

**LONDON BOROUGH OF BARNET**

**PLANNING APPEAL UNDER SECTION 78 OF THE TOWN AND COUNTRY PLANNING  
ACT 1990 (AS AMENDED)**

**RULE 6 STATEMENT OF CASE ON BEHALF OF THE LONDON BOROUGH OF  
BARNET**

**PLANNING APPEAL BY COMER HOMES GROUP IN RELATION TO NORTH LONDON  
BUSINESS PARK, OAKLEIGH ROAD SOUTH, LONDON, N11 1GN**

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.

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

**LPA Reference:** 21/4433/OUT

**Date:** 22 November 2023

## **CONTENTS**

### **1. INTRODUCTION**

### **2. APPEAL SITE DESCRIPTION**

### **3. PLANNING HISTORY AND BACKGROUND**

### **4. APPEAL PROPOSALS**

### **5. PLANNING POLICY**

### **6. AMPLIFICATIONS OF REASONS FOR REFUSAL**

### **7. BENEFITS AND BALANCE**

### **8. PLANNING CONDITIONS**

### **3.29. DOCUMENTS**

## **APPENDICES**

**Appendix A:** Housing Trajectory and 5 year land supply

**Appendix B 1-3:** Planning Committee Report, Addendum, Minutes and Decision Notice

## 1. INTRODUCTION

A Planning Appeal has been lodged with the Planning Inspectorate by Comer Homes Group (the Appellant) in relation to the refusal at committee application 21/4433/OUT which relates to the redevelopment of North London Business Park, Oakleigh Road South, London, N111GN. The Planning Inspectorate reference is APP/N5090/W/23/3330577.

### 1.1 Appeal Proposal

The original planning application was registered on 10<sup>th</sup> August 2021, the description of the development as determined at Planning Committee was 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”.*

### 1.2 Application Determination

The application was recommended for approval by Officers at the Strategic Planning Committee of the 15<sup>th</sup> December 2022 following amendments to the original proposal. A copy of the Officer’s Report to Planning Committee is attached as Appendix 2. However, it was decided at the planning committee to refuse planning consent for the following reasons:

- 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.***

- 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.***

The GLA wrote to the Authority on the 20 March 2023, informing us that they are happy for Barnet to determine the application and did not wish to call in the planning application. The Council issued decision on 23<sup>rd</sup> March 2023 only included the first reason for refusal. The Council did correct this with an amended Decision Notice on 10<sup>th</sup> May 2023, adding the second reason for refusal (as above). Whilst the appellant states that as the first Decision Notice was not formally revoked then the second Decision Notice is therefore invalid, there is no dispute that the securing of planning benefits as captured in the second reason for refusal are necessary to make the development acceptable in planning terms and in accordance with adopted policy. The Council reserves its position as to whether reason for refusal 2 was formally part of the reasons for refusal but, in any event, it is a matter the Appellant must satisfy the decision-maker of. Assuming that a satisfactory undertaking is provided, the Council would have no objection on this ground.

## **2. SITE DESCRIPTION**

## **2.1 Appeal Site Description**

This planning application concerns the redevelopment of the North London Business Park (the Site), which is located within the Brunswick Park Ward in the east of the London Borough of Barnet.

The Site measures 16.53 hectares, of which approximately 13 hectares comprises of 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. Properties to the north and south are predominantly 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.

There are principally 4 buildings on site providing office accommodation in buildings up to ground plus three storeys in a campus style layout. The previous single largest tenant of the site was Barnet Council who occupied approximately over 55% of the total floorspace on the site, before vacating the site in 2017.

St Andrew the Apostle School is also located on the Site having opened as a free school in September 2013, occupying 'Building 5' on a temporary basis, which is a central block to the west of the existing lake.

The northernmost existing building on the Site is currently occupied for function / conference purposes, as well as an existing nursery (Leo's Nursery).

