to carry no weight either way.

Planning conditions

70. The Secretary of State has given consideration to the Inspector’s analysis at IR60, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

71. Having had regard to the Inspector’s analysis at IR61, the planning obligation dated 8 November 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector’s conclusion for the reasons given in IR61 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

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72. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with policies CS5, DM05 and LP7.7 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
73. The development plan restricts tall buildings to identified locations, and the proposal would include them on a site not identified as suitable for them. This conflict carries significant weight against the proposal
74. The proposal has been designed to respect the existing character of the local area, while maximising the potential for delivering homes. It would deliver a replacement secondary school alongside new open space, sports facilities and community space. The local authority is unable to demonstrate a five-year supply of housing land without taking account of this site, and the proposal would provide 1350 new homes. The provision of the housing and the ancillary facilities both carry significant weight in favour of the proposal.
75. The Secretary of State considers that there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan, and therefore concludes that the appeal should be allowed and planning permission granted.

Formal decision

76. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector’s recommendation. He hereby allows your client’s appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development, in accordance with application ref: 15/07932/OUT, dated 18 December 2015.
77. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

78. A separate note is attached setting out the circumstances in which the validity of the Secretary of State’s decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
79. With regard to elements of this proposal that are in outline only, an applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

ANNEX C – The Secretary of State’s letter of 22 January 2020

80. A copy of this letter has been sent to the LBB, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Annex A: Schedule of representations

Annex B: List of conditions

ANNEX C – The Secretary of State’s letter of 22 January 2020

Annex A – Schedule of Representations

SCHEDULE OF REPRESENTATIONS

(i) Representations received in response to the Secretary of State’s letter of 21 February 2019

| Party | Date |
|---|---------------|
| Daniel Watney LLP for Comer Homes Group | 7 March 2019 |
| London Borough of Barnet | 7 March 2019 |
| Daniel Watney LLP for Comer Homes Group – response to London Borough of Barnet’s letter of 7 March 2019 | 21 March 2019 |

(ii) General representations

| Party | Date |
|--|------------------|
| Rt Hon Theresa Villiers MP re healthcare services | 18 February 2019 |
| Rt Hon Theresa Villiers MP re opposition to residential elements of proposal | 20 February 2019 |
| Daniel Watney LLP for Comer Homes Group – response to letter of 18 February 2019 | 7 March 2019 |

ANNEX C – The Secretary of State’s letter of 22 January 2020

Annex B – List of Conditions

DETAILED CONDITIONS FOR PHASE 1

37. The development of Phase 1 hereby permitted shall be carried out in accordance with the following approved plans:

Block 1A - School

211_1A_02_001-Rev B - Basement Plan;
211_1A_02_00-Rev B - Ground Floor Plan;
211_1A_02_01-Rev B - First Floor Plan;
211_1A_02_02-Rev B - Second Floor Plan;
211_1A_02_03-Rev B - Roof Level - MUGA;
211_1A_02_04-Rev B - Roof Level - Parapet;
211_1A_04_01-Rev B - School North & South Elevation;
211_1A_04_02-Rev B - School East & West Elevation;
211_1A_04_02A-Rev B - Detailed West Elevation - Wall fronting Brunswick Park Road;
211_1A_04_03-Rev B - Sports Hall Elevations;
211_1A_05_01-Rev B - School Sections;

Block 1B

211_1B-02_00-Rev A - Block 1B, Ground Floor and First Floor Plan;
211_1B_02_01-Rev A - Block 1B, Attic Floor and Roof Plan;
211_1B-04_01 - Block 1B, North & South Elevations;
211_1B_04_02-Rev A - Block 1B, East & West Elevations and Section AA;

Block 1C & 1D

211_B1CB2D_02_001 - Basement Plan;
211_B1CB2D_02_00-Rev A - Ground Floor Plan;
211_B1CB2D_02_01-Rev A - First Floor Plan;
211_B1CB2D_02_02-Rev A - Second Floor Plan;
211_B1CB2D_02_03-Rev A - Third Floor Plan;
211_B1CB2D_02_04-Rev A - Fourth Floor Plan;
211_B1CB2D_02_05-Rev A - Fifth Floor Plan;
211_B1CB2D_02_06-Rev A - Sixth Floor Plan;
211_B1CB2D_02_07-Rev A - Seventh Floor Plan;
211_B1CB2D_02_08-Rev B - Roof Level;
211_B1CB2D_04_01-Rev A - Block 1C and Block 1D, East Elevation;
211_B1CB2D_04_02 - Block 1C and Block 1D, West Elevation;
211_B1CB2D_04_03 - Block 1C, South and North Elevation;
211_B1CB2D_04_04 - Block 1D, South Elevation;
211_B1CB2D_04_05-Rev A - Block 1D, North Elevations;
211_B1CB2D_05_01-Rev A - Block 1C and Block 1D Section AA;
211_B1CB2D_05_02-Rev A - Block 1C and Block 1D Section BB;
211_B1CB2D_05_03 - Block 1C Section DD and CC;
211_B1CB2D_05_04-Rev A - Block 1D Section EE and FF;

Block 1E & 1F

211_B1EB1F_02_001 - Basement Plan

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211_B1EB1F_02_00-Rev A - Ground Floor Plan;
211_B1EB1F_02_01-Rev A - First Floor Plan;
211_B1EB1F_02_02-Rev A - Second Floor Plan;
211_B1EB1F_02_03-Rev A - Third Floor Plan;
211_B1EB1F_02_04-Rev A - Fourth Floor Plan;
211_B1EB1F_02_05-Rev A - Fifth Floor Plan;
211_B1EB1F_02_06-Rev A - Sixth Floor Plan;
211_B1EB1F_02_07-Rev A - Seventh Floor Plan;
211_B1EB1F_02_08-Rev B - Roof Plan;
211_B1EB1F_04_01 - B1EB1F - West Elevation;
211_B1EB1F_04_02-Rev A - B1EB1F East Elevation;
211_B1EB1F_04_03-Rev A - B1F North Elevation & South Elevation;
211_B1EB1F_04_04-Rev A - B1E North & South Elevations;
211_B1EB1F_05_01-Rev A - Block 1E & Block 1F, Section AA;
211_B1EB1F_05_02-Rev A - Block 1F, Section BB & CC;
211_B1EB1F_05_03-Rev A - Block 1E, Section DD

Landscape Drawings

HED_1140_RBP_P1_0001-Rev 03 - Phase 1 Landscape: General Arrangement;
HED_1140_RBP_P1_0002-Rev 03 - Phase 1 Hard Landscape: Area 01;
HED_1140_RBP_P1_0003-Rev 01 - Phase 1 Hard Landscape: Area 02;
HED_1140_RBP_P1_0004-Rev 03 - Phase 1 Hard Landscape: Area 03;
HED_1140_RBP_P1_0005-Rev 03 - Phase 1 Landscape Planting: Area 01;
HED_1140_RBP_P1_0006-Rev 01 - Phase 1 Landscaping Planting: Area 02;
HED_1140_RBP_P1_0007-Rev 02 - Phase 1 Landscaping Planting: Area 03;
HED_1140_RBP_P1_0008-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0009-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0010-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0011-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0012-Rev 00 - Phase 1 Illustrative Materials Palette;
HED_1140_RBP_P1_0013-Rev 02 - Phase 1 Trees for Retention + Proposed + Removal;
HED_1140_RBP_P1_0014-Rev 00 - Phase 1 Landscape Terraces;
HED_1140_RBP_P1_0015-Rev 00 - Phase 1 School Play Area;
HED_1140_RBP_P1_0016-Rev 00 - Phase 1 Residential Street;
HED_1140_RBP_P1_0017-Rev 00 - Phase 1 Lake & Board Walk;
HED_1140_RBP_P1_0018-Rev 00 - Phase 1 Private Gardens (front);
HED_1140_RBP_P1_0020-Rev 00 - Phase 1 Street Section (Parkway);
HED_1140_RBP_P1_0021-Rev 00 - Phase 1 Intensive Green Roof;

Highways Drawings

0031-PHL-01-Rev C - Preliminary Highway Layout Sheet 1;
0031-PHL-02-Rev C - Preliminary Highways Layout Sheet 2;
0031-PHL-03-Rev C - Preliminary Highway Profile Sheet 1;
0031-PHL-04-Rev C - Preliminary Highway Profile Sheet 2;
0031-PHL-05-Rev C - Preliminary Highway Profile Sheet 3;
0031-PHL-06-Rev B - Preliminary Highway Profile Sheet 4;
0031-PHL-07-Rev B - Phase 1 Highway Layout;
0031-PHL-08-Rev A - Highway Access Plan;
0031-PHL-12-Rev B - Preliminary Eastern Access Arrangement and Benfleet Way Access Plan;
0031-PDL-100-Rev A - Phase 1 Preliminary Drainage Layout;
0031-PDL-101-Rev A - Proposed Detention Basin;

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0031-PDL-200-Rev A - Preliminary Drainage Layout.

38. Phase 1 hereby permitted shall begin no later than 3 years from the date of this permission.

39. Other than Ground Works and Site Preparation Works (site clearance, site hoarding, decontamination) no development shall commence within Phase 1 until a Construction Environmental Management Plan, setting out the construction and environmental management measures associated with the development of Phase 1, has been submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the ES and shall include:

Construction site and works

- xxxiii. Site information (including a site plan and management structure);
- xxxiv. Description of works, equipment and storage;
- xxxv. Programme of works;
- xxxvi. Temporary hoarding and fencing;
- xxxvii. Temporary works;
- xxxviii. Interim drainage strategy;
- xxxix. Intrusive site investigation works and monitoring (the scope to be agreed in writing with the Local Planning Authority);

Construction management and procedures

- xl. Code of Construction Practice;
- xli. Consultation and neighbourhood liaison;
- xlii. Staff training and briefing procedures;
- xliii. Schedule of environmental legislation and good practice;
- xliv. Register of permissions and consents required;
- xlv. Environmental Audit Programme;
- xlvi. Environmental Risk Register;
- xlvii. Piling Works Risk Assessment;
- xlviii. Health and safety measures;
- xlix. Complaints procedures;
- l. Monitoring and reporting procedures;

Demolition and waste management

- li. Demolition audit;
- lii. Site clearance and waste management plan;
- liii. Asbestos survey and disposal strategy;

Construction traffic

- liv. Construction traffic routes;
- lv. Construction traffic management (including access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution)

Environmental Management

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- lvi. Ecology surveys and management plan (as required by the ES) in relation to any existing ecological features that may be affected by works in that Development Phase.
- lvii. Measures to minimise visual impact during construction
- lviii. Measures to minimise noise and vibration levels during construction;
- lix. Measures to minimise dust levels during construction;
- lx. Measures to control pollution during construction (including a Pollution Response Plan);
- lxi. Construction lighting strategy, including measures to minimise light spill;
- lxii. Measures to reduce water usage during construction;
- lxiii. Measures to reduce energy usage during construction;
- lxiv. Any other precautionary and mitigation measures in relation to demolition and construction as identified in the ES and the EIA Mitigation Register;

Phase 1 shall thereafter be implemented in accordance with the Construction Environmental Management Plan as approved by the LPA.

40. A contamination remediation scheme shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The scheme shall be in accordance with the approach to remediation set out in the Environmental Statement, and the remediation scheme shall be implemented as approved prior to the occupation of Phase 1.

41. No construction works shall occur outside 0800 - 1800 hours on weekdays and 0800 - 1300 hours on Saturdays and shall not occur at all on Public Holidays.

42. Vegetation clearance shall take place outside the bird breeding season (October to February). Any clearance of vegetation with the potential to support nesting birds shall only occur following a check by a qualified ecologist. If any active nests are found an appropriate buffer zone shall be established and works must cease within this buffer zone until such time as a qualified ecologist confirms that the nest is no longer in active use.

43. No development within Phase 1 shall commence (with the exception of Ground Works and Site Preparation Works) until a scheme of Advanced Infrastructure Works is submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- vi. Underground drainage details;
- vii. Below ground energy infrastructure;
- viii. Below ground services and utilities;
- ix. Ground Works, earthworks, contouring and levels;
- x. A statement of compliance with the site wide strategies (including the DAS Volume I and Addendum sections 6.19, 7.1 - 7.16, 8.1 - 8.3 and approved Primary Control Documents).

Development of Phase 1 shall be carried out in accordance with the approved scheme.

44. No Surface Infrastructure Works shall commence within Phase 1 until a scheme of Landscaping Works for Phase 1 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- xx. Design and location of electricity sub stations, including surface treatment and means of enclosure;
- xxi. Vehicle parking and surfacing treatment (including petrol / oil interceptors);
- xxii. Surface drainage details;
- xxiii. Surface materials and finishes;
- xxiv. Cycle parking locations and details;

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- xxv. Highways details (e.g. crossing and kerb heights);
- xxvi. Access and wayfinding strategy;
- xxvii. Materials, types and siting of all fencing, boundary treatments, gates or other enclosures (including temporary arrangements to be in place until the site is completed in full);
- xxviii. Street furniture, lighting and signage;
- xxix. Children’s play spaces and play provision;
- xxx. Details of all proposed trees, hedge, shrub and other planting and all planting proposed for green walls and other soft landscaped structures, including proposed species, plant sizing, density and arrangement;
- xxxi. Ecological enhancements (in accordance with ES);
- xxxii. The position of any existing trees and hedges to be retained or removed and the crown spread of each retained tree;
- xxxiii. Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
- xxxiv. The position of any proposed excavation within the recommended protective distance referred to in BS5837:2012;
- xxxv. Means of planting, staking and tying of trees, including tree guards, and a detailed landscape maintenance schedule for regular pruning, watering and fertiliser use.
- xxxvi. Details and specifications of all play, sport and recreational features to be included within the landscaped areas;
- xxxvii. Details of all proposed hard landscape works, including proposed materials, samples and details of special techniques to minimise damage to retained trees and details of techniques to be used to provide conditions appropriate for new plantings.
- xxxviii. Timing of planting.

The Landscaping Works shall be carried out in accordance with the approved details.

45. Prior to the occupation of each building within Phase 1, a scheme of bird and bat boxes for that building shall be submitted to and approved in writing by the Local Planning Authority. The bird and bat boxes approved shall be installed and maintained over the lifetime of the development.

46. Phase 1 shall be undertaken in accordance with the drainage strategy outlined in the Environmental Statement. No foul or surface water from the site shall be discharged into the public system until the drainage works set out in the strategy have been completed.

47. If within a period of five years from the date of planting of any tree within Phase 1, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place in the next available planting season.

48. A Car Parking Management Strategy for Phase 1 shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of Phase 1. The strategy shall be in accordance with that set out in the Transport Assessment and Addendum. The Strategy shall thereafter be implemented as approved.

49. 10% of residential units in Phase 1 shall be designed to be fully wheelchair accessible or easily adaptable for residents who are wheelchair users.

50. Prior to the construction of any building within Phase 1 the following details for that building shall be submitted to and approved in writing by the Local Planning Authority:

- viii. Full details (including samples, where appropriate) of the materials and finishes to be used on all external surfaces;

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- ix. Doors, entrances, windows (including glazing specifications) and balconies (including drawings and sections showing thresholds to adjacent internal spaces and drawings and sections of privacy screens);
- x. Details of the design and access controls for the car park gate(s);
- xi. Building lighting;
- xii. Podium details (including hard and soft landscaping, planting species, furniture and play provision);
- xiii. Details of bio-diverse roofs;
- xiv. Details of any building security measures including CCTV;

Development shall be carried out in accordance with the approved details and the scheme shall thereafter be maintained in secure and good working order for the lifetime of the development.

51. Notwithstanding the details submitted with the application, prior to the construction of any building within Phase 1, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- iv. Enclosures, screened facilities and / or internal areas of the proposed buildings to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable;
- v. Satisfactory points of collection; and,
- vi. Details of the refuse and recycling collection arrangements.

The refuse and recycling facilities shall be provided fully in accordance with the approved details before the relevant block is occupied and the development shall be managed in accordance with the approved details.

52. Prior to the construction of any building within Phase 1, details of all extraction and ventilation equipment to be installed for that building shall be submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by a report carried out by a qualified acoustic consultant that assesses the likely noise impacts from the development of the ventilation and extraction plant, and proposed mitigation measures for the development if necessary.

The development shall be carried out in accordance with approved details before first occupation of Phase 1.

53. The level of noise emitted from any plant within Phase 1, including ventilation equipment hereby approved shall be at least 5dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

54. Prior to the occupation of Phase 1, details of the energy supply network shall be submitted to and approved in writing by the Local Planning Authority. Details shall be in accordance with the Energy Statement and Addendum and shall include:

- vi. Details of connections available for each building;
- vii. Proposals for the staged installation of plant within the energy centre and any temporary energy provision required

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- viii. Details of safeguarded connections to an area wide heat network if found to be feasible following further engagement with the local planning authority and GLA.
- ix. Details of any potential future connections available to nearby buildings;
- x. A statement of compliance with the site wide Energy Statement and Addendum.

Phase 1 shall thereafter be implemented in accordance with the approved strategy.

55. CHP and/or biomass boilers must not exceed the Band B Emission Standards for Solid Biomass Boilers and CHP Plant as listed in Appendix 7 of the London Plan’s Sustainable Design and Construction SPG document.

56. Prior to the construction of any residential building in Phase 1, a rainwater and grey water feasibility strategy, relating to incorporating rainwater or grey water recycling into buildings across Phase 1, shall be submitted to and approved in writing by the Local Planning Authority.

Phase 1 shall thereafter be implemented in accordance with the approved strategy.

57. Prior to occupation of Phase 1 an External Lighting Assessment of lighting proposed within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The external lighting assessment submitted shall detail the existing average night time luminance and light spread levels at night, identify the levels of light pollution received at the windows to residential properties within the development and, where appropriate, identify the measures to be used to mitigate any impacts to species including bats. Any light pollution mitigation identified in the lighting assessment shall be implemented in full prior to occupation of Phase 1.

58. No building within Phase 1 shall be occupied until a Delivery and Servicing Management Plan in respect of each Phase 1 building has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the strategy set out in the Transport Assessment and Addendum and Phase 1 shall be carried out in accordance with the approved Plan.

59. No residential unit within Phase 1 shall be occupied until the access roads and highways works (on and off-site) as identified in the Highways Drawings hereby approved through Condition 1 are made available for use.

60. No residential unit within Phase 1 shall be occupied until the private and/or communal amenity space provision (excluding public open space) associated with the block within which the unit is located is available for use in accordance with the approved plans.

61. Prior to occupation of each residential block within Phase 1 a scheme for the provision of communal/centralised satellite and television reception equipment for that block shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed prior to first occupation of that block and shall thereafter be retained and made available for use by all occupiers of that block.

62. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without planning permission being granted by the Local Planning Authority:

The installation of any structures or apparatus for purposes relating to telecommunications or any part of the development hereby approved, including any structures or development otherwise permitted under Part 24 and Part 25 of Schedule 2 of the Town and Country Planning (General

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Permitted Development) Order 1995 (as amended) or any equivalent Order revoking and re-enacting that order.

63. No piling within Phase 1 shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) for Phase 1 has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

64. Notwithstanding the plans hereby approved and prior to the commencement of Phase 1 details of a scheme of measures to enhance and promote biodiversity within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of measures shall be implemented in full accordance with the approved details before Phase 1 is first occupied.

65. No works within Phase 1 shall be commenced before a method statement including temporary tree protection measures, detailing the precautions to be taken to minimise damage to trees adjacent to Phase 1, in accordance with British Standard BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of the location, extent and depth of all excavations for drainage and other services in relation to trees to be retained, or trees on adjacent sites. Phase 1 shall be carried out in full accordance with the approved details.

66. Cycle parking for Phase 1 shall be provided in accordance with the approved plans, shall be available for use prior to occupation of Phase 1, and shall be maintained thereafter.

67. Before Blocks 1E and 1F hereby permitted are first occupied windows in the eastern wing elevations of these blocks facing properties in Howard Close and Brunswick Park Gardens shall be non-openable below 1.7m and glazed with obscure glass only, and shall be permanently retained as such thereafter.

68. Other than infrastructure works in relation to Phase 1, no development within Phase 1 shall take place until a programme of archaeological recording of the existing air raid shelters and any finds of industrial heritage, in accordance with a written scheme of investigation to be submitted to and agreed in writing by the Local Planning Authority, has been carried out.

CONDITIONS FOR PHASES 2-5

69. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Parameter Plans

211_WS_02_00-Rev B - Red Line Boundary Plan;
211_WS_02_01-Rev B - Proposed Development Zone Plan;
211_WS_02_02-Rev B - Access & Circulation Zone;
211_WS_02_03-Rev B - Landscape Treatment Plan;
211_WS_02_04-Rev B - Ground Floor Frontages Plan;
211_WS_02_05-Rev B - Development Zones - Horizontal Limits of Deviation;
211_WS-02_06-Rev B - Proposed Site Levels & Vertical Limits of Deviation;
211_WS_02_07-Rev B - Development Zones & Maximum Heights;

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211_WS_02_08-Rev B - Proposed Site Basement Levels & Limit of Deviation;
211_WS_02_09 - Site Plan

Sections

211_WS_05_01-Rev B - Contextual Sections AA BB;
211_WS_05_02-Rev B - Contextual Sections CC DD;
211_WS_05_10-Rev B - Parameter Sections 1 - 4;
211_WS_05_11-Rev B - Existing Sections 1 - 4;

Landscape Drawings

HED_1140_RBP_LA_0001-Rev 01 - Illustrative Landscape Plan;
HED_1140_RBP_LA_0002-Rev 03 - Landscape GA;
HED_1140_RBP_LA_0003-Rev 03 - General Arrangement, Central Park;
HED_1140_RBP_LA_0004-Rev 01 - Illustrative Landscape Sections: The Parkway;
HED_1140_RBP_LA_0005-Rev 02 - Illustrative Sections: Park (North);
HED_1140_RBP_LA_0006-Rev 01 - Illustrative Sections: Central Park (South);
HED_1140_RBP_LA_0007-Rev 00 - Illustrative Landscape Sections: Courtyard;
HED_1140_RBP_LA_0008-Rev 02 - Trees for Retention + Proposed + Removal

Supporting Documents

Design Principles Document - Rev B, March 2017;

70. Applications for the approval of reserved matters (being scale, layout, appearance and landscaping) for Phases 2, 3, 4 and 5 shall be made to the Local Planning Authority before the following:

- v. Applications for Reserved Matters for Phase 2 shall be made within 3 years from the date of this permission;
- vi. Applications for Reserved Matters for Phase 3 shall be made within 4 years from the date of this permission;
- vii. Applications for Reserved Matters for Phase 4 shall be made within 5 years from the date of this permission;
- viii. Applications for Reserved Matters for Phase 5 shall be made within 7 years from the date of this permission.

71. The development hereby permitted in the later phases shall begin no later than 2 years from the final approval of the last Reserved Matters application in relation to each phase made pursuant to Condition 34.

72. As part of Reserved Matters applications, details of the energy supply for each building in Development Phases 2 - 5 shall be submitted to and approved in writing by the Local Planning Authority. Details shall accord with the Energy Statement and Addendum and shall include:

- iv. Details of the energy supply for each building connection, including a statement of compliance with the Energy Statement and Addendum;
- v. Details of any temporary energy provision required;
- vi. A statement of compliance with the site wide Energy Statement and Addendum.



Report to the Secretary of State for Housing, Communities and Local Government

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI
an Inspector appointed by the Secretary of State

Date: 9 January 2019

TOWN AND COUNTRY PLANNING ACT 1990

COUNCIL FOR THE LONDON BOROUGH OF BARNET

APPEAL

by

COMER HOMES GROUP

Inquiry held on 9 -11 October and 9 November 2018

North London Business Park, Oakleigh Road South, London N11 1GN

File Ref: APP/N5090/W/17/3189843

File Ref: APP/N5090/W/17/3189843

North London Business Park, Oakleigh Road South, London N11 1GN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Comer Homes Group against the decision of the Council of the London Borough of Barnet.
- The application Ref 15/07932/OUT, dated 18 December 2015, was refused by notice dated 15 September 2017.
- The development proposed is 'Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development. The detailed element comprises 376 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park Road, and; The outline element comprises up to 824 additional residential units in buildings ranging from two to eleven storeys, up to 5,177 sq m of non-residential floorspace (Use Classes A1-A4, B1 and D1) and 2.9 hectares of public open space, Associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking'.

Summary of Recommendation: The appeal be allowed and planning permission be granted subject to conditions.

Procedural Matters

1. At the Inquiry an application for costs was made by Comer Homes Group against the Council of the London Borough of Barnet. This application is the subject of a separate Report.
2. The outline element of the proposed development has been submitted with all matters except for access reserved for future consideration. This factor has been taken into account in this Report.

The Site and Surroundings

3. North London Business Park (NLBP), the site, is about 16.4 hectares of which about 13 hectares is currently undeveloped, comprising areas of disused open space and car parking. To the west of the site is the East Coast Mainline Railway beyond which is a residential area. There are residential areas to the north, north-east and south of the site and part of the east boundary of the site is to Brunswick Park Road. The residential areas are mainly two/three storey detached, semi-detached and terraced housing. There are two access roads into the site; one off Brunswick Park Road and one, at the southern tip of the site, off Oakleigh Road South. The northern part of the site is generally flat but from there ground levels fall by about 24 metres to the lowest point at Brunswick Park Road in the south-east corner of the site.
4. The site is partly occupied by four campus style buildings that provide 38,000 square metres of office, educational and community floorspace let to a variety of occupiers including St Andrew the Apostle School. There are about 1,300 car parking spaces on site and close to the access road off Brunswick Park Road is a lake that provides attenuation during periods of rainfall. There are two National Rail stations, New Southgate and Oakleigh Park, and one London Underground station, Arnos Grove, within one mile of the site. Brunswick Park Road and Oakleigh Road South are both bus routes. There is a fenced off and unused access on the north boundary

of the site to Weirdale Avenue which leads to Russell Lane where there is a parade of neighbourhood shops.

Planning Policy and other considerations

5. The Development Plan includes the Core Strategy (CS) and Development Management Policies (DM) of Barnet's Local Plan, which were adopted in September 2012, and The London Plan (LP), which was adopted in March 2016. The CS and the DM are documents of the Council's Local Development Framework (LDF).

6. CS policy CS5 'Protecting and enhancing Barnet's character to create high quality spaces' states that tall buildings (8 storeys or more) may be appropriate in specified locations, and that proposals for tall buildings will be considered in accordance with DM policy DM05 'Tall Buildings'. This policy states that tall buildings outside the areas specified in CS policy CS5 will not be considered acceptable. DM policy DM01 'Protecting Barnet's character and amenity' states, amongst other things, that development proposals should be based on an understanding of local characteristics, and that proposals should preserve local character and respect the appearance, scale, mass, height and pattern of their surroundings.

