

**PLANNING INQUIRY:
APP/N5090/W/23/3330577**

North London Business Park, New
Southgate
January 2024

Summary Planning Proof of Evidence by:

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of Daniel Watney LLP

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1 Introduction

- 1.1 My name is Charles Mills. I hold a BSc (Hons) degree in Planning and Development Surveying. I am a Member of the Royal Institute of Chartered Surveyors (Planning and Development) and I have worked in private practice for over 23 years.
- 1.2 I advise on all town planning matters in respect of my clients' developments and work on sites within and outside of London. I have significant experience of advising on large-scale redevelopment sites for both the private and public sector.
- 1.3 This is my summary Proof on behalf of The Comer Group.
- 1.4 This Proof is aimed at addressing the single matter pursued by the Council (as set out in the Decision Notice issued on 23 March 2023, as qualified at the Case Management Conference) at Inquiry from a planning policy perspective, with a review of the planning balance associated with this Appeal.
- 1.5 The Statement of Common Ground makes clear that there is a single area of disagreement between the parties which is the reason for refusal stated in the Decision Notice with the exception of visual amenity of the adjoining residential occupiers (please refer to Paragraph 7.20.2 of the agreed Statement of Common Ground for the Council's updated position on this latter point).
- 1.6 As appropriate, I refer to the Proofs of the Appellant's other witnesses, Peter Stewart addressing townscape and visual matters and Des Twomey addressing architectural matters and I rely on their conclusions in forming my planning judgements.

2 Background to Scheme

- 2.1 Section 2 of my Proof provides a background to the Appeal Scheme and refers to the full details of the hybrid planning application and context can be found in the Statement of Case (Section 3-7 of the Statement of Case).
- 2.2 Section 2 provides background details that I consider are of most importance in the determination of the Appeal Scheme relating to site context, the previous permission (Original and Existing Scheme), pre-application engagement and local determination.
- 2.3 The Appeal Scheme follows the grant of planning permission by the Secretary of State on the Original Scheme (following a recommendation of approval in the officer's report to committee, refusal by the committee and a recommendation for approval from the Inspector) which was followed by the grant of the Section 73 permission, the Existing Scheme.

3 The Development Plan and Addressing the Reason for Refusal

- 3.1 Section 3 of my Proof addresses the Appeal Scheme's compliance with the adopted development plan policies listed in the reason for refusal as set out on the Decision Notice issued on 23 March 2023.
- 3.2 I highlight in my Proof that it is important to consider the wording of the refusal reason, with the perceived policy conflicts arising by virtue of the perceived excessive height, scale and massing.
- 3.3 It must follow that if the height, scale and massing are concluded to not be excessive (as perceived by the Council in RfR1), then the claims made in consequence thereof by the Council (that the Appeal Scheme would result in a discordant and visual obtrusive development, failing to respect local context and the established pattern of development from those specific views, to the detriment to the character and appearance of the area, and the visual amenity of adjoining residential occupiers) would fall away. Following on further, if the height, scale and massing are demonstrated not to be excessive, and the alleged shortcomings said to occur in consequence do not in fact result, the final elements of RfR1 (that the Appeal Scheme does not create a high-quality development and does not constitute a sustainable form of development) would also fall away.
- 3.4 The matters of architectural design and townscape impacts upon those five specified views as listed in RfR1 are discussed at length in Mr Twomey and Mr Stewart's respective Proofs. I summarise their findings on each of the key matters of the refusal reason in my Proof.

4 Material Considerations

- 4.1 Section 4 contains the material considerations I consider relevant to the determination of the Appeal Scheme
- 4.2 Section 4 details those material considerations relevant to the Appeal Scheme which lend further support including the National Planning Policy Framework, the emerging Local Plan Review, the Original Scheme and the numerous substantial benefits. Here I conclude that it is my view that the scheme conforms with the Development Plan as a whole, and should the Inspector conclude otherwise the benefits listed within Section 4 of the Proof should be viewed as material considerations in the context of Section 38(6) of the Act.
- 4.3 In listing the material considerations of the Appeal Scheme, I identify these as follows:
 - 4.3.1 The Secretary of State agreeing with the Inspector in granting the Original Scheme.
 - 4.3.2 The fallback position of the Existing Scheme.
 - 4.3.3 The National Planning Policy Framework, its guidance on decision making in the context of development plans and the presumption in favour of sustainable development.
 - 4.3.4 The Emerging Local Plan Review and the Appeal Scheme's compliance with this, in particular emerging Policy CDH04.
- 4.4 Also material considerations by virtue of being benefits of the Appeal Scheme, I identify the below in further detail within my Proof of Evidence:
 - 4.4.1 Contribution to housing delivery
 - 4.4.2 Contribution to affordable housing delivery
 - 4.4.3 Making effective use of land
 - 4.4.4 New 5FE Secondary School
 - 4.4.5 Provision of new flexible office floorspace
 - 4.4.6 Provision of new community, childcare and retail floorspace
 - 4.4.7 Provision of new public open space
 - 4.4.8 Provision of new sports facilities
 - 4.4.9 Provision of new playspace
 - 4.4.10 Creating a new, safe, London community
 - 4.4.11 Substantial CIL contributions
 - 4.4.12 Substantial decontamination of land
 - 4.4.13 Flood attenuation improvements
 - 4.4.14 Tree planting
 - 4.4.15 Urban greening
 - 4.4.16 Substantial highways improvements
 - 4.4.17 New Homes Bonus
 - 4.4.18 Construction and operational employment and local spend

5 Responding to Third Party Representations

5.1 Section 5 addresses the third-party representations received as part of the Appeal.

6 Summary and Conclusions

- 6.1 Section 38(6) of the 2004 Act provides that the Appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.2 Section 38(5) of the Planning and Compulsory Purchase Act 2004 applies to Policies CS5, DM05 and D9 stated in RfR1.
- 6.3 None of the alleged harm contained in RfR1 are established as demonstrated above and especially through the evidence of Mr Twomey and Mr Stewart. The development does not conflict, but complies overall, with the development plan and I apply S38(5) in my assessment of this.
- 6.4 A Section 106 Agreement is to be agreed prior to the end of this Appeal.
- 6.5 Planning permission should therefore be granted and the appeal allowed under Section 38(6) and in line with paragraph 11(c) of the NPPF unless material considerations indicate otherwise.
- 6.6 Material considerations in this instance clearly do not indicate otherwise.
- 6.7 On the contrary, the many substantial benefits of the Appeal Scheme are material considerations which further support the grant of planning permission.
- 6.8 Even assuming (contrary to the Appellant's case) that there are policy breaches and a failure to comply with the development when taken as a whole, the benefits of the scheme would outweigh any perceived policy conflicts.

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