The Site varies significantly in topography with a steep gradient comprising a level difference of 24 m across the Site from the northern boundary to its lowest point at Brunswick Park Road.

A lake currently occupies part of the lower section of the Site, which can be seen upon entry from Brunswick Park Road. This is a man-made structure dating from the mid-1980s with the primary function of water attenuation.

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. New Southgate has also recently been 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.

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. The PTAL of the site is currently 1-2.

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.

### **3. PLANNING HISTORY AND BACKGROUND**

#### **3.1 Planning History**

The site at North London Business Park was historically first brought into use as a cemetery by the Great Northern cemetery company in 1855. Subsequently the site was purchased by Standard Telephones and Cables in 1922 and various industrial buildings were subsequently erected in the period up to the Second World War.

The site was partly redeveloped in the 1980's and in the early 200's into the form which is present today. Standard Telephones and Cables was bought out by Nortel in 1991 who vacated the site in 2002 when the site was renamed as North London Business Park.

### Recent Relevant History

15/07932/OUT 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. 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.

The planning application was recommended for approval by LB Barnet Officers but refused by Members of the Planning Committee in June 2017 for the following reason:

*'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 that would fail to respect its local context and the pattern of development in its context, to such an extent that it would be detrimental to the character and appearance of the area. The proposal would therefore not constitute a sustainable form of development and would be contrary to policies CS NPPF, CS5, DM01 and DM05 of the Barnet Local Plan Core Strategy and Development Management Policies (September 2012), policies 3.4, 7.4, 7.6 and 7.7 of the London Plan (July 2011, October 2013 and January 2014).'*

The application was subsequently appealed and recovered by the Secretary of State (SoS), and an Inquiry was held between October and November 2018.

The Inspector reported to the SoS in January 2019 recommending the appeal to be allowed, with the SoS agreeing in January 2020, issuing the decision allowing the appeal.

The hybrid permission was approved as follows:

- Phase 1 was approved in detail and comprises 360 residential units in five blocks reaching up to 8 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.

In addition to the S73 application pursuant to this report a separate planning application was submitted in August 2021 for alterations to the appeal scheme to allow amongst other things an uplift of 1,078 units from 1350 to 2428 units. This scheme is still under consideration, the details of this application are as follows:

22/1579/S73 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 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. Approved on 20.10.2022.

23/0688/RMA 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. This application is currently pending consideration, and a decision is yet to be made.

There are other minor applications for historic consents on the site including consents for educational uses utilising existing buildings on the site.

### **3.2 Public Consultations by the Council and Views Expressed**

The consultation responses to the application are set out in detail within the committee report. These include the responses of 879 members of the public (of which 773 were in objection), (Former) Cllr Weedon Sanz, (Former) Cllr Rutter Teresa Villiers MP. Statutory consultees including the Sports England and Herts and Middlesex Wildlife Trust.