7. LP policy 7.7 'Location and Design of Tall and Large Buildings' states that tall and large buildings should be part of a plan-led approach to changing or developing an area by the identification of appropriate, sensitive and inappropriate locations, and that tall and large buildings should not have an unacceptably harmful effect on their surroundings. With regard to planning decisions, the policy states that applications for tall or large buildings should include an urban design analysis that demonstrates the proposal is part of a strategy that will meet specified criteria, and that this is particularly important if the site is not identified as a location for tall or large buildings in the borough's LDF. The specified criteria include the requirement that tall or large buildings should only be considered in areas whose character would not be affected adversely by the scale, mass or bulk of a tall or large building.

8. The LP designates the site as a Strategic Industrial Location but it is common ground that the strategic protection of the employment land is no longer necessary. A Planning Brief for NLDP was adopted on 22 March 2016. The Brief, amongst other matters, states that tall buildings, in accordance with CS policy CS5, should be restricted to strategic locations in the Borough, and that "As this site is not within a strategic location, tall buildings will not be envisioned in this location".

Planning History

9. There is nothing relevant in the planning history of the site.

The Proposed Development

10. The description of the development given above is that stated on the application form. The development was amended in early 2017 and was refused on the basis that it was for:

'Hybrid planning application for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development. The detailed element comprises 360 residential units in five blocks reaching eight storeys, the provision of a 5 Form Entry Secondary School, a gymnasium, a multi-use sports pitch and associated changing facilities, and improvements to open space and transport infrastructure, including improvements to the access from Brunswick Park

Road, and; the outline element comprises up to 990 additional residential units in buildings ranging from two to nine storeys, up to 5,177 sq m of non-residential floorspace (Use Classes A1-A4, B1 and D1) and 2.54 hectares of public open space. Associated site preparation/enabling works, transport infrastructure and junction works, landscaping and car parking'

11. The detailed element of the scheme is Phase 1 of the proposed comprehensive re-development of the site. The school building would have an east frontage to Brunswick Park Road and a north elevation facing a drop off area alongside the retained access road into the site. To the west of the school building would be Brunswick Lakeside Park; a public open space incorporating the attenuation lake. To the south of the lake would be a sport pitch and between this and residential development on Brunswick Crescent would be sports changing facilities and a gymnasium. To the west of the open space and sports facilities, and to the south of the access road, would be three blocks of residential apartments; blocks 1B, 1C and 1D. To the north of the access road, and to the west of residential development on Howard Close, would be two further blocks of residential apartments, Blocks 1E and 1F. Elements of Blocks 1E and 1F would be 8 stories in height.

12. Phases 2-5 of the re-development of the site are the subjects of the outline element of the proposed scheme. Phase 2 would be at the north end of the site and would be terraces and blocks of 2-5 storey dwellings and apartments. Phases 3-5 would be between Phase 1 and the railway line and would include blocks up to 9 stories in height. There would be, if the scheme is developed in line with the masterplan for the site, public open spaces within Phases 3 and 5, ground floor retail uses in Block 4B, lower floor office uses in Block 5A and lower floor retail, childcare, office and community uses in Block 3A.

Common Ground between the Main Parties

13. The main parties have set out agreed matters in a Statement of Common Ground (included as Inquiry Document (ID) 19). Some of these are:

- The principle of a residential-led mixed-use re-development of the site delivering residential accommodation alongside a new school and areas of public open space is appropriate;
- The provision of a new building for St Andrew the Apostle secondary school would be a qualitative and quantitative improvement to the school's existing facilities and buildings;
- The proposed 2,017 square metres of retail floorspace and 744 square metres of commercial floorspace would provide active ground floor frontages and would cater for local convenience needs. The introduction of these uses would not adversely affect nearby shopping opportunities;
- The scheme would include over 2.5 hectares of usable open space, neighbourhood play space and four locally equipped areas of play. This is an appropriate level of provision;
- The provision of an all-weather amenity sports pitch, indoor sports hall and multi-use games area, which would be used by the School and the wider community, constitutes a significant social benefit;

- The provision of a fully cleared school site would be the equivalent of 20% on-site affordable housing and the scheme includes the provision of 10% affordable housing. The scheme therefore provides for the equivalent of 30% affordable housing;
- The proposed development would have an average density of 251 habitable rooms per hectare (hrph) against an LP recommended density of 150-250 hrph for urban locations such as the appeal site. The densities recommended in the LP are not intended to be applied mechanistically;
- The Townscape and Visual Impact Assessment (TVIA) demonstrates that the development would be of limited visibility from the surrounding area with only localised viewpoints experiencing any noticeable change;
- The Transport Assessment indicates that the proposed development is acceptable in transport and highways terms. The site is a sustainable location for the proposed mixed use scheme, and the cumulative transport impacts and access arrangements are acceptable and meet the requirements of the National Planning Policy Framework (NPPF).

The Case for the London Borough of Barnet

The material points of the case for the London Borough of Barnet are:

14. The Council, which currently occupies parts of the North London Business Park, wishes to see appropriate redevelopment of the site. At present the site is under-occupied, not fit for future employment uses, and could provide significant housing provision for the Borough and for London, as well as an enlarged premises for the existing secondary school.

15. The Planning Brief for the site demonstrates the Council's intentions in that regard. This does not mean any development on the site, of whatever scale, massing and height, should be permitted, simply to bring the site into greater use. The Council's LDF, supplemented by the Planning Brief, makes it clear what scale and height of development would be acceptable.

16. The Council undertook a study, not challenged or even criticised by the Appellant, which identifies those areas which are suitable for tall buildings (i.e. greater than 7 storeys). The Council's LDF policies make clear that tall buildings outside the areas identified in CS policy CS5 "will not be supported" and, with regard to DM policy DM05 "will not be considered acceptable".

17. The Council refused planning permission for the reason that the proposed development "by virtue of its excessive height, scale and massing would represent an over development of the site resulting in a discordant and visually obtrusive form of development in its context, to such an extent that it would be detrimental to the character and appearance of the area...".

Site context and the impact of the proposal

18. The site is characterised by office-type buildings with large footprints, no greater than 4 storeys in height, at relatively low density. There is considerable green space throughout the site, as well as the small lake, and large areas of car parking. The existing built development is visible from relatively few places in the

locality, as the viewpoints in the Appellant's Townscape and Visual Impact Assessment (TVIA) illustrate.

19. The surrounding townscape is, as the Committee Report notes, characterised by two-storey suburban residential development. There is some built development up to three storeys, and the odd building of four storeys in height. There is nothing taller in the locality.

20. The Appellant contends that the Site has its own character. That is true, but only up to a point. The opportunity for total redevelopment of a site of this size presents an important opportunity, and such development must be very careful to reflect and be sympathetic to the surrounding townscape. The Appellant's proposals do not achieve this important objective.

21. 'Big box' campus style buildings, which currently occupy parts of the site, may not be characteristic of the surrounding area, but they are low in height and relatively unseen in the wider townscape. What is proposed is demonstrably very different from its surroundings.

22. The evidence of Mr Griffiths, for the Council, during cross-examination, was that the view of the proposed development from Howard Close (Viewpoint 11 in the TVIA) was the impact of the proposed development "which most concerns members", and would give rise to "significant harm". But this was not the only concern of Council members. The reason for refusal, and the Council's concerns about the proposed development, comprise "excessive height, scale and massing", which "would represent an over development of the site", leading to a "discordant and visually obtrusive form of development in its context". This concern is more than simply the view from Howard Close.

23. Phase 1, which is the detailed element of the scheme, includes large and tall blocks (up to 8 storeys) which do not relate to the surrounding townscape. The illustrative designs for the other four phases, also show large blocks of up to 8 or 9 storeys. This looks like a 'campus' and self-evidently it does not integrate well with, or appear sympathetic to, the surrounding area. The noticeable adverse change to the townscape would be visible in the wider area and in particular from Osidge Lane, New Southgate Cemetery, Brunswick Park Road, Howard Close, Pine Road, Fernwood Road and Oakleigh Road South.

24. The Appellant advances no case that, in order to achieve a certain number of dwellings on the site, scheme viability requires a certain density of dwellings or certain heights to provide that density. The numbers of dwellings proposed, and the density of the development and heights of scheme elements, are driven ultimately by the choices taken by the Appellant.

Planning Policy

25. There is a clear nexus between the site being 'not an appropriate location' for tall buildings, in terms of planning policy, and the council's reason for refusal that the scheme is of "excessive height, scale and massing". It would appear that the Appellant was informed during the design process that the Council's development plan policies did not permit buildings greater than 7 storeys at this location. But buildings of between 8 and 11 storeys were proposed anyway.

26. LP policy 7.7, adopted in its current form in 2016, has three sections which are of most relevance to this appeal. As far as Section C is concerned the Council relies

upon criteria a, b and c of that policy, and Section B of the policy contemplates that planning permission for tall buildings could not be granted in locations which have not been identified in the LDF, if the criteria in Section C of the policy are not met.

27. However, Section A of the policy expressly directs that there should be a “plan-led approach” to permitting tall buildings, “by the identification of appropriate, sensitive and inappropriate locations”. It also states that tall buildings should not have “an unacceptably harmful impact on their surroundings”. Section A directs local planning authorities to undertake an exercise to identify appropriate, potentially appropriate, and inappropriate, locations for tall buildings.

28. The Council undertook that exercise before the LP was adopted. The Council’s LDF is based upon its Tall Buildings Study, which guided its Core Strategy and Development Management Policies – policies CS5 and DM05 in particular. The Study identifies appropriate locations; and by definition, anywhere outside those locations is regarded as inappropriate. Failure to expressly identify “sensitive locations” does not mean that the Council’s policies do not accord with the LP, or alternatively, any lack of accord is relatively minor.

29. The direction to local planning authorities in Section A of LP policy 7.7 is very important. It must be read alongside Section B of the policy. If a study has been undertaken by a local planning authority such as London Borough of Barnet, then considerable weight should be given to that matter in applying LP policy 7.7 and in applying its LDF policies. Otherwise Section A is meaningless.

30. Where LDF policies are based upon an exercise to identify appropriate locations for tall buildings, as directed by the LP, then the fact that those LDF policies “do not support”, and “would not consider acceptable” tall building proposals outside such identified locations, means that the LDF accords with, or at the very least is not significantly out of step with, the LP.

31. This proposal does not accord with LDF policies on tall buildings. Moreover it does not accord with the LDF or the LP because of the unacceptably harmful effect which would result if it is built.

Housing need

32. The Council’s Annual Monitoring Report (AMR) for 2016-17, published in July 2018, is based upon the figures also used by the Greater London Authority (GLA), and was prepared using the ‘Liverpool’ method, which at the time the document was prepared was considered to be as valid as the ‘Sedgefield’ approach. The GLA’s own AMR including figures for Barnet was published two months later.

33. Whatever the differences between the methodologies that the two parties have used to calculate the Council’s 5 year housing supply, there is very little between the two. The best case is a 5.1 year supply, the worst case is a 4.8 year supply. In short, just under, or just over, a 5 year supply.

34. As far as the timing of the proposed development is concerned, if the appeal is successful, the 350 dwellings of Phase 1 would be expected to be completed by the end of 2022 – just at the end of the 5 year period. Beyond that the completion of phase 5 is expected by about the end of 2027.

35. This scheme is not going to deliver a large number of houses quickly, even if the first phase is built by 2020.

Conclusion

36. Determination of the planning application was the planning committee's decision, not the decision of officers. Members are entitled to take a different view from their officers. The proposed scheme is excessive in height, massing and density (including phase 1, which includes 8 storey elements in the 'detailed' permission sought). It constitutes an unacceptably adverse overdevelopment of the site. The scheme is contrary to the development plan and its benefits do not outweigh the harm it would cause.

The Case for Comer Homes Group

The material points of the case for Comer Homes Group are:

37. The LDF threshold for what constitutes a "tall building" is "8 storeys ...or more". Of the 6 blocks proposed in the detailed part of the application only a limited element of Block 1E and of Block 1F are 8 storeys. Accordingly, the detailed part of the scheme very largely - i.e. all of blocks 1A, 1B, 1C, 1D and nearly all of blocks 1E & 1F - comprises buildings which are *not* tall buildings. As for the outline part of the scheme none of Phase 2 comprises tall buildings whereas nearly all of Phase 3 and all of Phases 4 and 5 have proposed maximum heights of 9 storeys and thus comprise tall buildings. Given this, the Development Plan issue relates to one storey in one element of Block 1E and Block 1F but otherwise not at all in relation to Phase 1; not at all in relation to Phase 2 and to the potential 8th and 9th floors of all but one of the blocks in Phases 3, 4 & 5.

38. The combined effect of the LDF policies is that as the appeal site is not a location that has been identified as appropriate for tall buildings, those parts of the scheme which constitute tall buildings would not be in accordance with CS policy CS5 (by virtue of which the tall buildings "will not be supported") and DM policy DM05 (by virtue of which they "will not be considered acceptable"). As was confirmed by Mr Griffiths, Council members consider that these policies contain a "prescriptive approach".

39. However, the CS and the DM were adopted in September 2012 while the other part of the Development Plan, the London Plan, was adopted in March 2016 and takes a quite different approach to whether tall buildings can be permitted on sites which have not been identified as appropriate in the LDF. LP policy 7.7B allows for tall buildings on sites not identified in local plans to be considered on their merits; this is because it states that: "Applications for tall ...buildings should include an urban design analysis that demonstrates that the proposal is part of a strategy that will meet the criteria below. This is particularly important if the site is not identified as a location for tall buildings ...in the borough's LDF". Plainly, if the LP meant to rule out tall buildings on sites which are not identified in the local plan as being appropriate locations for them then the words in 7.7B would be otiose. But the words are not otiose; they have an obvious meaning and effect from which it is clear that LP policy 7.7 conflicts in its approach to that found in the earlier LDF policies. Mr Griffiths agreed that the approach in the LP is different from that in the earlier CS & DM.

40. Section 38(5) of the 2004 Act tells us what to do in cases such as this by stating that "If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan".

41. It is important to take on board that this provision immediately precedes Section 38(6). That is because subsection (5) enables one to work out what the development plan is to be taken to mean in cases such as this where there is a conflict between different parts of the plan. Thus, in the case of this appeal in order to answer the question under Section 38(6) as to what determination would be in accordance with the development plan, by virtue of subsection (5) that question has to be asked in relation to LP policy 7.7 and not in relation to the earlier CS policy CS5 and DM policy DM05.

42. The "acid test" in LP policy 7.7 (in all cases) is that: "Tall ...buildings should not have an unacceptably harmful impact on their surroundings". This is in effect the underlying purpose of applying the criteria set out in LP policy 7.7C and D, i.e. having worked one's way through the criteria the overall question is whether because of any of the matters that one is asked by these criteria to consider there would be an unacceptably harmful impact on the surroundings. The Appellant's case is that having considered the criteria there would be no harm at all and certainly no unacceptable harm.

43. It is important to understand what the Council's case is (and what it isn't) contending. The planning officer recommended approval of the application; the members disagreed and refused it. However, the Council's witness (Mr Griffiths) explained that the evidence in his proof did not represent his professional judgments, indeed he confirmed in cross examination that none of the proof represented his evidence; instead, the proof sets out his understanding of why members had refused the scheme. To make matters worse, when asked whether he has formed a professional opinion about whether the scheme should be permitted, he said that he has but he refused to say what it is.

44. In relation to LP policy 7.7 we know from Mr Griffiths' written evidence that the members consider that the appeal proposals would fail to accord with criteria a, b and c in 7.7C. The next point that needs to be understood is why do Council Members think this? Mr Griffiths confirmed verbally that Members' concern relates only to the tall buildings i.e. the 8 storey elements of Blocks 1E and 1F in the detailed part of the application in relation to relationship to the cul-de-sac part of Howard Close. As was established the parts of Blocks 1E and 1F which are closest to Howard Close are only 3 storeys, the furthest away elements of these blocks are predominantly less than 8 storeys and so not tall; only one element on each block is 8 storeys. Mr Griffiths referred on the Members' behalf to View 11 in the Appellant's TVIA. The image is in part now inaccurate because it shows a previous version of the scheme in which the nearest "wing" of Block 1E was 5 storeys. Mr Griffiths confirmed in answers that this image is "i.e. rather than e.g." in terms of the Members' concerns; in other words (as Mr Griffiths again confirmed) of the 19 views in the TVIA, it is only this one image that members rely upon to argue that the scheme would not accord with LP policy 7.7. Mr Griffiths confirmed that no other location anywhere else had been referred to by Members.

45. The point taken by Members boils down to whether the tall elements (i.e. the 8th storey parts of Blocks 1E and 1F) of Phase 1 of the scheme would have an unacceptably harmful impact on this part of Howard Close. On any sensible judgment the answer to this question is obvious and is, no, of course not. The scheme has been carefully designed in terms of its relationship to the suburban houses in Howard Close so that the parts of Blocks 1E and 1F which are closest to the

Close are only 3 storeys, and nearly all of the rear parts of the blocks (which are comfortably set-back from the Close) are not tall buildings anyway.

46. The Council's case does not extend to any other part of the scheme. There were times when the Council's counsel appeared to be trying to widen the case so as to make it more generalised and wider in scope so as to include the tall buildings in Phases 3, 4 & 5 and so as to argue that as the character of the surrounding area is suburban, tall buildings would be out of keeping with them. But that does not reflect the written evidence of Mr Griffiths on behalf of the Members nor the very clear answers that he gave at the Inquiry.

47. For completeness the Appellant's case in summary is as follows. First, the Council's own Planning Brief tells us, rightly, that the site is "large enough to have its own character"; historically and currently this has been so as buildings on the site have been and are markedly different in their character and appearance from the site's suburban surroundings. The Brief describes the existing main buildings as "campus style big box development with large single building units"; a striking feature is the change in level by some 24 metres (the equivalent of some eight residential storeys) across the site which, as the Brief explains "provides the opportunity to conceal the scale of buildings". The character of the existing site is quite different from its suburban surroundings. Accordingly, it is beside the point to ask whether the scheme would differ from its suburban surroundings – on this site, it was ever thus. The true question is whether what is proposed, though different from its suburban surroundings, would be unacceptably harmful. Being different can be – and here is – a good thing. Why would one want to replicate the surrounding suburban semis and terraces across this large site which has the capability to provide its own, and far better environment, than anything found in the area? As the NPPF explains in paragraph 127, being "sympathetic to local character" is not to prevent or discourage "appropriate change". Here what is proposed is perfectly appropriate.

48. Secondly, the Statement of Common Ground records agreement that the proposed redevelopment of the site "would be of limited visibility from the surrounding area". From those places where the scheme would be visible and noticeably so, once again being able to see a scheme does not even begin to equate to there being unacceptable harm. Being able to see a good scheme is a good and not a bad thing.

49. Thirdly, the proposed tall buildings have come about as the result of close collaboration between the Appellant's team and Council officers over a period of years; what you see in the appeal scheme is the product of the joint efforts of the Appellant and the Council's officers, this is as far removed from a case of a developer seeking to impose his will on the local community as is possible to imagine. At no stage have any of the several officers who were closely involved in considering the evolving proposals for the site ever indicated that buildings on the site must not exceed 7 storeys.

50. Fourthly, the part of the site where Phases 3, 4 & 5 are proposed are well away from the surrounding suburban streets and are next to the East Coast mainline with a very substantial and tall existing screen of leylandii between the proposed blocks and the railway line. Quite frankly, tall buildings (in essence the 8th and 9th storeys of these blocks) on this part of the site would not have any impact at all on the suburban streets in the wider area, let alone a harmful one, and most certainly not an unacceptably harmful one.

51. Fifthly, in relation to the outline part of the proposals – where nearly all of the tall buildings in the scheme are proposed - as the height parameters are (“up to”) maxima and given that all matters (apart from access) are reserved, should it be considered at reserved matters stage that the 8th and/or 9th storeys of a block as proposed in detail are unacceptable then it would be open to the Council to refuse the reserved matters application.

52. In all of this it is important to keep in mind that the issue in relation to the tall buildings elements of the proposals is whether they would be unacceptably harmful; it is not whether a scheme which did not exceed 7 storeys in height would (also) be viable. It is the merits of the appeal scheme which stand to be considered, not hypothetical other ideas for redeveloping the site. There might or there might not be all sorts of different ways in which a scheme could be drawn up but the only thing that counts is whether this scheme – the one that has been drawn up and is the subject of the appeal – is acceptable under the terms of Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended (the PCP Act).

Transport and Highways

53. The Appellant has undertaken a very careful assessment of the scheme’s transport and highways impacts. The Council raises no concerns; it being common ground that the scheme is unobjectionable subject to appropriate Section 106 Obligations and conditions, all of which are now agreed. There are no objections from the GLA or Transport for London (TfL).

54. The proposed pedestrian and cycle link between the appeal site and Weirdale Avenue will be provided in accordance with the Council’s 2016 Planning Brief. It will improve the site’s connectivity to the wider area, and will be well designed and fit for purpose. It is plainly a good thing in planning terms; the NPPF aims to promote healthy, inclusive and safe communities through the provision of street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods.

55. The site will be provided with sufficient parking, which will be carefully managed and will not result in overspill parking on local roads. In this regard residents’ concerns about congestion on the local road network are unfounded, the NPPF provides that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. As Mr Awcock explained in his evidence, and as the Council accepts, the scheme does not come anywhere near having an unacceptable impact on the road network.

Other material considerations

56. In terms of Section 38(6) of the PCP Act, if it is concluded that the proposed development accords with the Development Plan then the various and worthwhile benefits the scheme would deliver would constitute material considerations which would lend additional support to the case for granting planning permission. Alternatively, if it is concluded that the proposals do not accord with the Development Plan, then the benefits would constitute material considerations which would – readily - indicate determination of the appeal other than in accordance with the Development Plan.

57. The appeal scheme would deliver substantial benefits, including:

- 1350 new homes. There is an issue between the parties concerning whether the Council can demonstrate a five years' supply of housing sites but even were the Council's figures to be accepted, the supply includes new homes on the appeal site (without which the Council would not be able to demonstrate a five years' supply) and more importantly, whether there is or there isn't a five years' supply, the provision of new homes would be a hugely significant benefit – the five years' requirement is "a minimum" and having a supply which exceeds this would be a good (not a bad) thing.
- A new 5 Form Entry secondary school, the provision of which should be given "great weight". Paragraph 94 of the NPPF is an unusual example of the Secretary of State telling us how much weight is to be given to something, here the school.
- Over 2.5 hectares of public open space available to the wider community; the site currently provides none.
- The appeal proposals would be far better in their urban design and architecture – and their interaction with the local community - than the existing development on the site.
- There would be various highways benefits and the increased permeability of the site would be beneficial for the wider community.
- Unlike the existing situation, the employment space proposed would be tailored to meet local needs so although the amount of such floorspace would reduce considerably, its quality would be considerably better.
- The local shops and community floorspace would benefit the wider community.
- The sports facilities would be made available to the local community outside of the hours and days when in use by the school.
- There would be a huge CIL payment of some £26m and the Council would receive in the order of £4m of National Homes Bonus funding.

58. Taking everything into account this is an excellent well-designed scheme and a scheme that should be commended. The appeal should be allowed.

The Case for Third Parties including the Rt Hon Theresa Villiers MP

The material points of the case for third parties are:

59. The provision of new school buildings for St Andrew the Apostle School is welcomed but should not be tied to the other residential parts of the proposed development. The scheme, given its density and the height of its buildings, would have a significant adverse impact on the character and appearance of the area where existing development is predominantly two storey terraced and semi-detached dwellings. Traffic associated with the scheme would increase congestion in the surrounding area and would threaten pedestrian and highway safety, particularly on Brunswick Park Road. Three storey elements of Blocks 1E and 1F are too close to existing dwellings on Howard Close and would adversely affect the amenities of residents of this residential street. The potential for traffic exiting the site through an

existing access onto Weirdale Avenue would adversely affect traffic congestion and highway safety, and the amenities of residents of this street.

Conditions and Planning Obligation

Conditions

60. Recommended conditions are included in two Schedules attached to this report. The reason for each condition appears after the condition. They are in line with conditions agreed by the Council and the Appellant (ID15) though they have been amended, where necessary, to meet the tests set out in the Planning Practice Guidance (PPG) and in the interests of clarity and precision.

Unilateral undertakings

61. At the Inquiry the Appellant submitted a signed and dated Planning Obligation, made under Section 106 of the Act, for the proposed development (ID21). The Council has assessed the obligations and has concluded that they comply with Regulation 123(3) of the Community Infrastructure Levy Regulations 2010. The obligations of the undertakings are all necessary to make the development acceptable in planning terms. They are all, furthermore and in accordance with paragraph 56 of the NPPF, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Undertakings therefore comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Conclusions

Numbers in square brackets at the end of each paragraph refer to earlier paragraphs in this Report.

62. The main issue is the effect of the proposed development on the character and appearance of the area.

63. The Council does not object, in principle, to the proposed re-development of the North London Business Park (NLBP). It is the proposed elements of the scheme that exceed seven storeys in height, in conflict with CS policy CS5, and the scale and massing of the development, that concerns them. [14]

64. NLBP comprises, mainly, three buildings of significant footprint and height set out in a campus arrangement within extensive open areas. The scale, layout and form of the NLBP are in contrast to development that surrounds the site, which is predominantly two storey terraced dwellings. The three buildings are set well back from the boundaries of the site and they have no significant visual presence in the wider area and do not contribute to the character and appearance of that area. There is no doubt that the NLBP has its own character and its appearance is entirely different to that of the surrounding area. This different character and appearance has prevailed since the area was originally developed. [18-21, 47]

65. The design approach to the redevelopment of the site, given the current character of the site, is appropriate. The taller buildings up to nine storeys high, predominantly, would be close to the west boundary of the site to the railway line, in Phases 3, 4 and 5. In Phase 2 the buildings would be no more than five storeys high, and along the north and east boundaries of this phase, close to existing two storey residential development, buildings would be, appropriately, only three storeys high. In this regard the proposed scheme respects existing development, and the outlook of existing residents of the area, but maximises the potential of the site in locations away from boundaries to existing development. [48]

66. Development in Phase 1, along the boundaries to existing development on Brunswick Crescent, Howard Close and Brunswick Park Gardens, would be only three storeys high, as would be the proposed secondary school building set back from the frontage to Brunswick Park Road. Further back into the site from the school building, beyond sports pitches and a landscaped area, residential blocks would be no more than seven storeys in height. In Phase 1 only two elements of Blocks 1E and 1F would be eight storeys in height, and thus not compliant with CS tall building policy. These taller elements, however and in townscape terms, would complement lower elements in these Blocks and in Blocks 1C and 1D alongside The Parkway, the main thoroughfare through the site. [22, 49, 50]

67. The eight storey elements in Phase 1 are not excessive in height and are elements of a carefully considered and designed scheme. Along The Parkway development would have an undulating roofscape and would be set alongside and around substantial green spaces. The design approach is appropriate to the context of the site and its surroundings and the scale and massing of the development are not excessive. This design approach is continued through the later phases of the development and the high blocks of Phases 3, 4 and 5, incorporating non-residential uses at lower floor levels, would be set around and would be complemented by New Brunswick Park South, a substantial public landscaped open space at the heart of the proposed development. [23, 51]

68. The vista along Howard Close would be terminated by the six and seven storey elements of Block 1E flanked either side by eight storey elements of Blocks 1E and 1F. The higher elements of these blocks, however, would be set well back from the boundary of the site and have been carefully and sensitively designed. They would not be discordant or visually obtrusive. The higher elements of the proposed development would be visible from other locations in the surrounding area, such as from Fernwood Crescent on the opposite side of the railway line, from Pine Road to the north and from New Southgate Cemetery to the south-east. But the high buildings would only be glimpsed in the background and from some distance away. It is worth noting, in this regard, that a characteristic of the London cityscape, even in the suburbs, is the glimpses of tall buildings from many public vantage points.

69. All elements of the proposed development are respectful of their surroundings and have been carefully designed and masterplanned, in collaboration with Council Officers. The site has its own character and the proposed development respects that character. The buildings would be visible from some vantage points in the surrounding area but they would not be discordant or visually obtrusive, and would be set within substantial areas of complimentary public landscaped open space. The proposed development, in terms of its appearance, scale, mass, height and pattern, would not adversely affect, and would thus preserve, the character and appearance of the area. The proposed development thus complies with DM policy DM01. [49, 52]

Planning policy and material considerations

70. The Planning Brief for the site reflects the provisions of CS policy CS5 and DM policy DM05 by stating that "As this site is not within a strategic location, tall buildings will not be envisioned in this location". The Brief was adopted in March 2016 at about the same time as the LP. There is a tension between the LP and the Council's LDF because the latter restricts tall buildings to being in specified locations whereas the former envisages, in policy 7.7 and if the site is not identified as a location for tall or large buildings in the borough's LDF, the inclusion of an urban design analysis with an application for a tall building. [26-27]

71. LP policy 7.7 does not therefore exclude the possibility of a tall building in a location not identified in a Council's LDF. Whilst the policy requires that tall and large buildings should be part of a plan-led approach the underlying intent of the policy is that tall and large buildings should not have an unacceptably harmful effect on their surroundings. An urban design analysis was included with the application and the proposed development, in terms of its urban design, has been found to be acceptable. The tall buildings of the proposed development, furthermore, would not have an unacceptably harmful effect on their surroundings. There is therefore no conflict with the intent of LP policy 7.7. [28, 29, 38, 39]

72. The proposed development conflicts with CS policy CS5 and DM policy DM05, because its tall buildings would be in a location not specified as suitable for tall buildings in the CS. Section 38(5) of the PCP Act indicates that the LP, which was adopted after Barnet's Local Plan, should be favoured over the CS and the DM. But LP policy 7.7 does state that tall buildings should be part of a plan-led approach and the adopted Local Plan provides that approach. [40]

73. Paragraph 47 of the NPPF states that planning law, Section 38(6) of the PCP Act, requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

74. The proposed development is acceptable in terms of its scale, massing and design, and would not harm the character and appearance of the area. In this regard the proposed development complies with the Development Plan, in particular DM policy DM01. However, because it incorporates buildings of more than seven storeys the development conflicts with the Local Plan and with CS policy CS5 and DM policy DM05 in particular, though it does not conflict with LP policy 7.7 which may be favoured over Local Plan policies. Nevertheless it is necessary to consider whether material considerations indicate that determination of the appeal can be made other than in accordance with CS policy CS5 and DM policy DM05. [31, 41, 42]

75. Paragraph 94 of the NPPF requires that great weight be afforded to, in this case, the provision of new school buildings for St Andrews the Apostle School. Many have commented, in writing and at the Inquiry, on the significant benefit to the school and the community that would result from this element of the proposed development, which is indeed afforded, in line with the NPPF, great weight. [57]

76. The Council claims to be able to demonstrate five years of housing land supply, a requirement of paragraph 73 of the NPPF, but only by including the proposed dwellings for the NLBP site. Five years of supply, furthermore, is a minimum requirement and the scheme would, in any event, boost the supply of housing, a principal Government objective. [32-34, 57]

77. The school sports facilities would be available to the local community outside school hours, as would be the 2.5 hectares of public open space and the community floorspace that would be incorporated in the scheme. The scheme would generate payment by the developer of a Community Infrastructure Levy of about £26m and the Council would receive about £4m of National Homes Bonus funding. [57]

78. The aforementioned matters are significant and substantial benefits of the proposed development and are, as a matter of planning judgement, material considerations that justify determination of the appeal other than in accordance with CS policy CS5, DM policy DM05 and LP policy 7.7. [57]

79. Paragraph 38 of the NPPF states that decision-makers at every level should seek to approve applications for sustainable development where possible. The Council has not suggested that any harm would be caused by the proposed development other than to the character and appearance of the area. This is an environmental objection to the proposal and has been found to be unproven, and no evidence has been brought forward to suggest that the proposed scheme does not also meet the economic and social objectives of sustainable development set out in paragraph 8 of the NPPF.

Other matters

80. With regard to traffic congestion in the area there is a bottle neck on Brunswick Park Road to the north of the proposed development caused by on-street parking on the east side of the road. The bottleneck causes traffic delays but it is unlikely, as observed at the site visits, that these are anything other than short. Traffic associated with the development is likely to be more distributed throughout the day compared to that associated with the current commercial uses of the site and is not likely to exacerbate this situation or any other congestion that is experienced in the area. The proposed development has been assessed by the Highway Authority for its effect on highway safety in the surrounding area. The Highway Authority has

no concerns with the effect of development traffic on highway safety and no evidence has been submitted to cast doubt on this conclusion. [53-55]

81. The Section 106 Planning Obligation makes provision for the existing access to the site from Weirdale Avenue to be narrowed by landscaping and to be restricted to use by pedestrians and cyclists. Traffic associated with the development would therefore be unable to use Weirdale Avenue for access to and exit from the site. Proposed three storey blocks close to Howard Close would be similar in overall height to existing dwellings and no clear glazed habitable rooms would face towards these dwellings. The proposed development would not thus adversely affect the amenities of residents of Howard Close or any other roads surrounding the site. [59]

Conclusion

82. The proposed development would not harm the character and appearance of the area and thus complies with DM policy DM01, and material considerations justify determination of the appeal other than in accordance with CS policy CS5, DM policy DM05 and LP policy 7.7. The proposed redevelopment scheme for the NLBP is sustainable development. [36, 58]

Recommendation

83. The appeal be allowed and planning permission be granted subject to the conditions set out in the schedules attached to this Report.

John Braithwaite

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|----------------------------------|----------------------------|
| Mr J Pike | Barrister |
| He called | |
| Mr C Griffiths BA(Hons) MPlan | Principal Planning Officer |

FOR THE APPELLANT:

| | |
|--------------------------------------|-------------------------------------|
| Mr C Katkowski | Queens Counsel |
| Mr R Walton | Barrister |
| They called | |
| Mr D Twomey MRAIA | Plus Architecture |
| Mr P Stewart | Peter Stewart Consultancy |
| Mr I Awcock CEng MICE MIHT MCIWEM | Director of Awcock Ward Partnership |
| Mr C Mills MRICS ARTPI | Partner of Daniel Watney LLP |

INTERESTED PERSONS:

| | |
|----------------------|--------------------------------|
| Rt Hon T Villiers | MP for Chipping Barnet |
| Councillor L Rutter | Ward Councillor |
| Mr P Rowley | Local Resident |
| Mrs P Bohan | Local Resident |
| Mr A Wallender | Local Resident |
| Mr M Berliner | Local Resident |
| Mrs K Salinger | Chair of Residents Association |
| Mrs E Hartland | Local Resident |
| Mr R Weeden-Sanz | Borough Councillor |
| Mrs M Carruthers OBE | Retired Headteacher |
| Mr J Pambakian | Local Resident |

DOCUMENTS

- 1 Council's letter of notification of the Inquiry.
- 2 List of Appearances on behalf of the Appellant.
- 3 Appellant's Opening Submissions.
- 4 Five Year HLS calculations.
- 5 Housing delivery: 5 year land supply (extract from NPPG).
- 6 Response by Council to Document 4.
- 7 Council's response to matters raised by the Appellant.
- 8 Response by Appellant to Document 7.
- 9 LP Annual Monitoring Report 2016/17.
- 10 LP Annual Monitoring Report 2015/16.
- 11 Barnet's Monitoring Report 2016/17.
- 12 Notes of submissions by the Rt Hon Theresa Villiers MP.
- 13 Submissions by Councillor Rutter.
- 14 Submissions by Mr Rowley.
- 15 Draft Conditions.
- 16 Draft Section 106 Agreement.
- 17 Closing Submissions on behalf of the LB of Barnet.
- 18 Appellant's Closing Submissions.
- 19 Statement of Common Ground.
- 20 Masterplan Presentation.
- 21 Section 106 Planning Obligation.
- 22 Site Spot Levels.
- 23 Building Storey Heights.
- 24 Appellant's Costs Application.
- 25 Council's Response to the Costs Application.
- 26 Appellant's Final Comments on Costs Application.

RECOMMENDED DETAILED CONDITIONS FOR PHASE 1

1. The development of Phase 1 hereby permitted shall be carried out in accordance with the following approved plans:

Block 1A - School

211_1A_02_001-Rev B - Basement Plan;
211_1A_02_00-Rev B - Ground Floor Plan;
211_1A_02_01-Rev B - First Floor Plan;
211_1A_02_02-Rev B - Second Floor Plan;
211_1A_02_03-Rev B - Roof Level - MUGA;
211_1A_02_04-Rev B - Roof Level - Parapet;
211_1A_04_01-Rev B - School North & South Elevation;
211_1A_04_02-Rev B - School East & West Elevation;
211_1A_04_02A-Rev B - Detailed West Elevation - Wall fronting Brunswick Park Road;
211_1A_04_03-Rev B - Sports Hall Elevations;
211_1A_05_01-Rev B - School Sections;

Block 1B

211_1B-02_00-Rev A - Block 1B, Ground Floor and First Floor Plan;
211_1B_02_01-Rev A - Block 1B, Attic Floor and Roof Plan;
211_1B-04_01 - Block 1B, North & South Elevations;
211_1B_04_02-Rev A - Block 1B, East & West Elevations and Section AA;

Block 1C & 1D

211_B1CB2D_02_001 - Basement Plan;
211_B1CB2D_02_00-Rev A - Ground Floor Plan;
211_B1CB2D_02_01-Rev A - First Floor Plan;
211_B1CB2D_02_02-Rev A - Second Floor Plan;
211_B1CB2D_02_03-Rev A - Third Floor Plan;
211_B1CB2D_02_04-Rev A - Fourth Floor Plan;
211_B1CB2D_02_05-Rev A - Fifth Floor Plan;
211_B1CB2D_02_06-Rev A - Sixth Floor Plan;
211_B1CB2D_02_07-Rev A - Seventh Floor Plan;
211_B1CB2D_02_08-Rev B - Roof Level;
211_B1CB2D_04_01-Rev A - Block 1C and Block 1D, East Elevation;
211_B1CB2D_04_02 - Block 1C and Block 1D, West Elevation;
211_B1CB2D_04_03 - Block 1C, South and North Elevation;
211_B1CB2D_04_04 - Block 1D, South Elevation;
211_B1CB2D_04_05-Rev A - Block 1D, North Elevations;
211_B1CB2D_05_01-Rev A - Block 1C and Block 1D Section AA;
211_B1CB2D_05_02-Rev A - Block 1C and Block 1D Section BB;
211_B1CB2D_05_03 - Block 1C Section DD and CC;
211_B1CB2D_05_04-Rev A - Block 1D Section EE and FF;

Block 1E & 1F

211_B1EB1F_02_001 - Basement Plan

211_B1EB1F_02_00-Rev A - Ground Floor Plan;
211_B1EB1F_02_01-Rev A - First Floor Plan;
211_B1EB1F_02_02-Rev A - Second Floor Plan;
211_B1EB1F_02_03-Rev A - Third Floor Plan;
211_B1EB1F_02_04-Rev A - Fourth Floor Plan;
211_B1EB1F_02_05-Rev A - Fifth Floor Plan;
211_B1EB1F_02_06-Rev A - Sixth Floor Plan;
211_B1EB1F_02_07-Rev A - Seventh Floor Plan;
211_B1EB1F_02_08-Rev B - Roof Plan;
211_B1EB1F_04_01 - B1EB1F - West Elevation;
211_B1EB1F_04_02-Rev A - B1EB1F East Elevation;
211_B1EB1F_04_03-Rev A - B1F North Elevation & South Elevation;
211_B1EB1F_04_04-Rev A - B1E North & South Elevations;
211_B1EB1F_05_01-Rev A - Block 1E & Block 1F, Section AA;
211_B1EB1F_05_02-Rev A - Block 1F, Section BB & CC;
211_B1EB1F_05_03-Rev A - Block 1E, Section DD

Landscape Drawings

HED_1140_RBP_P1_0001-Rev 03 - Phase 1 Landscape: General Arrangement;
HED_1140_RBP_P1_0002-Rev 03 - Phase 1 Hard Landscape: Area 01;
HED_1140_RBP_P1_0003-Rev 01 - Phase 1 Hard Landscape: Area 02;
HED_1140_RBP_P1_0004-Rev 03 - Phase 1 Hard Landscape: Area 03;
HED_1140_RBP_P1_0005-Rev 03 - Phase 1 Landscape Planting: Area 01;
HED_1140_RBP_P1_0006-Rev 01 - Phase 1 Landscaping Planting: Area 02;
HED_1140_RBP_P1_0007-Rev 02 - Phase 1 Landscaping Planting: Area 03;
HED_1140_RBP_P1_0008-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0009-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0010-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0011-Rev 00 - Phase 1 Planting Palette;
HED_1140_RBP_P1_0012-Rev 00 - Phase 1 Illustrative Materials Palette;
HED_1140_RBP_P1_0013-Rev 02 - Phase 1 Trees for Retention + Proposed + Removal;
HED_1140_RBP_P1_0014-Rev 00 - Phase 1 Landscape Terraces;
HED_1140_RBP_P1_0015-Rev 00 - Phase 1 School Play Area;
HED_1140_RBP_P1_0016-Rev 00 - Phase 1 Residential Street;
HED_1140_RBP_P1_0017-Rev 00 - Phase 1 Lake & Board Walk;
HED_1140_RBP_P1_0018-Rev 00 - Phase 1 Private Gardens (front);
HED_1140_RBP_P1_0020-Rev 00 - Phase 1 Street Section (Parkway);
HED_1140_RBP_P1_0021-Rev 00 - Phase 1 Intensive Green Roof;

Highways Drawings

0031-PHL-01-Rev C - Preliminary Highway Layout Sheet 1;
0031-PHL-02-Rev C - Preliminary Highways Layout Sheet 2;
0031-PHL-03-Rev C - Preliminary Highway Profile Sheet 1;
0031-PHL-04-Rev C - Preliminary Highway Profile Sheet 2;
0031-PHL-05-Rev C - Preliminary Highway Profile Sheet 3;
0031-PHL-06-Rev B - Preliminary Highway Profile Sheet 4;
0031-PHL-07-Rev B - Phase 1 Highway Layout;
0031-PHL-08-Rev A - Highway Access Plan;

0031-PHL-12-Rev B - Preliminary Eastern Access Arrangement and Benfleet Way Access Plan;

0031-PDL-100-Rev A - Phase 1 Preliminary Drainage Layout;

0031-PDL-101-Rev A - Proposed Detention Basin;

0031-PDL-200-Rev A - Preliminary Drainage Layout.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the adopted Barnet Development Management Policies DPD (2012) and CS1 of the adopted Barnet Core Strategy DPD (2012).

2. Phase 1 hereby permitted shall begin no later than 3 years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town & Country Planning Act 1990 (as amended).

3. Other than Ground Works and Site Preparation Works (site clearance, site hoarding, decontamination) no development shall commence within Phase 1 until a Construction Environmental Management Plan, setting out the construction and environmental management measures associated with the development of Phase 1, has been submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the ES and shall include:

Construction site and works

- i. Site information (including a site plan and management structure);
- ii. Description of works, equipment and storage;
- iii. Programme of works;
- iv. Temporary hoarding and fencing;
- v. Temporary works;
- vi. Interim drainage strategy;
- vii. Intrusive site investigation works and monitoring (the scope to be agreed in writing with the Local Planning Authority);

Construction management and procedures

- viii. Code of Construction Practice;
- ix. Consultation and neighbourhood liaison;
- x. Staff training and briefing procedures;
- xi. Schedule of environmental legislation and good practice;
- xii. Register of permissions and consents required;
- xiii. Environmental Audit Programme;
- xiv. Environmental Risk Register;
- xv. Piling Works Risk Assessment;
- xvi. Health and safety measures;
- xvii. Complaints procedures;
- xviii. Monitoring and reporting procedures;

Demolition and waste management

- xix. Demolition audit;

- xx. Site clearance and waste management plan;
- xxi. Asbestos survey and disposal strategy;

Construction traffic

- xxii. Construction traffic routes;
- xxiii. Construction traffic management (including access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution)

Environmental Management

- xxiv. Ecology surveys and management plan (as required by the ES) in relation to any existing ecological features that may be affected by works in that Development Phase.
- xxv. Measures to minimise visual impact during construction
- xxvi. Measures to minimise noise and vibration levels during construction;
- xxvii. Measures to minimise dust levels during construction;
- xxviii. Measures to control pollution during construction (including a Pollution Response Plan);
- xxix. Construction lighting strategy, including measures to minimise light spill;
- xxx. Measures to reduce water usage during construction;
- xxxi. Measures to reduce energy usage during construction;
- xxxii. Any other precautionary and mitigation measures in relation to demolition and construction as identified in the ES and the EIA Mitigation Register;

Phase 1 shall thereafter be implemented in accordance with the Construction Environmental Management Plan as approved by the LPA.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties, in the interests of highways and pedestrian safety and in the interests of protecting the environment and trees in accordance with policies CS9, CS13, CS14, DM01, DM04 and DM17 of the Barnet Local Plan and policies 5.3, 5.18, 7.14, 7.15, 7.21 and 5.21 of the London Plan 2015.

4. A contamination remediation scheme shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The scheme shall be in accordance with the approach to remediation set out in the Environmental Statement, and the remediation scheme shall be implemented as approved prior to the occupation of Phase 1.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety in accordance with Policy CS NPPF of the Local Plan Core Strategy DPD (adopted September 2012), DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 5.21 of the London Plan 2015.

5. No construction works shall occur outside 0800 - 1800 hours on weekdays and 0800 - 1300 hours on Saturdays, and shall not occur at all on Public Holidays.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policies DM01 and DM04 of the Barnet Local Plan.

6. Vegetation clearance shall take place outside the bird breeding season (October to February). Any clearance of vegetation with the potential to support nesting birds shall only occur following a check by a qualified ecologist. If any active nests are found an appropriate buffer zone shall be established and works must cease within this buffer zone until such time as a qualified ecologist confirms that the nest is no longer in active use.

Reason: To avoid the potential for an offence under the Wildlife and Countryside Act 1981, as amended.

7. No development within Phase 1 shall commence (with the exception of Ground Works and Site Preparation Works) until a scheme of Advanced Infrastructure Works is submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- i. Underground drainage details;
- ii. Below ground energy infrastructure;
- iii. Below ground services and utilities;
- iv. Ground Works, earthworks, contouring and levels;
- v. A statement of compliance with the site wide strategies (including the DAS Volume I and Addendum sections 6.19, 7.1 - 7.16, 8.1 - 8.3 and approved Primary Control Documents).

Development of Phase 1 shall be carried out in accordance with the approved scheme.

Reason: To ensure appropriate arrangements are made for servicing, utilities and infrastructure and to avoid potential conflicts between any impacts upon the development as proposed and its servicing, utilities and infrastructure, in the interests of a sustainable development in accordance with the NPPF.

8. No Surface Infrastructure Works shall commence within Phase 1 until a scheme of Landscaping Works for Phase 1 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- i. Design and location of electricity sub stations, including surface treatment and means of enclosure;
- ii. Vehicle parking and surfacing treatment (including petrol / oil interceptors);
- iii. Surface drainage details;
- iv. Surface materials and finishes;
- v. Cycle parking locations and details;
- vi. Highways details (e.g. crossing and kerb heights);
- vii. Access and wayfinding strategy;
- viii. Materials, types and siting of all fencing, boundary treatments, gates or other enclosures (including temporary arrangements to be in place until the site is completed in full);

- ix. Street furniture, lighting and signage;
- x. Children's play spaces and play provision;
- xi. Details of all proposed trees, hedge, shrub and other planting and all planting proposed for green walls and other soft landscaped structures, including proposed species, plant sizing, density and arrangement;
- xii. Ecological enhancements (in accordance with ES);
- xiii. The position of any existing trees and hedges to be retained or removed and the crown spread of each retained tree;
- xiv. Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
- xv. The position of any proposed excavation within the recommended protective distance referred to in BS5837:2012;
- xvi. Means of planting, staking and tying of trees, including tree guards, and a detailed landscape maintenance schedule for regular pruning, watering and fertiliser use.
- xvii. Details and specifications of all play, sport and recreational features to be included within the landscaped areas;
- xviii. Details of all proposed hard landscape works, including proposed materials, samples and details of special techniques to minimise damage to retained trees and details of techniques to be used to provide conditions appropriate for new plantings.
- xix. Timing of planting.

The Landscaping Works shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and protect the amenities of the area and future and neighbouring occupiers in accordance with Policies DM01 and DM02 of the Barnet Local Plan and policies 3.6 and 7.21 of the London Plan 2015.

9. Prior to the occupation of each building within Phase 1, a scheme of bird and bat boxes for that building shall be submitted to and approved in writing by the Local Planning Authority. The bird and bat boxes approved shall be installed and maintained over the lifetime of the development.

Reason: To ensure a satisfactory appearance to the development and protect the amenities of the area and future and neighbouring occupiers in accordance with Policies DM01 and DM02 of the Barnet Local Plan and policies 3.6 and 7.21 of the London Plan 2015.

10. Phase 1 shall be undertaken in accordance with the drainage strategy outlined in the Environmental Statement. No foul or surface water from the site shall be discharged into the public system until the drainage works set out in the strategy have been completed.

Reason: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

11. If within a period of five years from the date of planting of any tree within Phase 1, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place in the next available planting season.

Reason: to ensure a satisfactory appearance to the development and protect the amenities of the area and future and neighbouring occupiers in accordance with Policies DM01 and DM02 of the Barnet Local Plan Policies 3.6 and 7.21 of the London Plan.

12. A Car Parking Management Strategy for Phase 1 shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of Phase 1. The strategy shall be in accordance with that set out in the Transport Assessment and Addendum. The Strategy shall thereafter be implemented as approved.

Reason: to ensure the development meets the needs of its future occupiers and to comply with the requirements of policies 3.8 and 7.2 of the London Plan and also, to ensure that the development does not over-provide car parking spaces and to encourage sustainable travel in accordance with Barnet Local Plan Policy CS9 of Core Strategy (adopted) and Policy DM17 of Development Management Policies (adopted).

13. 10% of residential units in Phase 1 shall be designed to be fully wheelchair accessible or easily adaptable for residents who are wheelchair users.

Reason: to ensure the development meets the needs of its future occupiers and to comply with the requirements of policies 3.8 and 7.2 of the London Plan and to ensure that parking is provided and managed in line with the Council's standards in the interest of highway and pedestrian safety in accordance with Barnet's Local Plan Policy CS9 of the Core Strategy and DM17 of Development Management Policies Document.

14. Prior to the construction of any building within Phase 1 the following details for that building shall be submitted to and approved in writing by the Local Planning Authority:

- i. Full details (including samples, where appropriate) of the materials and finishes to be used on all external surfaces;
- ii. Doors, entrances, windows (including glazing specifications) and balconies (including drawings and sections showing thresholds to adjacent internal spaces and drawings and sections of privacy screens);
- iii. Details of the design and access controls for the car park gate(s);
- iv. Building lighting;
- v. Podium details (including hard and soft landscaping, planting species, furniture and play provision);
- vi. Details of bio diverse roofs;
- vii. Details of any building security measures including CCTV;

Development shall be carried out in accordance with the approved details and the scheme shall thereafter be maintained in secure and good working order for the lifetime of the development.

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS5 and DM01 of the Barnet Local Plan and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan.

15. Notwithstanding the details submitted with the application, prior to the construction of any building within Phase 1, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- i. Enclosures, screened facilities and / or internal areas of the proposed buildings to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable;
- ii. Satisfactory points of collection; and,
- iii. Details of the refuse and recycling collection arrangements.

The refuse and recycling facilities shall be provided fully in accordance with the approved details before the relevant block is occupied and the development shall be managed in accordance with the approved details.

Reason: To ensure a satisfactory refuse and recycling facilities are provided at the development in accordance with Policies CS5, CS9, CS14, DM01, DM04 and DM17 of the Local Plan.

16. Prior to the construction of any building within Phase 1, details of all extraction and ventilation equipment to be installed for that building shall be submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by a report carried out by a qualified acoustic consultant that assesses the likely noise impacts from the development of the ventilation and extraction plant, and proposed mitigation measures for the development if necessary.

The development shall be carried out in accordance with approved details before first occupation of Phase 1.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and Policy 7.15 of the London Plan.

17. The level of noise emitted from any plant within Phase 1, including ventilation equipment hereby approved shall be at least 5dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD and 7.15 of the London Plan.

18. Prior to the occupation of Phase 1, details of the energy supply network shall be submitted to and approved in writing by the Local Planning Authority. Details shall be in accordance with the Energy Statement and Addendum and shall include:

- i. Details of connections available for each building;
- ii. Proposals for the staged installation of plant within the energy centre and any temporary energy provision required
- iii. Details of safeguarded connections to an area wide heat network if found to be feasible following further engagement with the local planning authority and GLA.

- iv. Details of any potential future connections available to nearby buildings;
- v. A statement of compliance with the site wide Energy Statement and Addendum.