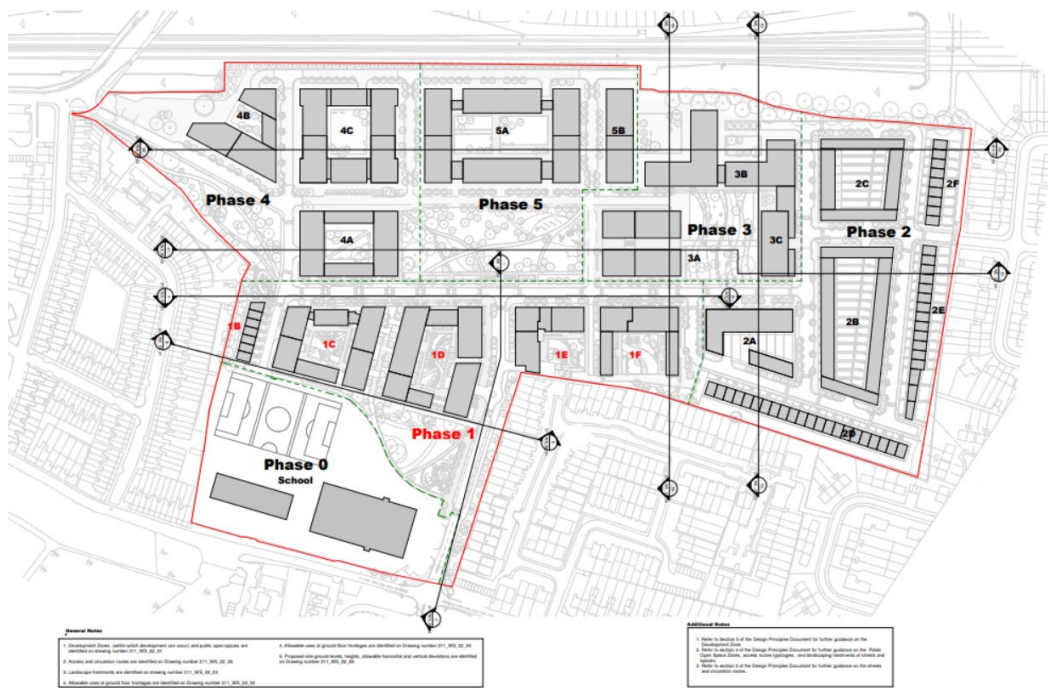
The GLA Stage 1 response was broadly supportive of the principle of development although it advised that it was the Local Authority's role to assess the acceptability of the height and massing of the proposal and should be an exemplary standard of design.

## **4. APPEAL PROPOSAL**

The proposal is for a 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 (*Reduced from 461 as submitted*) 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.

The site boundary for this application is illustrated below:



- All expressed storey heights include ground level
- The rear wings of blocks E and F are set on a steep incline, the stated storey height of the diagram is the number of storeys including ground level



2020 Permission



2022 Masterplan

## **Detailed Element**

The detailed part of the Hybrid Application comprises Phase 1 of the masterplan as identified in the Parameter Plans. This includes the new secondary school and associated facilities together with 452 residential units.

### **New Secondary School Facilities**

A new secondary school is proposed to be located in the south-eastern corner which will provide a purpose built and larger facility for the St Andrew the Apostle Greek Orthodox School which are currently operating out of converted office accommodation in Building 5. While the form of the proposed school building and ancillary space differs from the original approval under outline application 15/07932/OUT, a drop in S73 application (Ref 22/1579/S73) was approved by the Strategic Planning Committee in July 2021 (Decision issued in October 2022 following completion of Deed of Variation). The school proposals in the current application are identical to those approved under the S73 application.

### **Residential Accommodation**

In addition to the secondary school facilities, Phase 1 also proposes the delivery of 454 residential units in five development blocks with the following unit mix.

Phase	Unit sizes				Total proposed units
1	1 bed	2 bed	3 bed	4 bed	

	152	198	94	8 (inc 7 houses)	452
Percentage	33.6%	43.8%	20.8%	1.8%	100%

### **Outline Element**

The outline element of the Hybrid Application comprises Phases 2-5 detailed on the masterplan and Parameter Plan. The outline elements are predominantly residential, however also include provision for complementary non-residential uses such as office floorspace, small-scale retail floorspace and community facilities, alongside the provision of public open space, play space and other infrastructure.

### **Residential Accommodation**

The outline elements of the application propose the delivery of an additional 1967 residential across within four development phases. The unit split and configuration is set out below.

Phase	Unit size			Total. of proposed unit
	1-bed	2-bed	3-bed	
2	11	37	107	155
3	85	315	85	485
4	129	478	128	735
5	104	385	103	592
<b>Total</b>	<b>329</b>	<b>1,215</b>	<b>423</b>	<b>1,967</b>
<b>Percentage</b>	<b>16.7%</b>	<b>61.8%</b>	<b>21.5%</b>	<b>100%</b>

### **Non-Residential Floorspace**

The application proposes approximately 7,148 sqm of non residential floorspace falling within Classes E & F of the uses classes order. The breakdown of the proposed space is as follows:

Community floorspace – 1,908sqm

Childcare – 960sqm

Office – 2,552sqm

Retail – 1,728sqm

Post submission following discussions with the local health trust the community space is now currently proposed to include provision for a new health centre as well as space for a collection of faith groups. The community floorspace proposed within this mix has been increased as a result of this at the expense of a small reduction in the amount of retail and office space.