Phase 1 shall thereafter be implemented in accordance with the approved strategy.

Reason: to ensure that the development is sustainable and complies with the requirements of London Plan Policies 5.2 and 5.6

19. CHP and/or biomass boilers must not exceed the Band B Emission Standards for Solid Biomass Boilers and CHP Plant as listed in Appendix 7 of the London Plan's Sustainable Design and Construction SPG document.

Reason: To comply with the London Plan's SPG on Sustainable Design and Construction and Policy 7.14 of the London Plan in relation to air quality.

20. Prior to the construction of any residential building in Phase 1, a rainwater and grey water feasibility strategy, relating to incorporating rainwater or grey water recycling into buildings across Phase 1, shall be submitted to and approved in writing by the Local Planning Authority.

Phase 1 shall thereafter be implemented in accordance with the approved strategy.

Reason: To ensure that the development is sustainable and complies with the requirements of London Plan Policies 5.13, 5.14 and 5.15.

21. Prior to occupation of Phase 1 an External Lighting Assessment of lighting proposed within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The external lighting assessment submitted shall detail the existing average night time luminance and light spread levels at night, identify the levels of light pollution received at the windows to residential properties within the development and, where appropriate, identify the measures to be used to mitigate any impacts to species including bats. Any light pollution mitigation identified in the lighting assessment shall be implemented in full prior to occupation of Phase 1.

Reason: to ensure the development provides adequate amenities of the future occupiers of the proposed dwellings and to accord with Policy DM01 of the Local Plan and to mitigate the impact to species including bats in accordance with Policies CS7 and DM16.

22. No building within Phase 1 shall be occupied until a Delivery and Servicing Management Plan in respect of each Phase 1 building has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be in accordance with the strategy set out in the Transport Assessment and Addendum and Phase 1 shall be carried out in accordance with the approved Plan.

Reason: In the interest of highway safety in accordance with Barnet's Local Plan Policy CS9 and DM17 of the Development Management Policies Document.

23. No residential unit within Phase 1 shall be occupied until the access roads and highways works (on and off-site) as identified in the Highways Drawings hereby approved through Condition 1 are made available for use.

Reason: To ensure there is adequate access available for all residential units.

24. No residential unit within Phase 1 shall be occupied until the private and/or communal amenity space provision (excluding public open space) associated with the block within which the unit is located is available for use in accordance with the approved plans.

Reason: To ensure there is adequate amenity space available for all residential units.

25. Prior to occupation of each residential block within Phase 1 a scheme for the provision of communal/centralised satellite and television reception equipment for that block shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed prior to first occupation of that block and shall thereafter be retained and made available for use by all occupiers of that block.

Reason: To ensure that the development makes appropriate provision for such equipment, so as to not impact adversely on the character of the area, in accordance with Policies CS5 and DM01 of the Local Plan.

26. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without planning permission being granted by the Local Planning Authority:

The installation of any structures or apparatus for purposes relating to telecommunications or any part of the development hereby approved, including any structures or development otherwise permitted under Part 24 and Part 25 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any equivalent Order revoking and re-enacting that order.

Reason: To ensure that the development does not impact adversely on the character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with Policies CS5 and DM01 of the Local Plan.

27. No piling within Phase 1 shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) for Phase 1 has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To prevent any damage to nearby underground sewerage utility infrastructure.

28. Notwithstanding the plans hereby approved and prior to the commencement of Phase 1 details of a scheme of measures to enhance and promote biodiversity within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of measures shall be implemented in full accordance with the approved details before Phase 1 is first occupied.

Reason: to ensure that the development represents high quality design and meets the objectives of development plan policy as it relates to biodiversity in accordance with Policies DM01 and DM16 of the Local Plan and 5.11 and 7.19 of the London Plan.

29. No works within Phase 1 shall be commenced before a method statement including temporary tree protection measures, detailing the precautions to be taken to minimise damage to trees adjacent to Phase 1, in accordance with British Standard BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The method statement shall include details of the location, extent and depth of all excavations for drainage and other services in relation to trees to be retained, or trees on adjacent sites. Phase 1 shall be carried out in full accordance with the approved details.

Reason: To safeguard the health of existing trees which represent an amenity feature in accordance with Policy DM01 of the Local Plan and Policy 7.21 of the London Plan.

30. Cycle parking for Phase 1 shall be provided in accordance with the approved plans, shall be available for use prior to occupation of Phase 1, and shall be maintained thereafter.

Reason: In the interests of promoting cycling as a mode of transport in accordance with Barnet's Local Plan Policies CS9 and DM17.

31. Before Blocks 1E and 1F hereby permitted are first occupied windows in the eastern wing elevations of these blocks facing properties in Howard Close and Brunswick Park Gardens shall be non-openable below 1.7m and glazed with obscure glass only, and shall be permanently retained as such thereafter.

Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD and the Residential Design Guidance SPD (April 2013).

32. Other than infrastructure works in relation to Phase 1, no development within Phase 1 shall take place until a programme of archaeological recording of the existing air raid shelters and any finds of industrial heritage, in accordance with a written scheme of investigation to be submitted to and agreed in writing by the Local Planning Authority, has been carried out.

Reason: The planning authority wishes to secure the recording of these structures in accordance with the provisions of the NPPF and London Plan Policy 7.8 and Barnet Policies CS5 and DM 06.

RECOMMENDED OUTLINE CONDITIONS FOR PHASES 2-5

33. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Parameter Plans

211_WS_02_00-Rev B - Red Line Boundary Plan;
211_WS_02_01-Rev B - Proposed Development Zone Plan;
211_WS_02_02-Rev B - Access & Circulation Zone;
211_WS_02_03-Rev B - Landscape Treatment Plan;
211_WS_02_04-Rev B - Ground Floor Frontages Plan;
211_WS_02_05-Rev B - Development Zones - Horizontal Limits of Deviation;
211_WS_02_06-Rev B - Proposed Site Levels & Vertical Limits of Deviation;
211_WS_02_07-Rev B - Development Zones & Maximum Heights;
211_WS_02_08-Rev B - Proposed Site Basement Levels & Limit of Deviation;
211_WS_02_09 - Site Plan

Sections

211_WS_05_01-Rev B - Contextual Sections AA BB;
211_WS_05_02-Rev B - Contextual Sections CC DD;
211_WS_05_10-Rev B - Parameter Sections 1 - 4;
211_WS_05_11-Rev B - Existing Sections 1 - 4;

Landscape Drawings

HED_1140_RBP_LA_0001-Rev 01 - Illustrative Landscape Plan;
HED_1140_RBP_LA_0002-Rev 03 - Landscape GA;
HED_1140_RBP_LA_0003-Rev 03 - General Arrangement, Central Park;
HED_1140_RBP_LA_0004-Rev 01 - Illustrative Landscape Sections: The Parkway;
HED_1140_RBP_LA_0005-Rev 02 - Illustrative Sections: Park (North);
HED_1140_RBP_LA_0006-Rev 01 - Illustrative Sections: Central Park (South);
HED_1140_RBP_LA_0007-Rev 00 - Illustrative Landscape Sections: Courtyard;
HED_1140_RBP_LA_0008-Rev 02 - Trees for Retention + Proposed + Removal

Supporting Documents

Design Principles Document - Rev B, March 2017;

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the adopted Barnet Development Management Policies DPD (2012) and NPPF and CS1 of the adopted Barnet Core Strategy DPD (2012);.

34. Applications for the approval of reserved matters (being scale, layout, appearance and landscaping) for Phases 2, 3, 4 and 5 shall be made to the Local Planning Authority before the following:

- i. Applications for Reserved Matters for Phase 2 shall be made within 3 years from the date of this permission;

- ii. Applications for Reserved Matters for Phase 3 shall be made within 4 years from the date of this permission;
- iii. Applications for Reserved Matters for Phase 4 shall be made within 5 years from the date of this permission;
- iv. Applications for Reserved Matters for Phase 5 shall be made within 7 years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.

35. The development hereby permitted in the later phases shall begin no later than 2 years from the final approval of the last Reserved Matters application in relation to each phase made pursuant to Condition 34.

Reason: To comply with the provisions of Section 92 of the Town & Country Planning Act 1990 (as amended).

36. As part of Reserved Matters applications, details of the energy supply for each building in Development Phases 2 - 5 shall be submitted to and approved in writing by the Local Planning Authority. Details shall accord with the Energy Statement and Addendum and shall include:

- i. Details of the energy supply for each building connection, including a statement of compliance with the Energy Statement and Addendum;
- ii. Details of any temporary energy provision required;
- iii. A statement of compliance with the site wide Energy Statement and Addendum.

Reason: To ensure that the development is sustainable and complies with the requirements of London Plan Policies 5.2 and 5.6



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Appendix 10



Neutral Citation Number: [2021] EWHC 3387 (Admin)

Case No: CO/1683/2021

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15 December 2021

Before :

MRS JUSTICE LANG DBE

Between :

THE QUEEN

Claimant

on the application of

LONDON BOROUGH OF HILLINGDON

- and -

MAYOR OF LONDON

(1) INLAND LIMITED

(2) CLOVE HOLDINGS LIMITED

(3) MB HILLINGDON LIMITED

Defendant

Interested Parties

Craig Howell Williams QC and Michael Brett (instructed by **Legal Services**) for the
Claimant

Douglas Edwards QC and Isabella Tafur (instructed by **Transport for London Legal**) for
the **Defendant**

Russell Harris QC (instructed by **Pinsent Masons LLP**) for the **First and Third Interested
Parties**

The **Second Interested Party** did not appear and was not represented

Hearing dates: 23 & 24 November 2021

Approved Judgment

Mrs Justice Lang :

1. The Claimant seeks judicial review of the decision made by the Defendant, on 30 March 2021, to grant planning permission for the construction of a mixed-used development, comprising buildings up to 11 storeys in height, at the site of the former Master Brewer Motel, Freezeland Way, Hillingdon UB10 9PQ (“the Site”).
2. The Claimant is the local planning authority for the area in which the Site is situated. It identified that the development proposal was of potential strategic importance. On 19 February 2020, it resolved to refuse planning permission for the development. On 16 March 2020, the Defendant directed that he would act as the local planning authority, pursuant to section 2A of the Town and Country Planning Act 1990 (“TCPA 1990”) and article 7 of the Town and Country Planning (Mayor of London) 2008 Order (“the 2008 Order”).
3. The Third Interested Party (“IP3”) is the owner of the Site and was the applicant for planning permission. The First Interested Party (“IP1”) is a group company of IP3, and has the benefit of a legal charge against the Site. The Second Interested Party (“IP2”) also has the benefit of a legal charge against the Site.

Grounds of challenge

4. The Claimant’s grounds may be summarised as follows:
 - i) The Defendant misinterpreted Policy D9 of the London Plan 2021 by concluding that, notwithstanding conflict with Part B of that policy, tall buildings were to be assessed for policy compliance against the criteria in Part C.
 - ii) The Defendant erred in failing to take into account a material consideration, namely, the Claimant’s submissions and accompanying expert evidence as to air quality.
 - iii) The Defendant acted unlawfully and in a manner which was procedurally unfair in that he failed to formally re-consult the Claimant or hold a hearing, prior to his re-determination of the application, following the adoption of the London Plan 2021.

Planning history

5. The Site comprises an area of some 2.48ha which formerly accommodated a public house/motel which has been demolished. It lies at the junction of Freezeland Way (which bounds the Site to the south) and Long Lane (which bounds the Site to the west), whilst the A40 forms the northern boundary of the Site. A parcel of Metropolitan Green Belt abuts the Site to the east. On the southern side of Freezeland Way and south of the junction lies the Hillingdon local centre, characterised by two storey residential and two/three storey retail premises.
6. The Site forms part of site allocation Policy SA14 in the London Borough of Hillingdon Local Plan: Part 2 - Site Allocations and Designations (2020) (“LP Allocations”).

7. The Site lies within an Air Quality Management Area declared by the Claimant in September 2003. It also falls within an air quality focus area (“AQFA”), the A4/Long Lane AQFA. AQFAs are locations that exceed the UK National Air Quality Strategy objectives and EU annual mean limit value for nitrogen dioxide (“NO₂”). They are also locations with high human exposure.

Application for planning permission

8. On 10 October 2019 IP3 made an application for planning permission in the following terms:

“Construction of a residential-led, mixed-use development comprising buildings of between 2 and 11 storeys containing 514 units (Use Class C2); flexible commercial units (Use Class A1/A1/A3/D1); associated car (165 spaces) and cycle parking spaces; refuse and bicycle stores; hard and soft landscaping including a new central space, greenspaces, new pedestrian links; biodiversity enhancement; associated highways infrastructure; plant; and other associated development”.

9. In support of the application, reports were submitted by Create Consulting (“Create”) on air quality issues, dated September 2019 and October 2019.
10. Given the scale of the proposed development, the application was referred by the Claimant to the Defendant under article 4 of the 2008 Order. The Defendant provided a response under article 4(2) of the 2008 Order on 2 December 2019 (“Stage 1 Report”) which *inter alia* made clear that improving air quality was a “core priority” for the Defendant, particularly in AQFAs. Given the proximity of the Site to the A40, the Site was said to be constrained in air quality terms and the Claimant was instructed to “secure appropriate air quality mitigation measures as part of any future planning permission”.

Claimant’s consideration of Application

11. The Claimant’s officers prepared a report (“the OR”) to advise its Major Applications Committee, recommending that the application be refused. The OR considered that, although the principle of a residential-led development was acceptable on the Site, the application conflicted with a number of development plan policies, did not accord with the statutory development plan taken as a whole and ought not to be approved.
12. The statutory development plan at that time consisted of the “London Borough of Hillingdon Local Plan Part One – Strategic Policies” (November 2012) (“LP Part 1”); LP Allocations; “London Borough of Hillingdon Local Plan: Part 2 – Development Management Policies” (2020) (“LP DMP”) and the London Plan (2016).
13. The Defendant had also published an “Intend to Publish” (“ITP”) version of the draft London Plan on 19 December 2019.
14. The OR proposed eight reasons for refusal, of which the following are most relevant:

“1. Non Standard reason for refusal Design

The development, by virtue of its overall scale, bulk of built development and associated infrastructure works, height, density, site coverage and lack of landscaping and screening, is considered to constitute an over-development of the site, resulting in an unduly intrusive, visually prominent and incongruous form of development, which would fail to respect the established character of the North Hillingdon Local Centre or compliment the visual amenities of the street scene and openness and visual amenity of the Green Belt, the wider open context and would mar the skyline, contrary to Policies BE1 and EM2 of the Hillingdon Local Plan: Part One - Strategic Policies (Nov 2012), Policies DMHB 10, DMHB 11, DMHB 12, DMHB 14, DMHB 17, DMEI 6 of the Local Plan: Part 2 - Development Management Policies (2020); Policy SA 14 (Master Brewer and Hillingdon Circus) of the Local Plan: Part Two - Site Allocations and Designations (2020), Policies 7.4, 7.6, 7.7 of the London Plan (2016), Policies D1, D3, D4, D8 and D9 of the London Plan (Intend to Publish version 2019) and the NPPF (2019).

.....

5. Non Standard reason for refusal Air Quality

The submitted Air Quality Assessments have failed to provide sufficient information regarding Air Quality, moreover the information submitted is not deemed to demonstrate the proposals are air quality neutral and given that the site is within an Air Quality Focus Area, the development could add to current exceedances in this focus area. The development is contrary to Policy DMEI 14 (Air quality) of the Local Plan: Part 2 - Development Management Polices (2020), Policy EM8 of the Local Plan Part 1 (2012), Policy 7.14 (Improving Air Quality) of the London Plan (2016), Policy SI 1 of the draft London Plan - Intend to Publish (December 2019) and the NPPF (February 2019).”

15. Whilst the surrounding area is dominated by two-three storey buildings, the tallest element of the proposed development stands at eleven storeys. LP DMP paragraph 5.32 identifies that “high buildings and structures” are those that “are substantially taller than their surroundings, causing a significant change to the skyline”. Policy DMHB 10 applies to proposals for such buildings. The policy provides in particular that:

“Any proposal for a high building or structure will be required to respond to the local context and satisfy the criteria listed below.

It should:

i) be located in Uxbridge or Hayes town centres or an area identified by the Borough as appropriate for such buildings;

ii) be located in an area of high public transport accessibility and be fully accessible for all users; [and]

iii) be of a height, form, massing and footprint proportionate to its location and sensitive to adjacent buildings and the wider townscape context. Consideration should be given to its integration with the local street network, its relationship with public and private open spaces and its impact on local views;”

16. Policy DMHB 10 built, as a development management policy, on the strategic-level policy in Policy BE1 paragraph 11 of LP Part 1. This required that:

“Appropriate locations for tall buildings will be defined on a Character Study and may include parts of Uxbridge and Hayes subject to considering the Obstacle Limitation Surfaces for Heathrow Airport. Outside of Uxbridge and Hayes town centres, tall buildings will not be supported. The height of all buildings should be based upon an understanding of the local character and be appropriate to the positive qualities of the surrounding townscape.”

17. In accordance with Policy BE1 LP Part 1, the Claimant undertook a detailed townscape character assessment which formed the evidential basis for Policy DMHB 10 LP DMP and its identification of Hayes and Uxbridge town centres as “appropriate for tall buildings”. The Claimant has not identified any other such area.

18. The OR assessed the development against these development plan policies and identified that it was in conflict with them in that the tall buildings:

“would not be located in Uxbridge or Hayes town centres or an area identified by the Borough as appropriate for a high building and would be located in an area with a low PTAL (Level 2-3) and would also be of a height, form, massing and footprint which is considered to be out of proportion to its location, adjacent buildings and the wider townscape context.”

19. Officers therefore advised that allowing tall buildings in this location would be contrary to this policy, and also to London Plan 2016 Policy 7.7 and ITP draft London Plan Policy D9.

20. In respect of air quality, the OR referred to the advice of the Claimant’s air quality consultee, and accepted its recommendations that IP3 had not demonstrated that the development would be air quality neutral; that the existing exceedances in the AQFA would not be worsened; and that proposed mitigation would in fact reduce emissions nor to what extent. The report concluded that the development would be contrary to LP DMP Policy DMEI 14.

21. The Committee considered the application at a meeting on 19 February 2020. The recommendation of the OR was unanimously agreed. The minutes of the meeting recorded a further offer from IP3 to undertake air quality “mitigation in terms of damages contribution”, and stated:

“The Committee supported the officer’s recommendation and welcomed refusal reason given on air quality. It was emphasised that air quality could not be compromised. Concerns were raised regarding the size of the development, air pollution, and, overall, Members considered that the application was out of character with the local area.”

22. The Claimant therefore resolved to refer the application to the Defendant, under Article 5 of the 2008 Order, with a statement that it proposed to refuse to grant planning permission.

Defendant’s consideration of the application

23. The Defendant in a letter dated 16 March 2020, accompanied by a report, (“Stage 2 Report”) gave a direction under article 5(1)(b)(i) of the 2008 Order that he would act as local planning authority and determine the application.
24. After the Defendant took over the determination of the application, IP3 made some amendments to the application, and provided further material, in particular, further reports from Create dated April 2020 and June 2020. A Transport Assessment dated July 2020 was also produced.
25. Prior to the hearing, officers of the Greater London Authority (“GLA”) produced a report advising the Defendant to grant the application (“the Hearing Report”).
26. The Hearing Report began with a “Recommendation Summary” in which the Defendant was invited to grant conditional planning permission for the application for the reasons set out in the “reasons for approval” section of the report. The “reasons for approval” section of the Hearing Report set out in summary form why officers had concluded that the proposal was considered to be acceptable in planning terms and to accord with the development plan (paragraph 2(ix)).
27. On the issue of tall buildings policy, the reason for approval at paragraph 2(iii) stated “the tall buildings are acceptable despite not meeting the locational requirements of policy.” It went on to find that the application generally accords with London Plan Policy 7.7, ITP draft London Plan Policy D9 (partial conflict owing to tall building location) and LP DMP Policy DMHB10 (partial conflict owing to tall building location).
28. The Hearing Report considered Policy 7.7 London Plan 2016, which provided:

“B Applications for tall or large buildings should include an urban design analysis that demonstrates the proposal is part of a strategy that will meet the criteria below. This is particularly

important if the site is not identified as a location for tall or large buildings in the borough's LDF.

C Tall and large buildings should:

a generally be limited to sites in the Central Activity Zone, opportunity areas, areas of intensification or town centres that have good access to public transport

b only be considered in areas whose character would not be affected adversely by the scale, mass or bulk of a tall or large building..."

29. At paragraph 218, the Hearing Report stated:

"GLA officers recognise that the proposed tall buildings are not in a location where they are supported in principle by Local Plan Policy DMHB 10 and that this is a policy conflict with parts (i) and (ii) of that policy, which state that tall buildings should be located within Uxbridge and Hayes town centres and areas of high public transport accessibility respectively. This is addressed in the 'planning balance' section of this report. They do however comply with the locational requirements of London Plan Policy 7.7, being in a town centre with good access to public transport ... The principle of tall buildings in this location would also conflict with the locational component of Intend to Publish London Plan Policy D9 (Part B), which states that Local Plans should identify suitable locations for tall buildings. This does not form part of the statutory development plan but is a material consideration in the determination of this application."

30. At paragraph 230, the Hearing Report assessed the other criteria in Policy DMHB 10; and at paragraph 231 addressed the relevant criteria in Policy 7.7 London Plan 2016 and Policy D9 ITP London Plan.

31. At paragraph 233, the Hearing Report concluded in respect of urban design that:

"In conclusion, the scheme is considered to be in conflict with part of Local Plan Policy DMHB 10 and Intend to Publish London Plan Policy D9 in respect of the principle of tall buildings in this location. This is addressed in the 'planning balance' section of this report. The proposal is otherwise considered to be compliant with the requirements of the London Plan Policy 7.7, Policies D9 [...] of the Mayor's Intend to Publish London Plan"

32. In respect of air quality issues, the reason for approval at paragraph 2(iv) stated that:

"Residents and users of the scheme would be sufficiently protected from air quality impacts arising from surrounding roads... The applicant's Air Quality Assessment has been

reviewed by GLA officers and is supported. The development would be air quality neutral, subject to the mitigation measures secured...”

33. The reasoning underpinning this reason for approval was set out at paragraphs 206-213 of the Hearing Report. At paragraph 210, the Hearing Report reported IP3’s evidence that:

“In terms of impact on future residents of the development, the Air Quality Assessment demonstrates that the only exceedance of the Air Quality Objective (AQO) limit for nitrogen dioxide is at the outer boundary of the site (40.52ug/m³), whilst at the nearest residential receptor it would be 35.25ug/m³. For particulate matter PM10, this would be an annual mean of 16.73-18.68ug/m³, so also within AQO limits. As such the Air Quality Assessment concludes that the air quality conditions do not constrain residential development and doesn’t recommend mitigation.”

34. At paragraph 211, the Hearing Report stated:

“The GLA’s air quality experts have confirmed that any potential adverse impact would be limited to one receptor on Long Lane north of the A40. The possible slight adverse impact is unlikely and any possible impact would not be significant. Overall the air quality impacts of the proposed development would not impact on the integrity of the Air Quality Focus Area.”

35. Under the heading “Conclusion and planning balance”, the Hearing Report concluded, at paragraphs 362-370, that the development was in accordance with the development plan. It identified two development plan policies “that are not fully complied with” (DMHB 10 and DMHB 18 LP DMP) but concluded that “overall, the proposal accords” with the development plan. It said:

“a conflict with two development plan policies does not necessarily mean that there is an overall conflict with the development plan as a whole as development plan policies can pull in different directions. GLA officers have considered the whole of the development plan and consider that, overall, the proposal accords with it. This report sets out all relevant material considerations, none of which, individually or cumulatively, are considered to warrant refusal of planning permission”

The material considerations considered in the report included the conflict with policy D9 of the ITP London Plan.

36. The Claimant responded to the Hearing Report, and the issues it raised, in written representations, dated 28 August 2020. These maintained that the analysis set out in the OR was correct. At the same time as submitting the written representations, the Claimant provided the Defendant with an “Air Quality Assessment Peer Review Report” prepared by Air Quality Experts Global Ltd (“the AQE Report”), dated August

2020, in support of the Claimant's contentions that the development was still unacceptable in air quality terms.

37. The AQE Report found a number of significant problems with Create's additional air quality evidence, for example, that it:
 - i) underestimated the baseline vehicle movements near the Site (paragraph 3.2.5);
 - ii) failed properly to identify worst case receptors for exposure to emissions within the Site and along Hercies Road (paragraph 3.3.1), and along Long Lane South and Western Avenue (paragraph 3.3.5);
 - iii) failed to report on new residents' exposure levels, excluding totally new receptors within the Site (paragraph 3.5.4) and that if this had been done, it would show that emissions concentration on the site for future residents would be unacceptably high in worst-case locations (paragraphs 3.5.5-3.5.6);
 - iv) failed to differentiate between traffic emissions generated by residential uses and flexible retail (B1 and A1) uses on the Site. When this is done it is clear that the traffic emissions from B1 uses on the site are not neutral, and require mitigation measures (paragraphs 3.6.1-3.6.8).
38. The Defendant's officers then produced an Addendum Report, dated 3 September 2020 on the day of the hearing, which noted:

“In addition to this the Council has provided a technical response on air quality produced by AQE Global (August 2020). It should be noted that the Council has requested (should the GLA be minded to approve the scheme) a contribution of £218,139 to be paid to Hillingdon to deliver its air quality local action plan and or implement specific measures on/along the road network affected by the proposals that reduce vehicle emissions and or reduce human exposure to pollution levels. GLA officers note that this contribution has not been agreed and is subject to further discussion.”
39. The Addendum Hearing Report did not address the substance of the criticisms in the AQE Report.
40. The Defendant held the representation hearing on 3 September 2020. A transcript of the hearing has been provided.
41. At the hearing, GLA officers explained that the application site was within an air quality focus area; that the Claimant's draft decision included a reason related to air quality; that IP1 and 3 had worked closely with GLA officers since then to provide additional information and clarification regarding air quality impacts; that residential units and play spaces had been positioned to minimise exposure to poor air quality; that exceedances in the air quality objective limit for NO₂ were at the outer boundary of the site and that there would be no exceedances in respect of particulate matter.

42. Mr James Rodger, Deputy Director of Planning and Regeneration, appeared on behalf of the Claimant and made oral representations. He objected to the height of the proposed development, which he contended was contrary to Policy DMHB 10. He indicated that a section 106 contribution towards air quality mitigation was still required. A number of residents and local residents' associations made representations to the Defendant at the hearing raising concerns about *inter alia* air quality and the scale of the development.
43. At the end of the hearing, the Defendant announced that he accepted the officers' recommendation to grant planning permission. He said:

“... Can I begin by thanking everyone who has attended today and for the contributions made in particular by the local residents, the objectors, the applicant and the council? This has ensured that I am as informed as possible to make this decision.

I will begin by explaining the wider context to my consideration, which is that London is facing a housing crisis and we urgently need more housing. Particularly, genuinely affordable homes. Assessed need showed that London needs at least 66,000 new homes a year until 2030, 3,000 of which must be affordable in order to address the existing shortfall in housing and accommodate London's projected population growth.

I have made fixing the housing crisis one of my top priorities and achieving this is dependent on the approval of well-designed schemes with good levels of low-cost rented and other genuinely affordable housing. This needs to be understood not just by the government, but at local council level too. We must all ensure that we use appropriate opportunities that are available to us to build more affordable housing, particularly lower-cost rental housing.

Based on the latest figures from the London Development Database, Hillingdon Borough still has a long way to go to deliver the affordable housing targets as set out in the London Plan. The scheme that I am considering would provide 121 new London affordable rent homes and 61 shared ownership homes to people who desperately need them in Hillingdon, all of which would be genuinely affordable.

This site is an under-utilised area of brownfield land, close to a London Underground station. It is exactly the kind of site we need to intensify if we are to deliver the homes Londoners need whilst protecting the Green Belt. The council's own policy allocates this site for residential development.

As was clear to me during my site visit, the site is relatively isolated from its surroundings. The plans offer new public routes through the site, connecting to the [area] and significant areas of new and improved green space, which would be of considerable

benefit to local people. It would also provide new commercial uses and improve connections, which would benefit the local centre.

I have carefully considered the visual impact of the development. I agree with the GAL [*sic*] and council officers that there would be less than substantial harm to heritage assets, which would be out-weighted by the benefits of the scheme.

Whilst the scale and prominence would be apparent in some local views, this would not in my view be a harmful impact given the approach the massing and high-quality architecture, and would not harm the visual openness of the surrounding Green Belt. I recognise that the site is not within a location designated to tall buildings. But overall, I consider the height and massing to be acceptable.

Air quality is of course a very important issue for me. I have carefully considered the technical evidence made available to me and my view is that the barrier block form of development will ensure that future residents will not be disadvantaged, subject to the mitigation measures recommended.

Overall, the scheme will provide high-quality housing and external amenity, despite the shortfall against local policy. I have heard the concerns raised about the lack of car parking and the increase in traffic congestion. In my view, when considering development proposals, the main way to reduce congestion is to discourage the use of the private car.

Approving well-designed, car-light developments in accessible locations like this is one of the ways to achieve this objective. As well of course as other objectives around environment and health, I am satisfied that there are adequate measures secured to mitigate overspill car parking.

For these reasons I agree with the GLA planning Officer's recommendation and grant planning permission. Can I thank you all very much for your time this afternoon and today? Thank you. Stay safe."

44. In October 2020, Create sent to the Defendant a report responding to the comments and criticisms made by AQE in its report of 28 August 2020. This report was not sent to the Claimant.

Post-hearing developments in planning policy

45. On 10 December 2020, the Secretary of State for Housing, Communities and Local Government issued a set of directions, under section 337 of the Greater London

Authority Act 1999, requiring amendments to the ITP London Plan and in particular to Policy D9.

46. The Secretary of State's covering letter, dated 10 December 2020, said as follows:

"..... I am issuing a new Direction regarding Policy D9 (Tall Buildings). There is clearly a place for tall buildings in London, especially where there are existing clusters. However, there are some areas where tall buildings don't reflect the local character. I believe boroughs should be empowered to choose where tall buildings are built within their communities. Your draft policy goes some way to dealing with this concern. In my view we should go further and I am issuing a further Direction to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas, as determined by the boroughs whilst still enabling gentle density across London. I am sure that you share my concern about such proposals and will make the required change which will ensure tall buildings do not come forward in inappropriate areas of the capital."

47. DR12 set out a "Direction Overview" as follows:

"The draft London Plan includes a policy for tall buildings but this could allow isolated tall buildings outside designated areas for tall buildings and could enable boroughs to define tall buildings as lower than 7 storeys, thus thwarting proposals for gentle density.

This Direction is designed to ensure that there is clear policy against tall buildings outside any areas that boroughs determine are appropriate for tall buildings, whilst ensuring that the concept of gentle density is embodied London wide.

It retains the key role for boroughs to determine where may be appropriate for tall buildings and what the definition of tall buildings are, so that it is suitable for that Borough."

48. The 'statement of reasons' for DR12 stated *inter alia*:

".....The modification to policy D9 provides clear justification to avoid forms of development which are often considered to be out of character, whilst encouraging gentle density across London."

49. Further to these directions, the Defendant published a further version of the draft London Plan, the 'Publication London Plan' on 21 December 2020 incorporating the amendments to Policy D9, which in consequence read as follows:

"Definition

A Based on local context, Development Plans should define what is considered a tall building for specific localities, the height of which will vary between and within different parts of London but should not be less than 6 storeys or 18 metres measured from ground to the floor level of the uppermost storey.

Locations

B

1) Boroughs should determine if there are locations where tall buildings may be an appropriate form of development, subject to meeting the other requirements of the Plan. This process should include engagement with neighbouring boroughs that may be affected by tall building developments in identified locations.

2) Any such locations and appropriate tall building heights should be identified on maps in Development Plans.

3) Tall buildings should only be developed in locations that are identified as suitable in Development Plans.

Impacts

C Development proposals should address the following impacts:

1) visual impacts [...]

2) functional impact [...]

3) environmental impact [...]"

50. The text underlined above was added pursuant to the Secretary of State's direction, DR12.
51. On 2 March 2021, the London Plan 2021 was adopted and published as the spatial development strategy for London, replacing the London Plan 2016 and it became part of the statutory development plan for the application.

Reconsideration of Application

52. In the light of these significant changes in relevant planning policy, the Claimant wrote to the Defendant on 26 February 2021 and 4 March 2021, requesting that he reconsider the application.
53. On 5 March 2021, the Defendant wrote to the Claimant confirming that he intended to reconsider the application in the light of the changes in the policy "and any representations received" since the hearing.
54. On 9 March 2021, the Claimant wrote to the Defendant requesting him to hold a further representation hearing. By a letter dated 23 March 2021, the Defendant declined to hold

a further hearing, and stated that the application would be redetermined on an unspecified date on or after 29 March 2021. In the light of this indication, the Claimant's officers hurried to put together urgent representations to submit to the Defendant, which were submitted under cover of a letter from the Claimant dated 26 March 2021.

55. No further reports or recommendations were published by the GLA officers, meaning that the Claimant could not comment on the approach proposed by them.
56. The application was reconsidered and redetermined on 29 March 2021, and the planning permission was issued on 30 March 2021. The permission decision was published on the Defendant's website alongside two further reports from the GLA officers: an "Update Report" dated 29 March 2021 and an "Update Report Addendum"
57. In respect of tall buildings policy, the Update Report identified that Policy D9 of the London Plan 2021 should now be given full statutory weight (paragraph 21) and that the Secretary of State's direction "primarily sought to ensure that tall buildings are only brought forward in appropriate and clearly defined areas as determined by the boroughs" (paragraph 13). It went on to identify that as a consequence "there is now a further element of conflict with the development plan in that the scheme does not fully accord with new London Plan Policy D9". Nevertheless, the Update Report gave significant weight to the fact that the proposals would however comply with the other criteria in Policy D9 (paragraphs 16 and 22). It advised that a conflict with some development plan policies does not necessarily mean that there is an overall conflict with the development plan as a whole, as policies can pull in different directions (paragraph 17). The Update Report identified additional conflicts with the London Plan and Local Plan policies in respect of heritage, but concluded that the less than substantial harm was outweighed by the public benefits of the development. At paragraph 23, the Update Report concluded that "overall, the proposal accords" with the development plan. None of the material considerations, as set out in the Hearing Report and the Update Report, warranted refusal of planning permission.
58. The Update Report said at paragraph 24:

"The scheme provides a high standard of residential accommodation The new public spaces and routes would be of high quality. Given the circumstances of this site, the scale and massing is considered acceptable within this accessible local centre, marks the location of the station and would have an acceptable visual impact."
59. The Claimant's further evidence on air quality was not mentioned in the Update Report, but it was briefly addressed in the Update Report Addendum. It noted the receipt of the Urgent Representation and the AQE Report and commented as follows:

"...the Council raises concerns that its Air Quality Peer Review was not considered by GLA officers because it is not mentioned in the Representation Hearing Report. This is because this information was submitted to the GLA by the Council on 28 August 2020 along with its pre-hearing representation, more than one working day after the Representation Hearing Report

was published. The Council's pre-hearing representation and Air Quality Peer Review was addressed in the addendum report published on the day of the hearing.

GLA officers consider the application to be in accordance with planning policy regarding air quality and as such the 'damage cost' payment requested by the Council is not justified...."

Legal framework

Judicial review

60. In a claim for judicial review, the Claimant must establish a public law error on the part of the decision-maker. The exercise of planning judgment and the weighing of the various issues are matters for the decision-maker and not for the Court: *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26. A legal challenge is not an opportunity for a review of the planning merits: *Newsmith v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC 74 (Admin).

The development plan and material considerations

61. Section 70(2) TCPA 1990 provides that the decision-maker shall have regard to the provisions of the development plan, so far as material to the application. Section 38(6) of the Planning and Compulsory Purchase Act ("PCPA 2004") provides:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."

62. In *City of Edinburgh Council v Secretary of State for Scotland* 1998 SC (HL) 33, [1997] 1 WLR 1447, Lord Clyde explained the effect of this provision, beginning at 1458B:

"Section 18A [the parallel provision in Scotland] has introduced a priority to be given to the development plan in the determination of planning matters....

By virtue of section 18A the development plan is no longer simply one of the material considerations. Its provisions, provided that they are relevant to the particular application, are to govern the decision unless there are material considerations which indicate that in the particular case the provisions of the plan should not be followed. If it is thought to be useful to talk of presumptions in this field, it can be said that there is now a presumption that the development plan is to govern the decision on an application for planning permission.... By virtue of section 18A if the application accords with the development plan and there are no material considerations indicating that it should

be refused, permission should be granted. If the application does not accord with the development plan it will be refused unless there are material considerations indicating that it should be granted....

Moreover the section has not touched the well-established distinction in principle between those matters which are properly within the jurisdiction of the decision-maker and those matters in which the court can properly intervene. It has introduced a requirement with which the decision-maker must comply, namely the recognition of the priority to be given to the development plan. It has thus introduced a potential ground on which the decision-maker could be faulted were he to fail to give effect to that requirement. But beyond that it still leaves the assessment of the facts and the weighing of the considerations in the hands of the decision-maker. It is for him to assess the relative weight to be given to all the material considerations. It is for him to decide what weight is to be given to the development plan, recognising the priority to be given to it. As Glidewell L.J. observed in *Loup v. Secretary of State for the Environment* (1995) 71 P. & C.R. 175, 186:

“What section 54A does not do is to tell the decision-maker what weight to accord either to the development plan or to other material considerations.”

Those matters are left to the decision-maker to determine in the light of the whole material before him both in the factual circumstances and in any guidance in policy which is relevant to the particular issues.

.....

In the practical application of section 18A it will obviously be necessary for the decision-maker to consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it. He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will require to assess all of these and then decide whether in light of the whole plan the proposal does or does not accord with it. He will also have to identify all the other material considerations which are relevant to the application and to which he should have regard. He will then have to note which of them support the application and which of them do not, and he will

have to assess the weight to be given to all of these considerations. He will have to decide whether there are considerations of such weight as to indicate that the development plan should not be accorded the priority which the statute has given to it. And having weighed these considerations and determined these matters he will require to form his opinion on the disposal of the application. If he fails to take account of some material consideration or takes account of some consideration which is irrelevant to the application his decision will be open to challenge. But the assessment of the considerations can only be challenged on the ground that it is irrational or perverse.”

63. This statement of the law was approved by the Supreme Court in *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, [2012] PTSR 983, per Lord Reed at [17] (with whose judgment Lord Brown, Lord Hope, Lord Kerr and Lord Dyson agreed).

64. Lord Reed rejected the proposition that each planning authority was entitled to determine the meaning of development plans from time to time as it pleased, within the limits of rationality. He said, at [18], that development plans should be “interpreted objectively in accordance with the language used, read in its proper context”. They are intended to guide the decisions of planning authorities, who should only depart from them for good reason.

65. Lord Reed re-affirmed well-established principles on the requirement for the planning authority to make an exercise of judgment, particularly where planning policies are in conflict, saying at [19]:

“That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v. Secretary of State for the Environment* [1995] 1 WLR 659, 780 per Lord Hoffmann).”

66. In *BDW Trading Ltd v Secretary of State for Communities and Local Government* [2016] EWCA Civ 493, Lindblom LJ summarised the principles to be applied, at [20]-[21]:

“20. Without seeking to be exhaustive, I think there are five things one can fairly say in the light of the authorities.

21. First, the section 38(6) duty is a duty to make a decision (or “determination”) by giving the development plan priority, but

weighing all other material considerations in the balance to establish whether the decision should be made, as the statute presumes, in accordance with the plan (see Lord Clyde's speech in *City of Edinburgh Council*, at p.1458D to p.1459A, and p.1459D-G). Secondly, therefore, the decision-maker must understand the relevant provisions of the plan, recognizing that they may sometimes pull in different directions (see Lord Clyde's speech in *City of Edinburgh Council*, at p.1459D-F, the judgments of Lord Reed and Lord Hope in *Tesco Stores Ltd. v Dundee City Council* [2012] UKSC 13, respectively at paragraphs 19 and 34, and the judgment of Sullivan J., as he then was, in *R. v Rochdale Metropolitan Borough Council, ex p. Milne* [2001] J.P.L. 470, at paragraphs 48 to 50). Thirdly, section 38(6) does not prescribe the way in which the decision-maker is to go about discharging the duty. It does not specify, for all cases, a two-stage exercise, in which, first, the decision-maker decides “whether the development plan should or should not be accorded its statutory priority”, and secondly, “if he decides that it should not be given that priority it should be put aside and attention concentrated upon the material factors which remain for consideration” (see Lord Clyde's speech in *City of Edinburgh Council*, at p.1459H to p.1460D). Fourthly, however, the duty can only be properly performed if the decision-maker, in the course of making the decision, establishes whether or not the proposal accords with the development plan as a whole (see the judgment of Richards L.J. in *R. (on the application of Hampton Bishop Parish Council) v Herefordshire Council* [2014] EWCA Civ 878, at paragraph 28, and the judgment of Patterson J. in *Tiviot Way Investments Ltd. v Secretary of State for Communities and Local Government* [2015] EWHC 2489 (Admin) at paragraphs 27 to 36). And fifthly, the duty under section 38(6) is not displaced or modified by government policy in the NPPF. Such policy does not have the force of statute. Nor does it have the same status in the statutory scheme as the development plan. Under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, its relevance to a planning decision is as one of the other material considerations to be weighed in the balance (see the judgment of Richards L.J. in *Hampton Bishop Parish Council*, at paragraph 30).”

67. In *Gladman v Canterbury City Council v Secretary of State* [2019] EWCA Civ 669, Lindblom LJ set out the general principles to be applied at [21], and added at [22]:

“22 If the relevant policies of the plan have been properly understood in the making of the decision, the application of those policies is a matter for the decision-maker, whose reasonable exercise of planning judgment on the relevant considerations the court will not disturb: see the speech of Lord Hoffmann in *Tesco Stores Ltd v Secretary of State for the Environment* [1005] 1 WLR 759, 780. The interpretation of development plan policy,

however, is ultimately a matter of law for the court. The court does not approach that task with the same linguistic rigour as it applies to the construction of a statute or contract. It must seek to discern from the language used in formulating the plan the sensible meaning of the policies in question, in their full context, and thus their true effect. The context includes the objectives to which the policies are directed, other relevant policies in the plan, and the relevant supporting text. The court will always keep in mind that the creation of development plan policy by a local planning authority is not an end in itself, but a means to the end of coherent and reasonably predictable decision-making, in the public interest (see the judgment of Lord Reed in *Tesco v Dundee City Council*, at paragraphs 18 and 19; the judgment of Lord Gill in *Hopkins Homes*, at paragraphs 72 and 73; the judgment of Richards L.J. in *Ashburton Trading Ltd. v Secretary of State for Communities and Local Government* [2014] EWCA Civ 378, at paragraphs 17 and 24; and the judgment of Richards L.J. in *R. (on the application of Cherkley Campaign Ltd.) v Mole Valley District Council* [2014] EWCA Civ 567, at paragraphs 16 and 21).”

68. The requirement to take into account material considerations was recently reviewed by the Supreme Court in *R (Friends of the Earth Ltd & Ors) v Heathrow Airport Ltd* [2020] UKSC 52, in the judgment of the Court delivered jointly by Lord Hodge and Lord Sales:

“116. ... A useful summation of the law was given by Simon Brown LJ in *R v Somerset County Council, Ex p Fewings* [1995] 1 WLR 1037, 1049, in which he identified three categories of consideration, as follows:

“... [T]he judge speaks of a 'decision-maker who fails to take account of all and only those considerations material to his task'. It is important to bear in mind, however, ... that there are in fact three categories of consideration. First, those clearly (whether expressly or impliedly) identified by the statute as considerations to which regard must be had. Second, those clearly identified by the statute as considerations to which regard must not be had. Third, those to which the decision-maker may have regard if in his judgment and discretion he thinks it right to do so. There is, in short, a margin of appreciation within which the decision-maker may decide just what considerations should play a part in his reasoning process.”

117. The three categories of consideration were identified by Cooke J in the New Zealand Court of Appeal in *CREEDNZ Inc v Governor General* [1981] NZLR 172, 183:

“What has to be emphasised is that it is only when the statute expressly or impliedly identifies considerations required to be taken into account by the [relevant public authority] as a matter of legal obligation that the court holds a decision invalid on the ground now invoked. It is not enough that a consideration is one that may properly be taken into account, nor even that it is one which many people, including the court itself, would have taken into account if they had to make the decision.”

Cooke J further explained at p 183 in relation to the third category of consideration that, notwithstanding the silence of the statute, “there will be some matters so obviously material to a decision on a particular project that anything short of direct consideration of them by [the public authority] ... would not be in accordance with the intention of the Act.”

118. These passages were approved as a correct statement of principle by the House of Lords in *In re Findlay* [1985] AC 318, 333-334. See also *R (Hurst) v London Northern District Coroner* [2007] UKHL 13; [2007] 2 AC 189, paras 55-59 (Lord Brown of Eaton-under Heywood, with whom a majority of the Appellate Committee agreed); *R (Corner House Research) v Director of the Serious Fraud Office* [2008] UKHL 60; [2009] 1 AC 756, para 40 (Lord Bingham of Cornhill, with whom a majority of the Appellate Committee agreed); and *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3; [2020] PTSR 221, paras 29-32 (Lord Carnwath, with whom the other members of the court agreed). In the *Hurst* case, Lord Brown pointed out that it is usually lawful for a decision-maker to have regard to unincorporated treaty obligations in the exercise of a discretion (para 55), but that it is not unlawful to omit to do so (para 56).

119. As the Court of Appeal correctly held in *Baroness Cumberlege of Newick v Secretary of State for Communities and Local Government* [2018] EWCA Civ 1305; [2018] PTSR 2063, paras 20-26, in line with these other authorities, the test whether a consideration falling within the third category is "so obviously material" that it must be taken into account is the familiar *Wednesbury* irrationality test (*Associated Provincial Picture Houses Ltd v Wednesbury Corpn* [1948] 1 KB 223; *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374, 410-411 per Lord Diplock).”

69. The duties under section 38(6) TCPA 1990 and section 70 PCPA 2004 continue to bind a decision maker right up until the issuance of a notice granting planning permission. In *R (Kides) v South Cambridgeshire District Council* [2002] EWCA Civ 1370; [2003] 1 P & CR 19, Jonathan Parker LJ held:

“122. In my judgment, an authority's duty to “have regard to” material considerations is not to be elevated into a formal requirement that in every case where a new material consideration arises after the passing of a resolution (in principle) to grant planning permission but before the issue of the decision notice there has to be a specific referral of the application back to committee. In my judgment the duty is discharged if, as at the date at which the decision notice is issued, the authority has considered all material considerations affecting the application, and has done so with the application in mind — albeit that the application was not specifically placed before it for reconsideration.

123. The matter cannot be left there, however, since it is necessary to consider what is the position where a material consideration arises for the first time immediately before the delegated officer signs the decision notice.

124. At one extreme, it cannot be a sensible interpretation of section 70(2) to conclude that an authority is in breach of duty in failing to have regard to a material consideration the existence of which it (or its officers) did not discover or anticipate, *and could not reasonably have discovered or anticipated*, prior to the issue of the decision notice. So there has to be some practical flexibility in excluding from the duty material considerations to which the authority did not *and could not* have regard prior to the issue of the decision notice.

125. On the other hand, where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty.

126. In practical terms, therefore, where since the passing of the resolution some new factor has arisen of which the delegated officer is aware, and which might rationally be regarded as a “material consideration” for the purposes of section 70(2), it must be a counsel of prudence for the delegated officer to err on the side of caution and refer the application back to the authority for specific reconsideration in the light of that new factor. In such circumstances the delegated officer can only safely proceed to issue the decision notice if he is satisfied (a) that the authority is aware of the new factor, (b) that it has considered it with the application in mind, and (c) that on a reconsideration the authority *would* reach (not might reach) the same decision.”

Planning officers' reports

70. In light of the Claimant's criticisms of the GLA officers' reports, I have reminded myself of the principles to be applied, as summarised by the Court of Appeal in *R (Mansell) v Tonbridge & Malling BC* [2019] PTSR 1452, per Lindblom LJ, at [42]:

“42. The principles on which the court will act when criticism is made of a planning officer's report to committee are well settled. To summarise the law as it stands:

(1) The essential principles are as stated by the Court of Appeal in *R. v Selby District Council, ex parte Oxtou Farms* [1997] E.G.C.S. 60 (see, in particular, the judgment of Judge L.J., as he then was). They have since been confirmed several times by this court, notably by Sullivan L.J. in *R. (on the application of Siraj) v Kirklees Metropolitan Borough Council* [2010] EWCA Civ 1286, at paragraph 19, and applied in many cases at first instance (see, for example, the judgment of Hickinbottom J., as he then was, in *R. (on the application of Zurich Assurance Ltd., t/a Threadneedle Property Investments) v North Lincolnshire Council* [2012] EWHC 3708 (Admin), at paragraph 15).

(2) The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge (see the judgment of Baroness Hale of Richmond in *R. (on the application of Morge) v Hampshire County Council* [2011] UKSC 2, at paragraph 36, and the judgment of Sullivan J., as he then was, in *R. v Mendip District Council, ex parte Fabre* (2000) 80 P. & C.R. 500, at p.509). Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave (see the judgment of Lewison L.J. in *Palmer v Herefordshire Council* [2016] EWCA Civ 1061, at paragraph 7). The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's

decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice.

(3) Where the line is drawn between an officer’s advice that is significantly or seriously misleading – misleading in a material way – and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example *R. (on the application of Loader) v Rother District Council* [2016] EWCA Civ 795), or has plainly misdirected the members as to the meaning of a relevant policy (see, for example, *Watermead Parish Council v Aylesbury Vale District Council* [2017] EWCA Civ 152). There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law (see, for example, *R. (on the application of Williams) v Powys County Council* [2017] EWCA Civ 427). But unless there is some distinct and material defect in the officer’s advice, the court will not interfere.”

71. The level of detail to be expected in officer reports was considered by Sullivan J. in *R v Mendip DC ex parte Fabre* [2017] PTSR 1112, at 1120B:

“Whilst planning officers' reports should not be equated with inspectors' decision letters, it is well established that, in construing the latter, it has to be remembered that they are addressed to the parties who will be well aware of the issues that have been raised in the appeal. They are thus addressed to a knowledgeable readership and the adequacy of their reasoning must be considered against that background. That approach applies with particular force to a planning officer's report to a committee. Its purpose is not to decide the issue, but to inform the members of the relevant considerations relating to the application. It is not addressed to the world at large but to council members who, by virtue of that membership, may be expected to have substantial local and background knowledge. There would be no point in a planning officer's report setting out in great detail background material, for example, in respect of local topography, development planning policies or matters of planning history if the members were only too familiar with that material. Part of a planning officer's expert function in reporting to the committee must be to make an assessment of how much

information needs to be included in his or her report in order to avoid burdening a busy committee with excessive and unnecessary detail.”

Ground 1

72. Ground 1 turned on the interpretation of Policy D9 in the London Plan 2021.

Claimant’s submission

73. The Claimant submitted that the ordinary meaning of the words in Policy D9, read as a whole, in the light of its context and objectives, sets out a clear process for the grant of planning permission for tall buildings. It gives primacy to the planning judgment of the local planning authority at the plan-making stage in terms of the definition and location of tall buildings, and does not permit the Defendant to claim any policy support for overriding that judgment when determining an application for planning permission.

74. Mr Howell Williams QC said, at paragraphs 37 to 42 of his skeleton argument:

“37. Turning then to the wording of Policy D9 [SB/E1], the following is apparent:

- a. Policy D9 Part A states that the definition of “what is considered a tall building for specific localities” is a matter for individual boroughs through their local development plan. The only limit on that planning judgment is that the definition of a tall building is subject to a “floor” of 6 storeys or 18 metres. When arriving at this definition, it is implicit that a borough planning authority will need to consider the potential impacts of buildings of different heights in specific localities: that this is the case is supported by paragraph 3.9.3 in the supporting text [CB/E5] which elucidates what is meant by buildings being “tall” by reference to their relative height compared to “their surroundings” and their impact on the skyline.
- b. Policy D9 Part B, paragraph 1 is linked to Part A in so far as in addition to determining what a tall building is in planning policy terms, boroughs are given the sole responsibility for determining “if there are locations where tall buildings may be an appropriate form of development” within their area i.e. in specific localities. Boroughs are not obliged to identify any such locations, nor is there a presumption that at least one area of a borough will be appropriate. The matter is left entirely to the planning judgment of the borough through the development plan process. Moreover, even in areas identified, there is no presumption that tall buildings will be consented, because, as paragraph 3.9.3 explains (building on Policy D9 Part B paragraph 1) “such proposals will still need

to be assessed in the context of other planning policies... to ensure that they are appropriate for their location and do not lead to unacceptable impacts”.