### **Car Parking**

In addition to the school car parking residential car parking is proposed to be located within basement car parks with some additional on street parking spaces for visitors. For Phase 1 - It is proposed to provide car parking at a ratio of approximately 0.8 spaces per dwelling resulting in a total of 367 car parking spaces for the 445 total dwellings. A similar ratio is currently proposed for the outline elements of the proposals although the final details will be established at reserved matters stage.

### **Access**

It is proposed to utilise the existing access routes into the Site at both Oakleigh Road South and Brunswick Park Road. In order to provide a safe entry and egress point for the School, it is proposed to undertake off-site improvements through the introduction of a new signalised junction and carriageway improvements.

The application also proposes to reopen an extinguished connection at Ashbourne / Weirdale Avenue, which is currently fenced off for pedestrian and cycle traffic only. This element has already been consented in the previous outline approval (15/07932/OUT).

### **Landscape**

The Proposed Development would provide a total of 20,250sqm of usable open space which will include provision for playspace. This is predominantly laid out in three main parks, with additional publically accessible open space located throughout the development.

The existing surface water attenuation lake in the south-eastern portion of the Site is retained but slightly reconfigured to reflect the location of the School, as well as maximising the landscape enhancements in the surrounding parkland. It is noted that the alterations to the lake have already been approved under the S73 approval earlier this year.

### Revisions and additional information

In the course of the assessment, additional details and clarification were provided in respect of various detailed aspects of the scheme. A summary of the changes are as follows;

#### 3 August 2022

Increase in community floorspace from 960 sqm to 1908 sqm within Block 3a. This involves a corresponding decrease of 474 sqm of retail space and 474 sqm of office space within Block 3a.

Reduction in number of single aspect units within blocks 1C, 1D and F and improvements in daylight to proposed units. This has had the effect of altering 10 x 1 bed units in block 1C to 5 2 bed units, two one bed units in Block 1D into a dual aspect 3 bed unit, and one 3 bed unit in block F changing to 2 x 3 bed units. As a result of the changes the number of units within the full part of the proposals has reduced from 454 to 445 units.

No consultation was carried out specifically in relation to these changes, as the changes did not materially affect surrounding properties and the minor reduction in the number of units would have been unlikely to have affected the comments which had been made.

#### October 2022 Changes

Amendments to proposed Brunswick Park Road junction providing for a signal controlled junction to replace the existing crossroads arrangements and widening the eastern side of Brunswick Park Road, requiring an alteration to the Goldril Drive part of the junction along with additional junction widening of the site access.

Residents were consulted in relation to these changes for a period of 21 days.

## **5. PLANNING POLICY**

### Introduction

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is The London Plan 2021 and the development plan documents in the Barnet Local Plan 2012. These statutory development plans are the main policy basis for the consideration of this planning application.

Barnet's Local Plan is made up of a suite of documents, including the Core Strategy and Development Management Policies. The Core Strategy and Development Management Policies documents were both adopted by the Council in September 2012.

A number of other planning documents, including national planning guidance and supplementary planning guidance and documents are also material to the determination of this application.

### Emerging Policy

Barnet's Draft Local Plan on 26th November 2021 was submitted to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Department of Levelling Up, Housing and Communities. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2021 (as amended).

The Regulation 22 Local Plan sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan. While

noting that account has been taken of the policies and site proposals in the draft Local Plan limited weight was given to the draft Local Plan in the determination of this application. The Council's position is that that remains the case at the current time also.