- c. When deciding whether and where tall buildings “may be an appropriate form of development”, boroughs will necessarily have to take into account the impacts of buildings of defined heights or features. This is obviously implicit in the word “appropriate” (referring to the appropriateness of the form of development given the particular characteristic of the locality) and “suitable” (in Policy D9 Part B paragraph 3, referring to the suitability of a particular locality *for tall buildings* given its particular characteristics and the impact of tall building on them). The supporting text at paragraph 3.9.2(1) supports this interpretation (that boroughs necessarily have to take into account impacts of potential development) since it instructs boroughs to identify locations “by assessing potential visual and cumulative impacts”. That impact assessment is intrinsic to appropriateness is also reflected in paragraph 3.9.1 of the supporting text, which recognises that tall buildings can “have detrimental visual, functional and environmental impacts if in inappropriate locations” (underlining added).
- d. Policy D9 Part B paragraph 3 then gives force and meaning to the judgments reached by boroughs under Part A and Part B paragraph 1, by stating in clear terms that tall buildings (as defined in Part A) “should only be developed in locations that are identified as suitable in Development Plans” by boroughs under Part B. In this case it is not in dispute that the only areas identified as suitable for tall buildings in Policy DMHB10 LP DMP are Uxbridge and Hayes town centres, which identification was justified by a Townscape Character Study evidence base.....
- e. Policy D9 Part C then requires “development proposals” to satisfactorily address a number of stipulated impacts, grouped into categories (visual, functional, environmental, and cumulative). Some of these impacts are familiar because they include some (visual and cumulative) that boroughs will have already had regard to when determining the heights/localities appropriateness/suitability question. The term “development proposals” does not mean *any* development proposal of *any* type: it has to be read in the context of Policy D9 as a whole, and thus logically in line with Parts A and B which precede it, and the assessment process at local plan level that is contemplated by those two parts (and explained further in the supporting text). Thus the “development proposals” which must address the stipulated impacts can only be understood to mean development

proposals (i) for tall buildings as defined by boroughs under Part A (as explained in paragraph 3.9.3, “this policy applies to tall buildings as defined by the borough”....; and (ii) in locations identified as suitable by boroughs under Part B. Part C of the process for tall building regulation in London requires further examination of the detail of particular proposals that have come forward in compliance with Parts A and B: this is (amongst other things) what paragraph 3.9.3 of the supporting text is referring to when it speaks of “such proposals [i.e. proposals in areas identified as suitable] will still need to be assessed in the context of other planning policies... to ensure that they are appropriate for their location and do not lead to unacceptable impacts”.

- f. There is nothing in the wording or in the supporting text which suggests that the detailed criteria in Policy D9 Part C is to be used to assess the policy compliance of a development proposal that is not a tall building or not in a location identified as suitable. There is nothing that suggests that, through consideration of these “impacts”, a decision-maker is entitled to reopen a borough’s planning judgment on definition/applicability of the policy and or location.
- g. Finally, Policy D9 Part D, which requires the incorporation into tall buildings of publicly-accessible space “if appropriate” naturally applies to tall buildings as defined in Policy Part A, in locations identified in accordance with Part B, and which are acceptable in terms of the criteria set out in Part C. It could not sensibly be suggested that the provision of publicly-accessible space so as to engage Part D could make a development in breach of Parts B and C compliant with Policy D9 taken as a whole.

38. That this is the correct interpretation to give to Policy D9, and in particular to the role of Part C within it, is strongly reinforced having regard to the policy’s “full context” and the “objectives to which the policies are directed”, as required by Gladman.

39. In terms of the objectives to which the policy is directed, these are clear from the wording of the policy: (i) to ensure that boroughs have responsibility for the definition and location of tall buildings within their area; (ii) that tall buildings should only be constructed in areas which boroughs identify as suitable; and (iii) that even in those areas, tall buildings should satisfactorily address their increased potential adverse planning impacts.

40. The wording of Policy D9 is noticeably different from its predecessor in the London Plan 2016, Policy 7.7....., under which the Application was initially assessed in the Hearing Report. That policy did not provide any wording to compare with

the “Definition” and “Locations” parts of Policy D9 and the allocation of responsibility to local planning authorities in those regards but, under the then heading “Planning decisions”, set out a list of criteria in paragraph B and C which applications should meet, which was said to be “particularly important if the site is not identified as a location for tall or large buildings” in the borough development plan. At least two of those criteria, (a) and (b), relate to location. Policy D9 is different, and obviously so – in its wording and in its objectives.

41. Should any further support be required for these new and different objectives, however, the Court can have regard as part of the full context to the Secretary of State’s Direction as did D at Update Report paragraph 13.... DR12 required changes to the wording of D9 “to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas, as determined by boroughs” and “to ensure that there is a clear policy against tall buildings outside any areas that boroughs determine are appropriate for tall buildings”

42. C’s interpretation of Policy D9 as set out above is the only reading which can properly give effect to these objectives: if a development to which the policy applies under Part A is not in a suitable location defined in accordance with Part B, Part C is not relevant to the question of compliance with Policy D9 by virtue of the mandatory wording of Part B paragraph 3, which cannot be ignored.”

75. The Claimant then went on to submit that the Defendant erred in law when, after accepting that the proposed development was not in a location identified as suitable by the Claimant, he nonetheless proceeded to assess the proposal against the detailed criteria in Part C, and gave weight to “partial compliance” with Policy D9 in the planning balance.

Conclusions

76. It was common ground that the interpretation of Policy D9 was a question of law for the Court, and that a development plan policy should be interpreted objectively, in accordance with the natural and ordinary meaning of the words used, in the light of its context and objectives. It should not be interpreted as if it was a contract or statutory provision.
77. In *Trump International Golf Club Scotland Ltd v Scottish Ministers* [2016] 1 WLR 85, Lord Hodge (giving the judgment of the Supreme Court) set out the principles applicable to the use of extrinsic material when interpreting documents. He said:

“33.There is only limited scope for the use of extrinsic material in the interpretation of a public document, such as a planning permission or a section 36 consent: *R v Ashford*

Borough Council, Ex p Shepway District Council [1999] PLCR 12, per Keene J at pp 19C–20B; *Carter Commercial Developments Ltd v Secretary of State for Transport, Local Government and the Regions [2003] JPL 1048*, per Buxton LJ at para 13 and Arden LJ at para 27. It is also relevant to the process of interpretation that a failure to comply with a condition in a public law consent may give rise to criminal liability. In section 36(6) of the 1989 Act the construction of a generating station otherwise than in accordance with the consent is a criminal offence. This calls for clarity and precision in the drafting of conditions.

34. When the court is concerned with the interpretation of words in a condition in a public document such as a section 36 consent, it asks itself what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and of the consent as a whole. This is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words, and common sense. Whether the court may also look at other documents that are connected with the application for the consent or are referred to in the consent will depend on the circumstances of the case, in particular the wording of the document that it is interpreting. Other documents may be relevant if they are incorporated into the consent by reference (as in condition 7 set out in para 38 below) or there is an ambiguity in the consent, which can be resolved, for example, by considering the application for consent.”

78. I was referred to the judgment of Lindblom J. (as he then was) in *R (Phides Estates (Overseas) Ltd) v Secretary of State for Communities and Local Government [2015] EWHC 827 (Admin)*, at [56]:

“I do not think it is necessary, or appropriate, to resort to other documents to help with the interpretation of Policy SS2. In the first place, the policy is neither obscure nor ambiguous. Secondly, the material on which Mr Edwards seeks to rely is not part of the core strategy. It is all extrinsic – though at least some of the documents constituting the evidence base for the core strategy are mentioned in its policies, text and appendices, and are listed in a table in Appendix 6. Thirdly, as Mr Moules and Mr Brown submit, when the court is faced with having to construe a policy in an adopted plan it cannot be expected to rove through the background documents to the plan's preparation, delving into such of their content as might seem relevant. One would not expect a landowner or a developer or a member of the public to have to do that to gain an understanding of what the local planning authority had had in mind when it framed a

particular policy in the way that it did. Unless there is a particular difficulty in construing a provision in the plan, which can only be resolved by going to another document either incorporated into the plan or explicitly referred to in it, I think one must look only to the contents of the plan itself, read fairly as a whole. To do otherwise would be to neglect what Lord Reed said in paragraph 18 of his judgment in *Tesco Stores Ltd. v Dundee City Council* : that “[the] development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it”, that the plan is “intended to guide the behaviour of developers and planning authorities”, and that “the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained”. In my view, to enlarge the task of construing a policy by requiring a multitude of other documents to be explored in the pursuit of its meaning would be inimical to the interests of clarity, certainty and consistency in the “plan-led system”. As Lewison L.J. said in paragraph 14 of his judgment in *R. (on the application of TW Logistics Ltd.) v Tendring District Council* [2013] EWCA Civ 9, with which Mummery and Aikens L.JJ. agreed, “this kind of forensic archaeology is inappropriate to the interpretation of a document like a local plan ...”. The “public nature” of such a document is, as he said (at paragraph 15), “of critical importance”. The public are, in principle, entitled to rely on it “as it stands, without having to investigate its provenance and evolution”.”

79. All parties contended that the meaning of Policy D9 was clear and unambiguous, despite the differences in their interpretation of it. In those circumstances, applying the principles set out above, I consider that I ought not to have regard to the letter from the Secretary of State to the Defendant dated 10 December 2020 (paragraph 46 above) as it is not a public document which members of the public could reasonably be expected to access when reading Policy D9. Furthermore, it is of limited value as, taken at its highest, it sets out the Secretary of State’s intentions, whereas the Court must consider the meaning of the words actually used in Policy D9, as amended by DR12, which in my view did not give effect to the expressed intentions in the letter. However, I do consider that it is appropriate to have regard to the ITP draft London Plan Policy D9, which was referred to in the Hearing Report, and the Secretary of State’s Direction which is in the public domain and was referenced in the Update Report, and the introduction to the London Plan 2021. This demonstrates the differences between the ITP draft version of Policy D9, on the basis of which the initial decision to grant planning permission was granted, and the final version of Policy D9, following the Secretary of State’s direction, on the basis of which the reconsideration decision was made.
80. In my judgment, the Claimant’s interpretation of Policy D9 cannot be correct, for the reasons given by the Defendant and IP1 and 3.

81. Read straightforwardly, objectively and as a whole, policy D9:
- i) requires London Boroughs to define tall buildings within their local plans, subject to certain specified guidance (Part A);
 - ii) requires London Boroughs to identify within their local plans suitable locations for tall buildings (Part B);
 - iii) identifies criteria against which the impacts of tall buildings should be assessed (Part C); and
 - iv) makes provision for public access (Part D).

82. There is no wording which indicates that Part A and/or Part B are gateways, or pre-conditions, to Part C. In order to give effect of Mr Howell Williams QC's interpretation, it is necessary to read the words underlined below into the first line of Part C to spell out its true meaning:

“Development proposals in locations that have been identified in development plans under Part B should address the following impacts.”

But if that had been the intention, then words to that effect would have been included within the policy. It would have been a straightforward exercise in drafting. It is significant that the Secretary of State's direction only required the addition of the word “suitable” to Part B(3). It did not add any text which supports or assists the Claimant's interpretation, even though the Secretary of State had the opportunity to do so.

83. In my view, the context is critical to the interpretation. Policy D9 is a planning policy in a development plan. By section 70(2) TCPA 1990 and section 38(6) PCPA 2004, there is a presumption that a determination will be made in accordance with the plan, unless material considerations indicate otherwise. Thus, the decision-maker “will have to decide whether there are considerations of such weight as to indicate that the development plan should not be accorded the priority which the statute has given to it”: per Lord Clyde in *City of Edinburgh* at 1459G. Furthermore, the decision-maker must understand the relevant provisions of the plan “recognising that they may sometimes pull in different directions”: per Lindblom LJ in *BDW Trading Ltd* at [21], and extensive authorities there cited in support of that proposition. As Lord Reed explained in *Tesco Stores Ltd v Dundee City Council*, “development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another”.
84. The drafter of Policy D9, and the Defendant who is the maker of the London Plan, must have been aware of these fundamental legal principles, and therefore that it was possible that the policy in paragraph B(3) might not be followed, in any particular determination, if it was outweighed by other policies in the development plan, or by material considerations. It seems likely that policy provision was made for such cases, given the importance of the issue.
85. In considering whether to grant planning permission for a tall building which did not comply with paragraph B(3), because it was not identified in the development plan, it

would surely be sensible, and in accordance with the objectives of Policy D9, for the proposal to be assessed by reference to the potential impacts which are listed in Part C. The Claimant's interpretation leads to the absurd result that a decision-maker in those circumstances is not permitted to have regard to Part C, and must assess the impacts of the proposal in a vacuum.

86. In these circumstances, it is unsurprising that there are at least three decisions, both prior to and since the Defendant's decision in this case, in which the Claimant's planning officers have interpreted Policy D9 in the same way as the Defendant, in considering other tall building proposals in Hillingdon.
87. In this case, the extracts from the officer reports which I have referred to above, explain that the Mayor found that the proposal did not fully accord with Policy D9, because it had not been identified as suitable in the development plan under Part B. Notwithstanding the non-compliance with Part B of Policy D9, the Defendant determined that the proposal accorded with the provisions of the development plan when read as a whole. That was a planning judgment, based on the benefits of the proposal, such as the contribution of much-needed housing, in particular affordable housing, and the suitability of the Site (brownfield and sustainable, with good transport). The Defendant was satisfied, on the advice of the GLA officers, that sufficient protection from air quality impacts would be achieved. The Defendant was entitled to make this judgment, in the exercise of his discretion.
88. For the reasons set out above, Ground 1 does not succeed.

Ground 2

Claimant's submission

89. The Claimant submitted that the Defendant erred in law in failing to take into account a material consideration, namely, the Claimant's consultation response and accompanying expert evidence – the AQE Report – on the issue of air quality, which was submitted on 28 August 2020.

Conclusions

90. On the evidence, I accept the Defendant's submission that it did not fail to take account of the Claimant's evidence on the air quality impacts of the proposed development. Rather, on the advice of GLA officers, the Defendant exercised his planning judgment to conclude that the development would comply with relevant policy in respect of air quality impacts, and that additional mitigation in the form of a "damage cost" payment was not justified. That was a legitimate exercise of planning judgment which discloses no error of law, particularly in circumstances where the Claimant had previously agreed that no such payment was required.
91. In September and October 2019, Create produced their initial air quality assessments.

92. The Claimant refused the application for planning permission on the ground, *inter alia*, that the air quality assessments provide insufficient information and air quality neutrality was not demonstrated.
93. In April and June 2020, Create produced further assessments. They concluded that the proposal would be air quality neutral such that a damage cost payment would not be required.
94. The Defendant's Hearing Report expressly recorded comments made by AQE in respect of air quality, including concerns raised regarding air quality neutrality, and a calculated £294,522 payment to deliver the air quality local action plan (paragraph 79). This was when the application for planning permission was being considered by the Claimant. The Defendant did not receive the August 2020 AQE Report in time to include reference to it in the Hearing Report.
95. The Hearing Report had a section devoted to air quality, which stated, *inter alia*, at paragraph 2(iv):

“The applicant's Air Quality Assessment has been reviewed by GLA officers, and is supported. The development would be air quality neutral, subject to the mitigation measures secured.”
96. On 28 August 2020, the Claimant provided the Defendant with the AQE Report, together with representations requesting refusal of the application; alternatively an air quality section 106 contribution of £218,139. AQE concluded in its Report that the proposal gave rise to significant air quality constraints, that it would not be air quality neutral and that a damage cost payment would be required.
97. The GLA's Addendum Hearing Report dated 3 September 2020 stated:

“In addition to this the Council has provided a technical response on air quality produced by AQE Global (August 2020). It should be noted that the Council has requested (should the GLA be minded to approve the scheme) a contribution of £218,139 to be paid to Hillingdon to deliver its air quality local action plan and or implement specific measures on/along the road network affected by the proposals that reduce vehicle emissions and or reduce human exposure to pollution levels. GLA officers note that this contribution has not been agreed and is subject to further discussion.”
98. The Addendum Hearing Report did not address the substance of the criticisms in the AQE Report. However, as the AQE Report had only just been sent to the Defendant, and the Addendum Hearing Report was published on the day of the hearing, it seems likely that there had been insufficient time to analyse it in any depth. The Addendum Hearing Report recorded that all representations had been made available to the Mayor.
99. At the hearing on 3 September 2020, the presenting officer expressly drew attention to the Claimant's air quality reason for refusal and he devoted a section of his presentation to the air quality issue.

100. The Claimant's Head of Planning spoke in objection to the application. He explained that the Claimant had "concerns" regarding air quality impacts on future occupiers and that it considered there to be "various technical flaws" in the IPs' air quality assessment. He added: "I would stress that the Claimant considers an air quality section 106 contribution is still required." Residents and residents' association representatives also raised concerns about air quality.
101. The representative for IP1 and 3, Mr Johnson, addressed air quality during his representations. The Mayor expressly stated that the issue of air quality was a concern and he directly questioned Mr Johnson about it.
102. When announcing his decision to grant planning permission, the Mayor said:
- "Air quality is of course a very important issue for me. I have carefully considered the technical evidence made available to me and my view is that the barrier block form of development will ensure that future residents will not be disadvantaged, subject to the mitigation measures recommended."
103. On 10 September 2020, the Claimant's solicitor sent the solicitors for IP1 and 3 an updated draft section 106 agreement. In reply, the solicitors took the point that the development had been found to be air quality neutral and so an air quality contribution was not required. They invited the Claimant's solicitor to take officer instructions. In an email dated 13 October 2020, the Claimant's solicitor stated:
- "Air Quality – My clients instructions are that we agree for these to be deleted from the [section 106] agreement."
104. In October 2020, Create produced a Technical Note in response to the criticisms in the AQE Report. It was not provided to the Claimant for comment, and I address that issue under Ground 3.
105. The Claimant made further submissions on air quality in its representations on reconsideration on 26 March 2021. It argued that the GLA officers had been wrong to advise in the Hearing Report that the proposal was air quality neutral. It complained that there was no evidence that the AQE Report had been considered, and it re-submitted it.
106. The Update Report did not refer to the issue of air quality. The Update Report noted the receipt of the Urgent Representation and the AQE Report and commented as follows:
- "...the Council raises concerns that its Air Quality Peer Review was not considered by GLA officers because it is not mentioned in the Representation Hearing Report. This is because this information was submitted to the GLA by the Council on 28 August 2020 along with its pre-hearing representation, more than one working day after the Representation Hearing Report was published. The Council's pre-hearing representation and Air Quality Peer Review was addressed in the addendum report published on the day of the hearing.

GLA officers consider the application to be in accordance with planning policy regarding air quality and as such the ‘damage cost’ payment requested by the Council is not justified....”

107. I conclude that there is ample evidence that the GLA officers and the Mayor had sufficient regard to the air quality issues, including those raised by the Claimant. Although the Claimant’s representations and evidence were noted, not analysed, in the officer reports, such reports should be read benevolently and without undue rigour (*Mansell*, per Lindblom LJ at [42]), bearing in mind that it is part of a planning officer’s expert function to make an assessment of how much information needs to be included in his or her report. On the balance of probabilities, I am satisfied that the specialist air quality officers at the GLA will have considered the AQE Report and Create’s Technical Note in response to it. Ultimately, the GLA officers and the Defendant preferred Create’s expert evidence to that of the AQE, which they were entitled to do.
108. For the reasons set out above, Ground 2 does not succeed.

Ground 3

Claimant’s submission

109. The Claimant submitted that the Defendant acted unlawfully and/or in a manner which was procedurally unfair in that he failed either to (a) formally re-consult the Claimant; or (b) give the Claimant a right to be heard prior to his re-determination of the application.
110. The Claimant submitted that the Defendant should have followed the procedure set out in section 2F TCPA 1990, which sets out in law the procedure by which a local planning authority is to be consulted before the Defendant may determine an application in respect of which he has made a section 2A direction. This procedure envisages, prior to any decision, the publication of the Defendant’s officers’ report and recommendations at least 7 days prior; the opportunity to make written representations in the light of that report and those recommendations; and the opportunity to make oral representations at a mandatory further representations hearing. On the requirement for an oral hearing, the Claimant referred to the principles set out in the case of *Osborne v Parole Board* [2013] UKSC 61, per Lord Reed at [67]-[68], [71], which were applicable here.
111. As a matter of fairness, the Update Report ought to have been published prior to the Claimant making its submissions, to enable the Claimant to know how the GLA officers intended to advise the Mayor. The Claimant was unable to comment on the Defendant’s new planning balance, reached in the light of the new London Plan policies and other material considerations.
112. Furthermore, the Claimant should have been given an opportunity to comment on Create’s Technical Note, produced in October 2020.

Conclusions

113. In this case, the Defendant clearly accepted that the *Kides* principle applied and that the application ought to be re-determined in the light of the adoption of the London Plan 2021, as amended pursuant to the Secretary of State's direction, which was now part of the development plan.
114. It was common ground that the application should be re-determined in accordance with the requirements of fairness. The issue is what were the requirements of fairness in these circumstances?
115. Where an act of Parliament confers an administrative power there is a presumption that it will be exercised in a manner which is fair in all the circumstances. What fairness demands is dependent on the context of the decision (*R v Secretary of State for the Home Department ex parte Doody* [1994] 1 AC 531, per Lord Mustill, at 560 D – G).
116. In *Keep Wythenshawe Special Ltd v NHS Central Manchester CCG* [2016] EWHC 17 (Admin), Dove J. helpfully set out the established principles on consultation, at [65]-[68]:

“65. The basic requirements of a lawful consultation have now been settled for some considerable time and are derived from the decision of Hodgson J in *R v Brent London Borough Council ex p Gunning* (1985) 84 LGR 168. They are, firstly, that the consultation should be undertaken at a time when the proposals are still at a formative stage. Secondly, the body undertaking the consultation should provide sufficient reasons and explanation for the decision about which it is consulting to enable the consultees to provide a considered and informed response. Thirdly, adequate time to allow for consideration and response must be provided. Fourthly, the responses to the consultation must be conscientiously taken into account in reaching the decision about which the public body is consulting. These principles, known as the Sedley criteria as a result of the author of the submissions upon which they were based, have recently been endorsed by the Supreme Court in *R(Moseley) v Haringey London Borough Council* [2014] UKSC 56; [2014] 1 WLR 3947 at paragraph 26.

66. In his judgment in *Moseley* Lord Wilson JSC emphasised that however the duty to consult arises, the manner in which it is conducted will be informed by the common law requirements of fairness. He observed at paragraph 24 as follows:

“Fairness is a protean concept, not susceptible of much generalised enlargement. But its requirements in this context must be linked to the purposes of consultation. In *R(Osborn) v Parole Board* [2014] AC 1115, this court addressed the common law duty of procedural fairness in the determination of the person's legal rights. Nevertheless the first two of the

purposes of procedural fairness in that somewhat different context, identified by Lord Reed JSC in paras 67 and 68 of his judgment, equally underlie the requirement that a consultation should be fair. First, that requirement “is liable to result in better decisions, by ensuring that the decision-maker receives all relevant information and that it is properly tested”: para 67. Second, it avoids “the sense of injustice which the person who is the subject of the decision will otherwise feel”: para 68. Such are two valuable practical consequences of fair consultation. But underlying it is also a third purpose, reflective of the democratic principle at the heart of our society. This third purpose is particularly relevant in a case like the present, in which the question was not: ‘yes or no, should we close this particular care home, this particular school etc?’ It was: ‘Required as we are, to make a taxation-related scheme for application to all the inhabitants of our borough, should we make one in the terms which we here propose?’”

67. In his judgment Lord Reed JSC placed greater emphasis upon the statutory context and the purpose of the particular statutory duty to consult and less on the common law duty to act fairly. In paragraph 36 of his judgment, having noted that the case under consideration was not one where the duty to consult arose as a result of a legitimate expectation he stated:

“This case is not concerned with a situation of that kind. It is concerned with a statutory duty of consultation. Such duties vary greatly depending on the particular provisions in question, the particular context, and the purpose for which the consultation is to be carried out. The duty may, for example, arise before or after a proposal has been decided upon; it may be obligatory or may be at the discretion of the public authority; it may be restricted to particular consultees or may involve the general public; the identity of the consultees may be prescribed or may be left to the discretion of the public authority; the consultation may take the form of seeking views in writing, or holding public meetings; and so on and so forth...”

Having noted that in that case the local authority was discharging an important function in relation to local government finance which affected its residents generally (the case centred on the authority's decision in relation to a revised scheme for council tax benefits) Lord Reed concluded that the purpose of the statutory duty to consult in that case was “to ensure public

participation in the local authority's decision-making process". He went on to observe in paragraph 39:

“In order for the consultation to achieve that objective, it must fulfil certain minimum requirements. Meaningful public participation in this particular decision-making process, in a context with which the general public cannot be expected to be familiar, requires that the consultees should be provided not only with information about the draft scheme, but also with an outline of the realistic alternatives, and an indication of the main reasons for the authority's adoption of the draft scheme.”

He concluded that in the particular circumstances of that case the second of the Sedley criteria (the provision of adequate and appropriate information) had been breached.

68. The differences in emphasis between Lord Wilson JSC and Lord Reed JSC were resolved in the joint judgment of Baroness Hale JSC and Lord Clarke JSC in the following terms:

“We agree with Lord Reed JSC that the court must have regard to the statutory context and that, as he puts it, in the particular statutory context the duty of the local authority was to ensure public participation in the decision-making process. It seems to us that in order to do so it must act fairly by taking the specific steps set out by Lord Reed JSC, in para 39. In these circumstances we can we think safely agree with both judgments.””

117. Dove J. went on to consider the case law on the adequacy of a consultation procedure, at [77]:

“77. Having observed all of the above in relation to the legal principles governing consultation it is important to recognise, as the courts have on several occasions, that a decision-maker will have a broad discretion as to how a consultation exercise may be structured and carried out. As Sullivan J (as he then was) observed in *R(on the application of Greenpeace Limited) v Secretary of State for Trade and Industry* [2007] EWHC 311 at paragraphs 62 and 63:

“A consultation exercise which is flawed in one, or even in a number of respects, is not necessarily so procedurally unfair as to be unlawful. With the benefit of hindsight it will almost invariably be possible to suggest ways in which a consultation exercise might have been improved upon. That is most emphatically not the test. It must also be

recognised that a decision-maker will usually have a broad discretion as to how a consultation exercise should be carried out...In reality, a conclusion that a consultation exercise was unlawful on the ground of unfairness will be based upon a finding by the court, not merely that something went wrong, but that something went ‘clearly and radically wrong’.”

Subsequently in the case of *R(JL and AT Beard) v The Environment Agency* [2011] EWHC 939 Sullivan LJ confirmed that the “test is whether the process was so unfair as to be unlawful”.”

118. In the planning context, the courts have recognised that it is possible to amend planning applications during the course of their determination subject to two constraints, one substantive and one procedural. Permission should not be granted for development that would be substantially different from that which the application envisaged and persons affected by the change should not be deprived of the opportunity to comment on it. Where there is a statutory duty of consultation, the question of whether re-consultation is required if there is a change to the proposal depends on what fairness requires (*R (Holborn Studios) v Hackney Borough Council* [2017] EWHC 2823 (Admin) at [64], [70], [76]; [86]).
119. I do not consider that the provisions of section 2F TCPA 1990 apply to a re-consideration, when they have already been complied with at the first consideration. The procedure to be followed on a re-consideration is to be decided by the Defendant, in the exercise of his discretion. The requirements of fairness will vary depending on the nature of the re-consideration and the identity of those affected.
120. In my judgment, in the circumstances of this case, fairness required that the Claimant should have been given an opportunity to make representations on the developments which gave rise to the re-consideration, before the GLA officers made their recommendation to the Mayor, and before the Mayor made his re-determination. This was a development proposal of strategic importance, the Claimant is the local planning authority and it had been a key participant throughout.
121. The Defendant did comply with these requirements. The Claimant was given an opportunity to make written representations before the Update Report and its Addendum were issued and before the Mayor made the re-determination.
122. The Claimant submits that fairness required that it had sight of the Update Report before it submitted its further representations. I do not agree. It is clear from the Claimant’s cogent letters of 26 February, 4 March and 9 March 2021, and its detailed written representations, that it was well aware of the issues to be addressed, and did so effectively.
123. In my judgment, fairness did not require another oral hearing. There was no “live” evidence, and the issues of planning policy and the planning balance to be considered were better suited to written representations, because of their detail and complexity. Members of the public, who might have struggled to make written representations, were not invited to participate in the re-consideration. Mr Rodger, Deputy Director Planning

and Regeneration, who had already made oral representations at the previous hearing, was well able to draft written representations on behalf of the Claimant.

124. The Technical Note from Create, dated October 2020, was not disclosed to the Claimant for comments. In my view, it ought to have been disclosed to the Claimant, as it was a response to the AQE Report submitted by the Claimant. The Claimant could then have commented upon it in its own representations to the Defendant, if it wished to do so. The failure to disclose was procedurally unfair and unlawful.
125. In determining whether any relief should be granted for the failure to disclose the Technical Note, section 31(2A) of the Senior Courts Act 1981 has to be considered. The effect of that provision is that the court must refuse to grant relief if it appears to the court to be highly likely that the outcome for the Claimant would not have been substantially different if the conduct complained of had not occurred.
126. The approach to be taken to this provision has been considered by the courts, most notably in *R (Goring-on-Thames PC) v South Oxfordshire DC* [2018] EWCA Civ 860 and *R (Plan B Earth) v Secretary of State for Transport* [2020] EWCA Civ 214, at [272], [273].
127. The “conduct” complained of here is the failure to disclose the Technical Note to the Claimant in advance of the Defendant’s decision of 29 March 2021. The “outcome” is the decision of the Defendant to grant planning permission. The issue is whether, had the Claimant been provided with the Technical Note, so that the Claimant had the opportunity to consider it and make further submissions in advance of the decision, it is “highly likely” that the Defendant nonetheless would have granted planning permission for the proposed development.
128. In my judgment, it is “highly likely” that the Defendant would nonetheless have granted planning permission on 29 March 2021.
129. The Technical Note did not introduce anything new. It did no more than correct misunderstandings in the AQE Review and indicated where the concerns raised by AQE had in fact been the subject of consideration, discussion and agreement with GLA officers at an earlier stage of the process, or were addressed and answered elsewhere.
130. I have already found that the Defendant lawfully concluded, in the exercise of his planning judgment that the development was acceptable in respect of air quality impacts, and he did so in knowledge of the Claimant’s position and representations, and after receiving extensive information and advice from GLA officers. The advice he received was unequivocal. Realistically, it is highly unlikely that any further representations from the Claimant in response to the Technical Note would have made any difference to the Defendant’s decision to grant planning permission.
131. Therefore, I refuse relief under section 31(2A) of the Senior Courts Act 1981 as it appears to me to be highly likely that the outcome for the Claimant would not have been substantially different if the conduct complained of had not occurred.
132. For the reasons set out above, Ground 3 only succeeds in respect of the failure to disclose the Technical Note from Create, dated October 2020. No relief is granted.

Final conclusions

133. The claim succeeds solely in respect of the Defendant's failure to disclose to the Claimant the Technical Note, dated October 2020, prior to his re-determination of the decision to grant planning permission on 30 March 2021 (see paragraph 65 of the Claimant's skeleton argument). However, relief is refused under section 31(2A) of the Senior Courts Act 1981.
134. The claim for judicial review is dismissed on all other grounds.

Appendix 11

Barnet Local Plan EIP – Note on Tall Buildings

Reason for producing this note

At the hearing session on Wednesday 2nd November that considered Matter 8 – Design, Tall Buildings and Heritage, Inspector Philpott requested provision of a Note covering a number of issues relating to Policy CDH04 on Tall Buildings. This note, including any resultant proposed modifications, covers the following:

- 1. Council to add High Court case *R (London Borough of Hillingdon) v Mayor of London [2021] EWHC 3387 (Admin)* to Examination webpages.**
- 2. Reflect on High Court case with regards to its intended restrictive approach to proposals in areas not identified as strategic locations. Subject to reflection on High Court case, re-consider approach to tall buildings in other potential locations if all criteria of Policy D9C of London Plan and dev mgt requirements of CDH04 would be satisfied.**
- 3. Representors have specifically highlighted 2 recently adopted Local Plans in London (Lambeth and Brent). Council to review the approaches to tall buildings outside supported locations in those plans.**
- 4. Further clarification may be merited about why references to Opportunity Areas is to be removed in MM153 and MM162.**
- 5. Evidence required to support approach of MM162 with regards to Major Thoroughfares, North Finchley and Finchley Central.**
- 6. Clarification required on 16 site proposals in Annex 1 that cross-refer to CDH04 but are not within areas supported by CDH04, e.g. East Finchley, High Barnet, and A406.**
- 7. Clarify Council's intention for those 16 sites and evidence to support that approach.**
- 8. Clarify implications for Matter 10 in terms of capacities and use of Density Matrix. Clarify influence of tall building locations on capacities in the Annex**
- 9. Review implications of MM162 for GSS08 and GSS11 to ensure no consequential impacts arise.**
- 10. Clarify what evidence exists in terms of analysis equivalent to that done for the A5 and A1000 for other areas of the borough, including accessible locations identified in H1 of the London Plan and where there are existing tall buildings.**
- 11. Clarify relationship between the Plan, the Tall Buildings Study Update and other evidence, and explain the justification for CDH04 differing from the evidence, including Tall Buildings Study Update outputs such as storey heights, especially pages 30, 31 and 39.**
 - a. Helpful for the Note to include reasoning for excluding broad areas including those identified by representors, e.g. Mill Hill, Hendon Station, North London Business Park, Whetstone and other town centres**
 - b. Study doesn't provide definitive evidence on suitability of tall building development. It flags further work on visual impact. Clarify if this is to be done through individual proposals.**
- 12. Clarify if evidence is sufficient to maintain restrictive approach in CDH04(a), particularly where criteria in D9(c) are met?**

13. Clarify the role of Characterisation Study from 2010 in supporting Council's approach to Tall Buildings and whether it remains relevant and accurate.
14. Clarify why New Southgate Opportunity Area (NSOA) identified in CDH04 is not specifically covered in Tall Buildings Study Update.
15. Clarify within CDH04 rather than through a footnote the appropriateness of NSOA as a location for tall buildings. How should proposals in NSOA be considered in advance of a joint area planning framework?
16. Explain the purpose of MM149 and 169 in terms of tall buildings not being a preferred model. Need to clarify what is the Council's preferred method of delivery. If those statements are justified, should they be done in a more positively phrased manner and potentially be supporting text?
17. Despite MM163, CDH04 is still unclear on exceptional circumstances for Very Tall Buildings. Council to clarify/provide examples.
18. Change to para 6.18.5 to reflect MM165 required to remove reference to SPD setting out parameters. Needs more emphasis on how SPD would provide guidance, not set out parameters. Potential for more detail to be given to decision-makers on tall buildings outside the locations in CDH04(a).
19. Consider merits of cross-reference to CDH08 instead of heritage requirements at CDH04(e)(iii) and reference to Historic England guidance.
20. Clarify CDH04(e) differences with London Plan D9 and highlight these more clearly in policy.
21. Clarify "possible negative impact" on solar energy generation and is it appropriate to only consider adjoining buildings, or should wider impacts be included too? Re-check London Plan D9.
22. Para 6.18.2 views from the top of the tall building and intermediate views. Are modifications needed to change this to immediate / "top of"?
23. Explain the difference in approach between the Plan and the Tall Buildings Update in terms of uses of corridors vs cones for Map 4.
24. Correct Map 4 discrepancies e.g. potentially exclude Mill Hill and include accurate boundaries of Growth Areas, Burnt Oak, Edgware, New Southgate Opportunity Area.
25. Make clear whether Map 4 or policy is definitive regarding potentially acceptable locations for tall buildings.
26. Para 6.18.3 should it be changed to reflect D9 and "addressing", rather than complying with?

Background

Following submission of the Barnet Local Plan in November 2021 the Council in June 2022 produced a table of proposed modifications (EXAM 4). This document was produced after consideration of the Reg 19 soundness representations received, together with subsequent discussions with parties on the drafting of Statements of Common Ground. EXAM 4 includes proposed modifications to policies and supporting text pertaining to policy CDH04 and the supporting reasoned justification paragraphs in section 6.18 of the Draft Local Plan.

During the examination hearing session where under Matter 8 Policy CDH04 was discussed, proposed modifications were considered, together with aspects of wording of policy and supporting text in the submission Plan. (EXAM 4 MM149 to MM169 refer) In light of that

discussion, the Inspector has requested further clarification, explanation and justification of the matters detailed in this note; the Council now proposes a series of additional further modifications as set out below.

The following format has been used in this Note to denote further proposed modifications to the submission version of plan as revised by the proposed modifications listed in EXAM 4.

~~Strikethrough text~~ to indicate text proposed for removal.

Underlined text to indicate additional text.

Consideration

1. The Council to add High Court case *R (London Borough of Hillingdon) v Mayor of London* [2021] EWHC 3387 (Admin) to Examination webpages.

The *LB Hillingdon vs Mayor of London* High Court Judgment has been added to the examination webpage as EXAM 44.

2. Reflect on High Court case with regards to its intended restrictive approach to proposals in areas not identified as strategic locations. Subject to reflection on High Court case, re-consider approach to tall buildings in other potential locations if all criteria of Policy D9C of London Plan and development management requirements of CDH04 would be satisfied.

The High Court case *R (LB of Hillingdon) v Mayor of London* [2021] relates to an application for the construction of a mixed-used development, comprising buildings up to 11 storeys in height that the LPA (LB Hillingdon) resolved to refuse. However, the application was identified as one of potential strategic importance referable to the Mayor of London who then proceeded to determine the application himself. The Mayor's decision to grant permission was then subsequently challenged by LB Hillingdon

This High Court case considered the interpretation that should be given to Policy D9 in the London Plan 2021 (EXAM Core_Gen_16). Paragraph 81 of the judgment states that "read straightforwardly, objectively and as a whole, policy D9:

- i) requires London Boroughs to define tall buildings within their local plans, subject to certain specified guidance (Part A);
- ii) requires London Boroughs to identify within their local plans suitable locations for tall buildings (Part B);
- iii) identifies criteria against which the impacts of tall buildings should be assessed (Part C); and
- iv) makes provision for public access (Part D)."

The Hillingdon judgment concluded (para 82) that there is no wording indicating that Part A and/or Part B of London Plan Policy D9 are gateways, or preconditions, required in order to then proceed to consider Part C of the policy which outlines the impacts that development proposals should address. If this had been the intention, then words to that effect would have been included within Part B of the policy making clear that the application of Part C of

the policy only relates to development proposals in locations identified in development plans under Part B of the policy. The Judgment is clear therefore that, when considering a tall buildings proposal in a location not identified within a development plan as being suitable for tall buildings, “it would surely be sensible, and in accordance with the objectives of Policy D9, for the proposal to be assessed by reference to the potential impacts listed in Part C.”

With regards to Policy CDH04 in Barnet’s emerging Local Plan the Council is satisfied that, as currently drafted (with proposed MMs from EXAM 4), the policy accords with Policy D9 in the London Plan. The policy approach defines what tall (and very tall) buildings are considered to be, in accordance with Part A of policy D9. Having regard (MM161 also refers) to local context as well as the London Plan minimum stipulated threshold (6 storeys or 18 metres), part a of the policy defines what is considered in LB Barnet to constitute a tall building.

The policy also sets out the locations where Tall (and Very Tall) buildings may be appropriate, in accordance with Part B of policy D9. Part B of London Plan Policy D9 states that boroughs should determine if there are locations where tall buildings *may* be appropriate subject to meeting other plan requirements and that then any such locations (and appropriate heights) should be identified on maps included in the development plan. The third section of Part B states that tall buildings should only be developed in locations identified as suitable in development plans. Part a of Barnet’s Policy CDH04 identifies locations across Barnet that may be appropriate for tall buildings. Tall building locations are identified on the Policies Map. Having defined what is considered to be a tall building, Policy CDH04 in part b) then defines, as a subset of tall buildings, very tall buildings of 15 storeys or more and part c) of the policy (as proposed to be amended by MM164 & MM165) commits the Council to producing a SPD setting out design guidance for tall and very tall buildings within the identified locations.

Policy CDH04(d) also makes clear that all proposals for tall or very tall buildings (therefore irrespective of their location), need to be assessed in accordance with the impacts outlined in London Plan Policy D9 Part C as well as other relevant Local Plan policies. This also accords with the decision of the Court in *Hillingdon*.

Having reflected on the wording of Policy D9 in the London Plan, the Council does not consider it necessary to reconsider its policy approach to tall buildings in order to comply with Policy D9 as interpreted in *Hillingdon*. However, arising from the discussions at the EIP hearing session, there are a number of further proposed modifications to the content and wording of both policy CDH04 and supporting text as well as designations on the Policies Map that the Council invites the Inspectors to consider recommending. These additional modifications are set out and explained within this Note.

In respect of MM161 outlined in EXAM 4, having regard to the discussion at the EIP, the Council accepts that this proposed modification providing details of local Barnet context in terms of the appropriateness for the location of tall buildings constitutes more supporting text than policy. Therefore, it is proposed that this sentence be included at the start of para 6.18.1 rather than forming a new sentence at the start of policy CDH04.

Further to this the Local Plan Policies Map will include the Tall Building locations, and the Changes to the Policies Map will be made available for comment as part of the Main Modifications consultation.

3. Representors have specifically highlighted 2 recently adopted Local Plans in London (Lambeth and Brent). Council to review the approaches to tall buildings outside supported locations in those plans.

The Council's approach to tall buildings outside the strategic locations outlined in Policy CDH04 is largely consistent with the approaches of LB Brent and LB Lambeth as set out in their recently adopted Local Plans. The similarity of approach is set out below.

The London Plan (D9) also states that Borough's should determine if there are locations where tall buildings may be appropriate and should then only be developed in locations identified as suitable in Development Plans. Barnet's historical and suburban character is generally not considered suitable for tall buildings outside the strategic locations outlined in Policy CDH04. In areas/town centres where tall buildings already exist, there may be sites appropriate to introduce further tall buildings. However, evidence will be required to demonstrate if such a development integrates well within the locality, if it has an appropriate siting within the area and complies with the contents of other Local Plan policies and the Plan itself when read as a whole. The presence of tall buildings in an area is not meant to set a precedent as each proposal should be considered in terms of its compliance with policy and cumulative impacts of development.

Therefore, development proposals for tall buildings that come forward outside the strategic locations identified in CDH04 should provide a clear justification and demonstrate appropriateness in terms of following a design-led approach that will consider siting, scale, height and form, together with visual, functional, environmental and cumulative impact in accordance with the London Plan policy D9. Further clarification is also provided under points 18 and 20 of this Note.

4. MM153, MM162 – Further clarification may be merited about why references to Opportunity Areas to be removed.

Within the Council's Proposed Modifications (EXAM 4) MM03 and MM04 clarify the relationship between the Opportunity Areas of Brent Cross Cricklewood and Colindale with the Growth Areas of Brent Cross, Brent Cross West (Staples Corner) and Cricklewood Town Centre. MM05 explains that the boundaries of the New Southgate Opportunity Area have not yet been agreed.

Further clarification on the mapping of the Opportunity Areas is set out in EXAM 27.

With specific regards to the Brent Cross Opportunity Area the Council refers back to the 2012 Local Plan (Core_Gen_14) which sets out the strategic intentions of both the Mayor of London and the Council for the Opportunity Area. A Development Framework for the Opportunity Area was adopted in 2005 following collaboration with the Mayor and the Greater London Authority, landowners and developers. This has helped to guide and inform the design and delivery of

the development with the aim of achieving high quality comprehensive redevelopment of the area around a new sustainable mixed use town centre spanning the North Circular Road.

These ambitions for the comprehensive regeneration of Brent Cross are reflected in the draft Local Plan and supported by the Mayor of London.

The Council has set out a number of proposed modifications in EXAM 4 (in particular MM20 and MM22) to remove ambiguity between the terminology of Opportunity Areas and Growth Areas. The Council's intention in making modifications has been to provide more certainty regarding the strategic locations within the wider defined Opportunity Areas where growth is particularly encouraged, and therefore where tall buildings may be appropriate. These modifications were proposed in response to representations at Reg 19 stage from a number of stakeholders including LB Brent and Brent Cross South Ltd Partnership about the terminology around Brent Cross Growth Area and Opportunity Area being confusing. The Mayor has raised no concerns about the terminology used and the Council considers that ambiguity about Opportunity Areas and Growth Areas has been resolved.

5. Evidence required to support approach of MM162 with regards to Major Thoroughfares, North Finchley and Finchley Central

The 2020 Tall Buildings Update (EB_DH_04) provides an update to the 2010 Tall Buildings Study 2010 (EXAM 45), and sets out a contextual and spatial analysis of the A5 and A1000 corridor (Major Thoroughfares) including North Finchley and Finchley Central Town Centre. Modifications were proposed through EXAM4 in order to clarify locations (through site proposals) along the A5 and A1000 Major Thoroughfares where tall buildings may be appropriate. The Council proposes to specifically reference those proposals sites in North Finchley, Finchley Central Town Central and along the A5 and A1000 Major Thoroughfares. These are highlighted in Appendix 1/Table A.

Detailed urban design analysis and evidence will be required for tall buildings to establish if they are appropriate in principle and meet all of the policy tests. Development proposals for tall buildings that come forward in these areas should provide a clear justification and demonstrate appropriateness in terms of following a design-led approach that will consider siting, scale, height and form, together with visual, functional, environmental and cumulative impact in accordance with the London Plan policy D9.

6. Clarification required on 16 site proposals in Annex 1 that cross-refer to CDH04 but are not within areas supported by CDH04, e.g. East Finchley, High Barnet, and A406.

There are 38 proposals sites where a reference to Policy CDH04 is made. The Council acknowledges that reference to CDH04 may be interpreted as the proposal having potential as a location for a tall building. However, the Council's intention was to highlight the unsuitability of the proposal site, by virtue of it being within the category of a Major Thoroughfare ie A1000 and A5, that has been identified as a strategic location for tall buildings. The A1000 is along a well-defined ridge and therefore tall buildings are likely to be highly visible due to the elevated topography, with significant impact on the skyline. The town centres of East Finchley and High Barnet whilst being located on a Major Thoroughfare (ie the A1000) are not considered suitable locations for tall buildings.

Although the A406 is a Major Thoroughfare it is not a tall buildings location.

The Council has reviewed all proposals with a cross-reference to CDH04. This review highlights those proposals that are identified in CDH04 Tall Building Locations as set out in Table A. Further clarification on the Council's intentions is set out at Point 7.

There are 14 (rather than 16 as Proposal Site 53 – Allum Way and Proposal Site 54 – Barnet House are on a Major Thoroughfare) proposals where, although the site is not specifically identified to be in a Tall Building Location (i.e. by virtue of it being on a Major Thoroughfare), it is expressly stated within the site requirements and development guidelines section that the site is not considered to be one appropriate for tall buildings. The Council acknowledges that the proposed wording promoted by MM162 stating that “sites where tall buildings may be appropriate have been identified in Annex 1 – Schedule of Proposals” Requires further clarification. The Council proposes to modify MM162, so as to read:

~~Sites where Tall Buildings may be appropriate have been identified in Annex 1 – Schedule of Proposals – also includes a number of sites within the Town Centres of Finchley Central and North Finchley (Policy GSS08) and the Major Thoroughfares – Edgware Road (A5) and Great North Road (A1000) (Policy GSS11).~~ The details provided in the site requirements and development guidelines indicate that these sites may be appropriate for tall buildings.

7. Clarify Council's intention for those 16 sites and evidence to support that approach

The Council refers to Appendix 1/Table A which highlights all sites where reference is made to Policy CDH04. These 14 sites are not in Tall Building Locations so therefore it is inappropriate to make specific reference to CDH04 as these sites will be considered in the same way as any other proposal site that makes no specific reference to CDH04. The Council intends to remove these references through a further proposed modifications to the Schedule of Proposals.

8. Clarify implications for Matter 10 in terms of capacities and use of Density Matrix. Clarify influence of tall building locations on capacities in the Annex

The Council's response is covered in the Note on Matter 10 – Site Allocations (EXAM75) .

9. Review implications of MM162 for GSS08 and GSS11 to ensure no consequential impacts arise.

The Council's response is covered in the Note on Matter 10-Site Allocations (EXAM75).

10. Clarify what evidence exists in terms of analysis equivalent to that done for A5 and A1000 for other areas of the borough, including accessible locations identified in H1 of the London Plan and where there are existing tall buildings.

In line with London Plan Policy H1 that expresses particular support for developments that optimise the potential for housing delivery on sites with PTAL 3-6, and in addition to Policy D3 that supports higher density development in well-connected locations, the Council has

considered the areas that meet these criteria. These were previously referred to as the Council's main town centres Burnt Oak, Chipping Barnet, Cricklewood, Edgware, Finchley Central, Golders Green and North Finchley together with the Growth Areas of the Borough. In consideration of PTAL, topography, conservation areas, existing building heights and character, the analysis undertaken focused on the A5 Edgware Road, the A1000 and Ballards Lane. These historic routes have been the focus for continual renewal and intensification over time and include a spread of tall buildings. An important objective of the evidence was to inform the Local Plan in terms of identifying suitable areas for tall buildings and therefore promote a coordinated proactive approach to development rather than an ad-hoc reactive approach to individual planning applications as they come forward.

Other town centres such as New Barnet and East Finchley with PTAL levels 3-6 were also considered, however, according to the Barnet Characterisation Study, (EB_DH_01) their existing suburban context, the consistency of massing within the built form and the impact of heritage assets and conservation areas, it was concluded that these areas are not appropriate for tall building developments considering the potential impact on local townscape, skyline, heritage assets and character.

11. Clarify relationship between the Plan, the Tall Buildings Study Update and other evidence, and explain the justification for CDH04 differing from the evidence, including Tall Buildings Study Update outputs such as storey heights, especially pages 30, 31 and 39.

The evidence has led to determination of appropriate locations for tall buildings. However, the building heights shown on the graphs are indicative to inform policy, which also considered London Plan policies H1, D3 and D9. They also highlight the importance of the townscape analysis and the variation in building heights which is a key parameter to avoid a continuous wall-like corridor and merging clusters. Regardless of the indicative heights, proposals would still need to be assessed on their own merits and meet all of the policy tests, as clearly specified on the Tall Buildings Study Update (page 30). Building heights should be consistent with the general existing building heights, which is indicated by the ranges shown on page 31 of the Tall Buildings Study Update. Additionally, it is important to note that height is only one element of considering acceptability and suitable design to fit within the site/area. All proposals for tall buildings should be accompanied by a detailed urban design assessment including analysis of the townscape impact assessment.

12. Helpful for the Note to include reasoning for excluding broad areas including those identified by representors, e.g. Mill Hill, Hendon Station, North London Business Park, Whetstone and other town centres

Although additional areas have been proposed by representors as being suitable for tall buildings, the design-led Tall Buildings Study has identified the areas that are considered appropriate by applying each of the criteria to assess suitability. The approach taken considered the existing context and capacity for growth, including planning and existing infrastructure. It has also been highlighted that intensified development is not always achieved most effectively through tall buildings, which is underpinned by a high-quality design-led approach establishing parameters for suitable scale and height across the Borough. It is considered that the Study has taken a robust approach to provide analysis on

siting, scale, height and form, together with visual, functional, environmental and cumulative impact in accordance with the London Plan policy D9.

The Council refers to its response at Point 10 with regards to selection of locations. In terms of the excluded areas:

The surrounding area of the North London Business Park is suburban in character, comprising predominantly two storey semi-detached and terraced housing. The site is remote from the nearest station, Arnos Grove which is located 2km to the south. The PTAL of the site ranges from a very poor 1b to a low 2. Tall buildings would not be in keeping with the suburban character of the area.

Similarly, the overall pattern of development in Mill Hill East and around Hendon Station is low to mid rise.

With regards to Whetstone Town Centre the Council refers to its Site Allocations Note (EXAM75) with reference to Site 53 Allum Way. The Note considers that with regards to topography there is potential on this large 4.27 ha site for increased height, including tall buildings close to the existing tall building Northway House.

13. Study doesn't provide definitive evidence on suitability of tall building development. It flags further work on visual impact. Clarify if this is to be done through individual proposals.

The methodology adopted for the Study is consistent with the approach suggested by the London Plan in supporting a design-led approach to the identification of the areas that are appropriate for tall buildings. Given the borough-wide nature of the Study, exact site locations for new tall buildings were not identified as it is considered that this should be done through the individual assessment of proposals. The evidence does not give presumption in favour of tall building development, but rather sets out which areas are considered suitable for buildings within a specific heights range. The acceptability of individual proposals will be dependent of wider assessment of policy and site-specific consideration of visual impact.

The heights shown on the graphs in the Study is for indicative purposes as careful siting, design and massing informed by detailed site-specific analysis and visual impact assessment may show that greater heights could be achieved without harm. This is in line with Part C of London Plan Policy D9 which states that the appropriateness of a location for a tall building will be assessed against visual, functional, environmental and cumulative impacts.

14. Clarify if evidence is sufficient to maintain restrictive approach in CDH04(a), particularly where criteria in D9(c) are met?