The Inspector in his Interim Findings and Next Steps letter of August 17th has set out how the Council can through making Main Modifications to the Local Plan address issues of legal compliance and deficiencies in soundness. These interim findings are a clear indication of what the Local Plan and the policies and site proposals within may look like at adoption, subject to making the Inspector's suggested Main Modifications. Whilst the Council moves forward to formal consultation on the Main Modifications (expected to commence in January 2024) the Interim Findings and Next Steps letter of August 17th shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.

Relevant Emerging policies include:

Chapter 5

### **Policy HOU01 Affordable housing**

### **Policy HOU02 Housing Mix**

This policy sets out the minimum requirements for affordable housing. Barnet's strategic affordable housing target of 50% for all new homes to be affordable, with a minimum requirement of 35% (or 50% on publicly owned land) is consistent with the London Plan. All development must make the best use of land by following a design-led approach that optimises the capacity of sites. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. Where this minimum provision is not proposed a viability assessment will be required. This will be assessed against the strategic target of 50% of all new homes to be affordable.

Chapter 5

Policy CDH01 Promoting High Quality Design

Policy CDH03 Public Realm



## **Policy CDH04 Tall Buildings**

This policy sets out the requirements and sites for a tall buildings (8 to 14 storeys (26 to 46 metres above above ground level)) may be appropriate in the following strategic locations:

- Brent Cross Growth (Opportunity) Area (Policy GSS02);
- Brent Cross West Growth (Opportunity) Area (Policy GSS03);
- Colindale Growth (Opportunity) Area including Grahame Park Estate (Policy GSS06);
- Cricklewood Growth (Opportunity) Area (Policy GSS04);
- Edgware Growth Area (Policy GSS05);
- West Hendon Estate (Policy GSS10);
- New Southgate Opportunity Area<sup>27</sup> (Policy GSS09);
- Major Thoroughfares - Edgware Road (A5) and Great North Road (A1000) (Policy GSS11); and the
- Town Centres of Finchley Central and North Finchley (Policy GSS08)

## National Planning Policy Framework

The 'National Planning Policy Framework' (NPPF) was published 5<sup>th</sup> September 2023. This document replaces the previous version of the National Planning Policy Framework (NPPF) published in July 2021. The NPPF sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced.

The NPPF states at Para 126, "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Relevant Policies within the NPPF which are relevant to the appeal include:

- Para 11 – presumption in favour of sustainable development
- Para 60-80 – boosting the supply of homes
- Para 119-125 – making effective use of land

- Para 126-136 achieving well designed places, Para 126 says that, "good design is a key aspect of sustainable design, creates better places better places in which to live and work and helps make development acceptable to communities", and 127 that "Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics". Para 130 (C) requires that new developments "are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities) and 130 (F) seeks to "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

### The London Plan 2021

The new London Plan was published on the 3<sup>rd</sup> March 2021 and sets out the Mayor's overarching strategic planning framework. This London Plan period runs from 2019 to 2041 and supersedes the previous Plan (2016).

The new London Plan policies (arranged by chapter) most relevant to this application are (those in bold are the most important for the reasons for refusal no.1, 2 & 3):

#### Chapter 1

GG1 Building strong and inclusive communities

GG2 Making the best use of land

GG3 Creating a healthy city

GG4 Delivering the homes Londoners need

GG5 Growing a good economy

GG6 Increasing efficiency and resilience

#### Chapter 2

Policy SD6 Town centres and high streets

#### Chapter 3

Policy D1 London's form, character and capacity for growth

Policy D2 Infrastructure requirements for sustainable densities

**Policy D3 Optimising site capacity through the design-led approach**

The policy states all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth.

The Council consider of particular relevance D.3 1) and 11) which are set out below:

D.3(1) "enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions."

D.11) "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 local character."

**Policy D4 Delivering good design**

Whilst the council has referenced policy D.4 in the reason for refusal, upon review, it will not be relying on this policy in defence of this appeal.

Policy D5 Inclusive design

Policy D6 Housing quality and standards

Policy D7 Accessible housing

Policy D8 Public realm

**Policy D9 Tall Buildings**

Part A) of policy D.9 states that 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.

Furthermore, in terms of location part B outlines;

- 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.

Whilst policy D.9 does direct tall buildings to locations as above, the council acknowledge that case law developments “The Master Brewer judgement” (1 (London Borough of Hillingdon, R (On the Application Of) v Mayor of London [2021] EWHC 3387 (Admin) (15 December 2021)) has determined that there is nothing in part A or B that are gateways to considerations under part C and it is the criteria in Part C which have form the focus of the Council’s case. The council consider that the scheme is contrary to considerations under C “Impacts” and would not contribute positively to the character of the area.

Policy D11 Safety, Security and resilience to emergency

Policy D12 Fire safety

Policy D14 Noise

Chapter 4

Policy H1 Increasing housing supply

**Policy H4 Delivering affordable housing**

This policy sets a strategic target for 50% of all new homes delivered across London to be genuinely affordable. Supporting text paragraph 4.4.1 states that “All schemes are expected to maximise the delivery of affordable housing and make the most efficient use of available resources.” Para 4.4.2 introduces the threshold approach to viability which is set out in Policy H5. Para 4.4.4 expects schemes to deliver at least the threshold level of affordable housing without grant or public subsidy and to increase this proportion through the use of grant and other subsidy, where available. Para 4.4.4 continues by stating that “Only where there are clear barriers to delivery and it is fully justified through detailed viability evidence, as set out in Policy H5, should a lower level of affordable housing be considered.”

Para 4.4.5 states that the “London SHMA has identified that 65% of London’s need is for affordable housing. Therefore, it is crucial that residential and mixed-use development contributes directly towards the provision of affordable housing.”

### **Policy H5 Threshold approach to applications**

This policy encourages the delivery of 35% affordable housing under the Fast Track Route where no viability assessment is required to be submitted at application stage. Where an application does not meet the requirement of the Fast Track Route, the proposal must follow the Viability Tested Route. Within para 4.5.11 of the supporting text, it sets out the expectation for schemes to maximise the delivery of genuinely affordable housing and make the most efficient use of available resources to achieve this objective.

Policy H6 Affordable housing tenure

Policy H7 Monitoring of affordable housing

Policy H8 Loss of existing housing and estate redevelopment

Policy H10 Housing size mix

Policy H15 Purpose-built student accommodation

### Chapter 5

Policy S1 Developing London’s social infrastructure

Policy S2 Health and social care facilities

Policy S4 Play and informal recreation

### Chapter 6

Policy E2 Providing suitable business space

Policy E11 Skills and opportunities for all

### Chapter 7

Policy HC1 Heritage conservation and growth

### Chapter 8

Policy G1 Green infrastructure

Policy G5 Urban greening

Policy G6 Biodiversity and access to nature

## Policy G7 Trees and woodlands

### Chapter 9

Policy SI 1 Improving air quality

Policy SI 2 Minimising greenhouse gas emissions

Policy SI 3 Energy infrastructure

Policy SI 4 Managing heat risk

Policy SI 5 Water infrastructure

Policy SI 7 Reducing waste and supporting the circular economy

Policy SI 8 Waste capacity and net waste self-sufficiency

Policy SI 12 Flood risk management

Policy SI 13 Sustainable drainage

### Chapter 10

Policy T1 Strategic approach to transport

Policy T2 Healthy Streets

Policy T3 Transport capacity, connectivity and safeguarding

Policy T4 Assessing and mitigating transport impacts

Policy T5 Cycling

Policy T6 Car parking

Policy T6.1 Residential parking

Policy T6.2 Office Parking

Policy T6.5 Non-residential disabled persons parking

Policy T9 Funding transport infrastructure through planning

### Chapter 11

Policy DF1 Delivery of the Plan and Planning Obligations

## Barnet Local Plan

The development plan documents in the Barnet Local Plan constitute the development plan in terms of local planning policy for the purposes of the Planning and Compulsory Purchase Act (2004). The relevant documents comprise the Core Strategy and Development Management Policies documents, which were both adopted in September 2012. The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