The Council does not consider that the Tall Buildings Policy CDH04 promotes an overly restrictive approach. Part a of the policy sets out the locations where tall buildings may be appropriate. In steering tall buildings to these locations, the policy serves to help direct growth and development; providing certainty for developers with regards to the locations within the Borough that may be considered appropriate for tall buildings, as well as according with the

expectations of development plans as set out in part B of London Plan Policy D9. The Council also highlights the use of the word “may” in part a of the policy – meaning therefore that the locations listed here are not automatically considered as being appropriate locations for tall buildings, nor is the possibility precluded of a tall building being allowed elsewhere provided that the criteria in London Plan Policy D9 part c are met.

15. Clarify role of Characterisation Study from 2010 in supporting Council’s approach to Tall Buildings and whether it remains relevant and accurate.

The Characterisation Study (EB_DH_01) was the starting point in providing underpinning evidence to the Council’s approach to Tall Buildings and a helpful guide to identify the potential areas/corridors for tall building developments. The Study explains that Barnet is predominantly suburban in character and that the Borough is under increasing development pressure with a risk that this special suburban character could be undermined by inappropriate development.

Although the Study is over 10 years old, most of the character areas have not changed much over the years so the Study remains relevant. The Council have updated the evidence by producing the 2019 Tall Buildings Update, to ensure that the Local Plan policy reflects any wider legislative impacts as well as updates within evidence including the Characterisation Study. In respect of character and appearance, section D11 of London Plan Policy D3 confirms that development should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character.

16. Clarify why New Southgate Opportunity Area (NSOA) identified in CDH04 is not specifically covered in Tall Buildings Study Update.

The Council acknowledges the absence of a strategic policy and a planning framework for this new London Plan Opportunity Area. The Council has signalled its intention at EXAM 18 that it will bring forward an early review of the Local Plan. This will be set out at Section 1.7 of the Local Plan. The Council will, as part of the review, progress a joint planning framework with the GLA, LB Enfield and LB Haringey that will further assess the development potential of the Opportunity Area. The Council will also work together to generate a joint business case for future orbital public transport investment. As part of joint working the Council will expect to commission evidence on the potential for tall buildings in this geographic area.

17. Clarify within CDH04 rather than through a footnote the appropriateness of NSOA as a location for tall buildings. How should proposals in NSOA be considered in advance of a joint area planning framework?

As set out in EXAM 27 the Council does not consider that the London Plan through Figure 2.6 defines the boundaries of the Opportunity Area. Proposed Modification MM05 highlights that the boundaries of the Opportunity Area have not yet been defined and will be initially established through a planning framework produced jointly between the Council, LB Enfield

and LB Haringey with the GLA. The Council considers that following this initial establishment a future Local Plan will define the boundaries of the Opportunity Area.

The Council's approach is that tall and very tall buildings in the NSOA will not be supported, (as caveated through Footnote 27), prior to production of joint area planning framework with LB Enfield, LB Haringey and Mayor of London. The Council intends to progress the joint area planning framework for NSOA as part of the review of the Local Plan. On the basis of this anticipated framework (and the evidence, including evidence on the potential for tall buildings that informs it), the appropriateness of New Southgate as a strategic location for tall buildings can be more firmly established. The Council therefore proposes that reference to New Southgate Opportunity Area be removed from Policy CDH04 and new supporting text added at 6.18.5A to clarify that, although the strategic objective to fully realise regeneration opportunities is to require all stakeholders to work together to unlock sites and drive the right sort of development. Proposals that come forward in advance of the Opportunity Area Framework will be considered in accordance with Policy GSS01 and London Plan Policy SD1 Opportunity Areas. Policy SD1 sets out 11 specific considerations for decision making by Boroughs in areas designated as Opportunity Areas.

Proposed Modification for CDH04a)

- ~~New Southgate Opportunity Area²⁷ (Policy GSS09);~~

~~Footnote 27— Subject to production of joint area planning framework with LB Enfield, LB Haringey and Mayor of London~~

6.18.5

~~Within the New Southgate Opportunity Area the Council will consider bringing forward a joint area planning framework with LB Enfield and LB Haringey. Consideration of the parameters for tall buildings in New Southgate will be a key feature of the area planning framework. The Council has signalled its intention at Section 1.7 to facilitate the early review of the Local Plan through formal publication of a new Local Development Scheme. As part of that review a strategic policy and joint area planning framework with LB Enfield and LB Haringey for the New Southgate Opportunity Area will be established. On the basis of this strategic policy parameters will be set for the consideration of tall buildings in the Opportunity Area.~~

18. Explain the purpose of MM149 and 169 in terms of tall buildings not being a preferred model. Need to clarify what is the Council's preferred method of delivery. If those statements are justified, should they be done in a more positively phrased manner and potentially be supporting text?

Tall buildings will be supported in the locations identified as appropriate if they meet the criteria for tall buildings. Outside these locations, given Barnet's suburban and historical character, it will be difficult for tall buildings to integrate successfully into the surroundings and positively respond to the local distinctiveness through their layout, scale, appearance and shape without eroding the existing character. It is more appropriate to say that tall buildings are not the only way to deliver higher-density, new homes as is noted in paragraph 3.9.1 of the London Plan. Here it is outlined that whilst high density does not need to imply high rise, tall buildings can form part of a plan-led approach to facilitating regeneration

opportunities and managing future growth, which is the approach that the Council have taken in terms of identifying the most appropriate areas in this context. There may be opportunities that windfall sites or other development opportunities come forward in locations that have not been anticipated through the plan-led process and, if policy compliant, could be built out in an area outside those identified in the Local Plan. Likewise, there is no automatic presumption in support of development within the identified areas as all applications must be considered on their merits, meeting the Local Plan policies and the requirements of the plan when read as a whole.

To help convey this, the following modifications revise what is proposed in MM149 and MM169 and incorporate this into supporting text. MM149 and MM169 are therefore replaced by the following modification to Para 6.18.2

Tall Buildings can form part of a strategic design-led approach to optimising the capacity of sites through comprehensive redevelopment. Tall Buildings and Very Tall Buildings are not the only way to deliver higher densities and optimise the potential of brownfield sites. As referred in the London Plan, a design-led approach to optimising site capacity should be based on an evaluation of the site's attributes, its surrounding context and its capacity for growth to determine the appropriate form of development for that site. Therefore, the Council will carefully assess the design and townscape qualities of proposals that may otherwise gradually erode the Borough's predominant suburban and historic character. Such Sites in strategic locations where Tall Buildings may be appropriate must be well-connected by public transport and have good access to services and amenities. Tall Buildings that are of exemplary architectural quality can make a positive contribution to Barnet and become a valued part of the identity of places Growth Areas such as Brent Cross, Colindale, Cricklewood and Edgware. Within more sensitive townscapes as well as town centres such as Finchley Central and North Finchley and along historic routes such as the Edgware Road (A5) and the Great North Road (A1000) this form of development presents greater challenges in addressing more constrained site locations. The Council will therefore carefully assess the design and townscape qualities of proposals that may otherwise gradually erode the Borough's predominant and historic character. Reflecting these constraints, the Council has identified specific site opportunities for high density development within the town centres. These are set out in Annex 1 – Schedule of Proposals.

19. Despite MM163, CDH04 is still unclear on exceptional circumstances for Very Tall Buildings. Council to clarify/provide examples.

The Council acknowledges that Policy CDH04 has identified the strategic locations where tall buildings may be appropriate and that the Local Plan through Policy CDH04 and the Policies Map should provide direction on locations that may be appropriate for tall buildings and locations that may be appropriate for very tall buildings. Upon reflection the Council considers that the reference to exceptional circumstances at CDH04B makes the policy less effective as it is clear that the Council will not support proposals for Very Tall Buildings outside the following locations: Brent Cross Growth Area; Brent Cross West Growth Area; Colindale Growth Area; Cricklewood Growth Area and Edgware Growth Area. Reference is made to appropriate siting within one of the aforementioned locations as an example of exceptional circumstances. Appropriate siting is already a key consideration of London Plan

policy D9C and the Council has clarified with MM165, and further modifications as proposed in this Note, that its approach to proposals for tall buildings is fully consistent with Policy D9. Similarly, the Very Tall Building having a legible and coherent role, integrating effectively to its location is a key consideration addressed by London Plan policy D9C.

In order to improve the effectiveness of Policy CDH04 the Council proposes to withdraw MM163 and replace it with the following proposed modification

b) ~~Very Tall Buildings of 15 storeys or more (Very Tall) will not be permitted unless exceptional circumstances can be demonstrated, such as appropriate siting within an Opportunity Area or a Growth Area. Very Tall Buildings are not acceptable outside New Southgate Opportunity Area or a Growth Area identified as a strategic location in CDH04A. Very Tall Buildings are not acceptable outside an Opportunity Area or Growth Area identified as a strategic location in CDH04A. Any proposal for a Very Tall Building must have a legible and coherent role, integrating effectively to its location in compliance with part D.~~

20. Change to para 6.18.5 to reflect MM165 required to remove reference to SPD setting out parameters. Needs more emphasis on how SPD would provide guidance, not set out parameters. Potential for more detail to be given to decision-makers on tall buildings outside the locations in CDH04(a).

MM165 provided clarification within the policy (CDH04dc)) on the role of the Designing for Density SPD in terms of setting out guidance rather than parameters and therefore not intended to be prescriptive. The amendments below show the proposed changes already made in MM151 to paragraph 6.18.5 , with additional amendments to reflect MM165 and include consideration within the SPD of proposals for tall buildings outside the areas identified in the Local Plan. Paragraph 6.18.5 to read as follows:

Barnet's Tall Buildings Study Update informs Barnet's Local Plan, providing detailed contextual and spatial analysis to establish a design-led approach to future development of Tall Buildings in the Borough. The Study Update ~~investigates~~ investigates where this form of development may be appropriately sited ~~the potential opportunity for development of tall buildings,~~ and considers ~~ing~~ existing and approved development to help identify and establish the suitable locations and heights outlined in Policy CDH04. ~~these areas.~~ The Update ~~provides the basis for identifying strategic locations where proposals for tall buildings may be appropriate.~~ These locations include ~~Opportunity Growth Areas such as Brent Cross, -Cricklewood-Brent Cross West (Staples Corner) and Colindale as well as town centres such as Cricklewood and Edgware.~~ Opportunity Growth Areas such as Brent Cross, -Cricklewood-Brent Cross West (Staples Corner) and Colindale as well as town centres such as Cricklewood and Edgware. ~~The Update also highlighted the long established association of the A5 and A1000 major thoroughfares which have a long established association with buildings of 8 storeys or more.~~ The Update provides a contextual and spatial analysis of the A5 and A1000 corridors as well as Finchley Central Town Centre covering all ~~(with the exception of New Southgate Opportunity Area)~~ the identified strategic locations. It therefore helps ~~and~~ set the basis for a design led approach to provide guidance on covering parameters, scale, and height and key design considerations that will be established through a Supplementary Planning Document on Building Heights Designing for Density. The SPD will provide guidance on providing a well-

considered response to achieving higher density development that takes account of best practice, providing suitable examples and guidance to optimise land use and development capacity. The SPD will further articulate and visualise the implementation of Policy CDH04 and will distinguish between the character and context of each of the identified 'appropriate' locations to provide greater certainty around heights in sensitive townscapes such as Finchley Central, and North Finchley and along the Major Thoroughfares. Any applications that may come forward in locations that have not been anticipated within the Local Plan, will need to have strong justification of compliance with the London Plan and Policy CDH04 to help determine the appropriateness of tall buildings at a site specific level. Within the New Southgate Opportunity Area the Council will consider bringing forward a joint area planning framework with LB Enfield and LB Haringey. Consideration of the parameters for tall buildings in New Southgate will be a key feature of the area planning framework.

Additionally, to ensure consistency in terms of supporting text and to reiterate that the SPD will provide further guidance the following update to part c) of the policy is proposed.

c) The Council will produce ~~SPD on Building Heights~~ the Designing for Density SPD which will set out, within the identified strategic locations, ~~the parameters for tall and very tall buildings~~ guidance on how the Council will assess the appropriateness of Tall Building proposals. This will provide further guidance on address the impacts detailed in London Plan Policy D9C, setting out good practice design guidance on site-specific and character considerations including typologies related uses, views, form, public realm, safety, amenity and microclimates.

21. Consider merits of cross-reference to CDH08 instead of heritage requirements at CDH04(e)(iii) and reference to Historic England guidance.

The Council acknowledges the merits in making a cross-reference to CDH08 as proposed, which is outlined below at 22.

22. Clarify CDH04(d) (as updated in MM167) differences with London Plan D9 and highlight these more clearly in policy.

In order to demonstrate consistency with London Plan policy D9, each part of CDH04 has been considered in turn and suggested modifications outlined below. Part i. and ii. address D9 1) visual impacts part a) as two separate criterion. The Policy states that proposals will be assessed in accordance with Policy D9, with reference to visual, functional, environmental and cumulative impacts. The criteria listed sets out elements that should be given particular attention, which has a focus on visual impacts, as well as wider impacts of design, siting and topography, which is an important consideration in the Borough that could have significant impact on longer range views. The functional and environmental impacts as outlined in London Plan Policy D9, have been considered to be covered in other Local Plan policies such as CDH01-03 and ECC01-2. To help clarify this Policy CDH04 will be subject to a further modification to cross-reference to other policies within the Barnet Local Plan.

Part iii. of the Local Plan policy aligns to part d) of D9 to consider heritage assets and more generally the character of the area. Additionally, the Policy refers to Historic England guidance

on tall buildings, which is not part of the criteria but could be added, together with the text on architectural quality and townscape to reflect parts c) and b) of London Plan Policy D9. Paragraph 6.18.8 refers to the need for proposals to 'reinforce the spatial hierarchy of the local and wider context and aid legibility and wayfinding. Varying heights, proportion, silhouette and facing materials at the design stage will help assess how to lessen any negative impacts including light pollution, reflected glare.' On reflection, this should be included within the policy to help ensure compliance with the London Plan.

In light of the Mayor's statement on fire safety¹ that took immediate effect following release in January 2023, it is also proposed that the Policy reflects the requirement for all residential buildings over 30 metres to have two staircases before they are referred to Stage 2 for the Mayor's final decision.

Part d) (as updated in MM167) of the policy should therefore be modified as follows:

~~e)-d) Proposals for Tall and Very Buildings must adequately address the criteria in London Plan policy D9C in terms of acceptable cumulative visual, environmental and functional impacts including siting, microclimate, wind turbulence, noise, daylight and sunlight, reflective glare, aviation, navigation and electronic communication or broadcast interference; set out in London Plan Policy D9 — Tall Buildings. Particular attention will be given to assessing the following:~~

- ~~i. how the building relates to its surroundings, both in terms of how the top affects the skyline and how its base fits in with the streetscape, and integrates within the existing urban fabric, contributing to pedestrian permeability and providing an active street frontage where appropriate,~~
- ~~ii. how the building responds to topography, with no adverse impact on longer range Locally Important Views (as shown in Map 4), as well as mid-range and intermediate views~~
- ~~iii. the buildings contribution to the character of the area. Proposals should take account of, and avoid harm to, the significance of Barnet's and neighbouring boroughs heritage assets and their settings.~~
- ~~iv. the relationship between the building and the surrounding public realm, ensuring that the potential microclimatic impact does not adversely affect levels of comfort, including wind, daylight, temperature and pollution~~
- ~~v. the relationship between the building and the natural environment, including public open spaces and river corridors. Taller elements should be set back from any rivers and water courses and designed so as not to cause harm to the wildlife, including directing artificial light away from the river corridor.~~
- ~~vi. buildings should not interfere with digital connectivity in compliance with Policy TRC04 nor have a possible negative impact on solar energy generation on adjoining buildings~~

Proposals for tall and very tall buildings will need to provide evidence of how they have complied with the criteria in this policy ~~as well as the~~ and London Plan Policy D9, as

¹ <https://www.london.gov.uk/programmes-strategies/planning/planning-applications-and-decisions/referral-process-lpas#statement-regarding-fire-safety-and-tall-buildings-title>

~~well as related policies (In particular CDH01, CDH08, ECC01, ECC02 and TRC04) contained within the Local Plan, and Historic England guidance on tall buildings. Proposals for redevelopment or refurbishment of existing tall buildings will be required to make a positive contribution to the townscape. Proposals should be of an exemplary standard in architectural quality and materials to ensure the appearance and architectural integrity of the building is maintained. Planning applications that involve residential buildings over 30 metres in height will need to provide two staircases to meet Building Regulations standards on Fire Safety.~~

23. Clarify “possible negative impact” on solar energy generation and is it appropriate to only consider adjoining buildings, or should wider impacts be included too? Re-check London Plan D9.

Policy D9 of the London Plan considers the functional impact on tall buildings, which refers, within part f), to avoidance of ‘significant detrimental effect on solar energy generation on adjoining buildings’. The Council has proposed further modifications as set out above to remove any ambiguity about compliance with the London Plan. The policy has been amended as outlined above, therefore removing this as a specific part of the policy.

24. Para 6.18.12 views from the top of the tall building and intermediate views. Are modifications needed to change this to immediate / “top of”?

Paragraph 6.18.12 should be modified to clarify how visual impact is addressed, ensuring that text is consistent with London Plan policy D9 part C1(a).

The Council requires that visual impact is addressed in terms of long range views ~~from~~ of the top of the building, mid-range views from the surrounding neighbourhood and intermediate views from the surrounding streets.’

25. Explain difference in approach between the Plan and Tall Buildings Update in terms of uses of corridors vs cones for Map 4.

The Council considers that cones are more representative of Locally Important Views than viewing corridors and that the Policies Map is the right platform on which to show them.

The Council refers to its Statement of Common Ground with LB Brent (EB_SoCG_01) which clarified that LB Barnet will show unverified cones rather than straight lines (as set out in Map 4 of the Reg 19 Local Plan) to represent the 4 Locally Important Views. The Council originally agreed that this would be best represented by a modification to Map 4. After further reflection the Council now considers that these Views can be more appropriately set out on the Policies Map. Such a depiction of views is also consistent with the approach taken by LB Brent in their Local Plan policies map. The Council proposes to remove Map 4 – see 27 below.

The new Local Plan Policies Map will include the Locally Important Views as depicted on Map 4 within the Local Plan. The Changes to the Policies Map will be made available for comment as part of the Main Modifications consultation.

26. Correct Map 4 discrepancies e.g. potentially exclude Mill Hill and include accurate boundaries of Growth Areas, Burnt Oak, Edgware, New Southgate Opp Area.

The Council proposes to remove Map 4 – see 27 below.

27. Make clear whether Map 4 or policy is definitive regarding potentially acceptable locations for tall buildings.

Policy CDH04 has proved to be one of the most contentious policies in the emerging Barnet Local Plan. It is therefore important for the policy and supporting text to be clear and unambiguous. The Council has reflected on the indicative value of Map 4 and considers that it is open to misinterpretation with regards to tall building locations and viewing corridors. The Policies Map is the best platform to provide more definition on tall building locations and viewing corridors. This is similar to the approach adopted by LB Brent in their local plan. The Council through a further proposed modification will make this cross-reference to the Policies Map in the supporting text for CDH04..

The Council has also considered that there are merits in clearly setting out within Policy CDH04 the site proposals along the Major Thoroughfares of the A5 and A1000, as well as those within the town centres of North Finchley and Finchley Central where tall buildings may be appropriate.

The Council considers that Map 4, by virtue of its scale cannot be definitive with regards to strategic locations for tall buildings as well as the 4 viewing corridors. The information provided in Map 4 with regards to Conservation Areas, Green Belt and existing tall buildings is already set out in 2020 Tall Buildings Update (EB_DH_04).

The Council proposes to delete Map 4 and remove the reference to Map 4 from para 6.18.12 and replace it with reference to the 4 locally important views which will be depicted on the Policies Map.

Proposed Modification to para 6.18.12

The Council requires that visual impact is addressed in terms of long-range views of the top of the building, mid-range views from the surrounding neighbourhood and intermediate views from the surrounding streets. The Council has identified 4 long established important local views within the Borough. These are: 1. from Mill Field towards Harrow-on-the-Hill; 2. from Golders Hill Park towards Harrow-on-the-Hill; 3. from Hampstead Heath Extension towards Hampstead Garden Suburb; and 4. from King George Fields, Hadley Green across Central London including Canary Wharf. ~~Map 4 shows locally important views, conservation areas in the Borough, Green Belt / MOL and the location of existing tall buildings together with the strategic locations (including Opportunity Areas) identified for tall buildings. The Council will seek to ensure that development is compatible with such views in terms of setting, scale and massing.~~ Proposals for buildings of height that the Council considers cause harm to these views will be resisted.

The Council also proposes to replace CDH04 (e ii) as follows:

(as shown in ~~Map 4~~ on the Policies Map)

The new Local Plan Policies Map will include Tall Building locations as discussed above. The Changes to the Policies Map will be made available for comment as part of the Main Modifications consultation.

28. Para 6.18.3 should it be changed to reflect D9 and “addressing”, rather than complying with.

The Council seek to endorse the approach outlined in the London Plan with regard to determining which locations within the Borough are most suitable for tall buildings. The supporting text in the Local Plan could reflect some of the key benefits of higher density development, which does not need to imply high right (as stated in para 3.9.1). It is also important to recognise the constraints that need to be considered when determining suitable locations and aspects of design when proposals come forward to help understand the impacts of development. It is therefore proposed that the following changes are made to paragraph 6.18.3. This includes MM150.

~~While tall buildings offer the opportunity for intensive use, their~~ The siting and design of tall buildings should be carefully considered ~~so not to detract from the nature of surrounding places and the quality of life for those living and working around them to make optimal use of the capacity of sites, which are well-connected by public transport and have good access to services and amenities.~~ A design-led approach is essential to determine the most appropriate form of development that responds to existing context and capacity for growth, with due consideration to existing and planned supporting infrastructure. Tall buildings of a high quality design, in the right location can make a positive contribution to the townscape; however they can also have detrimental visual, functional and environmental impacts. Due to their potential impact, development proposals that include tall buildings ~~will need to~~ must demonstrate compliance with address all relevant parts of Policy CDH04 as well as the requirements listed in the London Plan (Tall Buildings policy D9) which ~~emphasises that~~ outlines the issues that proposals for tall buildings should address to minimise the visual, functional and environmental impacts of such structures. Proposals are therefore as a minimum required to address site specific and character considerations including typologies related to proposed uses, views, form, public realm, safety, amenity and microclimate. Regard should also be made to Historic England’s guidance on tall buildings. Proposals for tall buildings of more than 30 metres in height (equivalent to 9 storeys) will be referred to the Mayor of London}.

Conclusion

The Council invites the Inspectors to consider and recommend that the Council makes the additional further modifications set out in this paper recognising that those considered to be Main Modifications will need to be formally consulted upon following the examination hearing sessions. The new Local Plan Policies Map will include the Locally Important Views and Tall Building locations and will be made available for comment through an update to the Changes to the Policies Map document as part of the Main Modifications consultation.

TABLE A

| Proposal Sites in Annex 1 with reference to Policy CDH04 | | | | |
|---|--|----------------------------------|-------------------------------|---|
| Site Number | Location | Designation | Tall Building Location | |
| 2 | North London Business Park | | NO | |
| 5 | Edgware Hospital | (Major Thoroughfare) | YES | |
| 6 | Watling Avenue car park & market | (Burnt Oak Town Centre) | NO | |
| 7 | Beacon Bingo | (Cricklewood Growth Area) | YES | |
| 8 | Broadway Retail Park | (Cricklewood Growth Area) | YES | |
| 9 | Colindeep Lane (adjacent to Northern Line) | (Colindale Growth Area) | YES | |
| 10 | Douglas Bader Park Estate | (Estate Regeneration and Infill) | YES | |
| 11 | KFC/ Burger King Restaurant | (Colindale Growth Area) | YES | (Colindale Growth Area) To be added as a proposed modification. |
| 12 | McDonald's Restaurant | (Colindale Growth Area) | YES | (Colindale Growth Area) To be added as a proposed modification. |
| 13 | Public Health England | (Colindale Growth Area) | YES | (Colindale Growth Area) To be added as a proposed modification. |
| 14 | Sainsburys The Hyde | (Major Thoroughfare) | YES | |
| 15 | Tesco Coppetts Centre | (Major Thoroughfares) | YES | |
| 16 | 45-69 East Barnet Rd | (New Barnet town centre) | NO | |
| 20 | Fayer's Building Yard & Church | (New Barnet Town Centre) | NO | |
| 22 | Sainsburys | (New Barnet Town Centre) | NO | |
| 24 | East Finchley station car park | (East Finchley Town Centre) | NO | |
| 25 | East Finchley substation | (East Finchley Town Centre) | NO | |
| 26 | Park House | (East Finchley Town Centre) | NO | |

| | | | | |
|----|------------------------------------|--|-----|--|
| 27 | Edgware Town Centre | (Edgware Growth Area) | YES | |
| 28 | Edgware Underground & Bus Stations | (Edgware Growth Area) | YES | |
| 30 | Finchley Central Station | (Finchley Central/ Church End Town Centre) | YES | |
| 31 | Brentmead Place | (Major Thoroughfare) | NO | |
| 44 | High Barnet Station | (Chipping Barnet Town Centre) | NO | |
| 50 | Watford Way & Bunns Lane | (Major Thoroughfare) | NO | |
| 52 | Kingmaker House | (New Barnet Town Centre) | NO | |
| 53 | Allum Way | (Whetstone Town Centre) | YES | |
| 54 | Barnet House | (Whetstone Town Centre) | YES | |
| 55 | Woodside Park Station East | (Existing Transport Infrastructure) | NO | |
| 56 | Woodside Park Station West | (Existing Transport Infrastructure) | NO | |
| 57 | 309-319 Ballards Lane | (North Finchley Town Centre) | YES | |
| 58 | 811 High Rd & Lodge Lane car park | (North Finchley Town Centre) | YES | |
| 59 | Central House | (Finchley Central Town Centre) | YES | |
| 60 | Finchley House (key site 3) | (North Finchley Town Centre) | YES | |
| 61 | Tally Ho Triangle (key site 1) | (North Finchley Town Centre) | YES | |
| 62 | Tesco Finchley | (Finchley Central Town Centre) | YES | |
| 63 | Philex House | (Major Thoroughfare) | YES | |

| | | | | |
|----|--------------------------|------------------------------|-----|---|
| 64 | 744-776 High Rd | (North Finchley Town Centre) | YES | |
| 66 | East Wing (key site 4) | (North Finchley Town Centre) | YES | |
| 67 | Great North Leisure Park | (Major Thoroughfare) | YES | To be added as a proposed modification. |