The Local Plan development plan policies of most relevance to the determination of this appeal are (those in bold are the most important for the reasons for refusal no.1,2 & 3):

## Core Strategy Policies:

Core Strategy (Adopted 2012):

### **CS NPPF (National Planning Policy Framework - Presumption in favour of sustainable development)**

Policy CS NPPF stipulates that planning applications that accord with policies in Barnet's Local Plan and where relevant, policies in neighbourhood plans, will be approved without delay, unless material considerations indicate otherwise, as is the case in this instance.

CS1 (Barnet's Place Shaping Strategy - Protection, enhancement and consolidated growth - The three strands approach)

CS3 (Distribution of growth in meeting housing aspirations)

### **CS4 (Providing quality homes and housing choice in Barnet)**

Policy CS4 seeks to deliver a minimum affordable housing target of 5,500 new affordable homes by 2025/26 and seeking a boroughwide target of 40% affordable homes on site capable of accommodating ten or more dwellings. An appropriate mix of affordable housing of 60% social rented and 40% intermediate for Barnet will support the Council's objectives of widening home ownership and providing family homes

### **CS5 (Protecting and enhancing Barnet's character to create high quality places)**

Policy CS5 seeks to protect and enhance Barnet's character to create high quality places with the aim to ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high-quality design

Within the supporting text, para 10.1.6 states,

“For Barnet to grow successfully it is imperative that safeguards are in place to protect and enhance the suburban quality of the borough. There is a need to identify the physical elements within the built environment that give Barnet its character and highlight those areas of the borough that may require further protection from development.”

CS6 (Promoting Barnet's Town Centres)

**CS7 (Enhancing and protecting Barnet's open spaces)**

**CS8 (Promoting a strong and prosperous Barnet)**

**CS9 (Providing safe, effective and efficient travel)**

CS10 (Enabling inclusive and integrated community facilities and uses)

CS11 (Improving health and well-being in Barnet)

CS12 (Making Barnet a safer place)

CS13 (Ensuring efficient use of natural resources)

CS14 (Dealing with our waste)

**CS15 (Delivering the Core Strategy)**

Development Management Policies (Adopted 2012):

**DM01 (Protecting Barnet's character and amenity)**

The Council will not accept designs for new development that are inappropriate to their context or do not take opportunities to improve the character and quality of an area. High quality design solutions help to make new places in the borough which can add to and complement the existing suburban character. Contemporary design may be appropriate provided it has regard to the local context. (Para 2.2.1)

It is an objective of DM01 to ensure development proposals are based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the scale, height, density and pattern of surrounding buildings, spaces and streets. (Policy DM01 b).

Whilst the policy intention is to protect local character, it should not be used to restrict well designed and sympathetic development which meets other objectives in the Core Strategy, Development Management Policies DPD, the Council's suite of Design Guidance Notes and Supplementary Planning Documents. The Characterisation Study should be referred to for a more detailed description of the typologies and used as a tool to help judge the effect of a development on character. The Supplementary Planning Document (SPD) Residential Design Guidance provides more specific requirements on development that is suitable for Barnet's distinctive suburban character. (Para 2.3.9)



DM02 (Development standards)

DM03 (Accessibility and inclusive design)

DM04 (Environmental considerations for development)

**DM05 (Tall buildings)**

This policy states that tall buildings outside the strategic locations identified in the Core Strategy will not be considered acceptable.

Proposals for tall buildings will need to demonstrate:

- i. an active street frontage where appropriate
- ii. successful integration into the existing urban fabric
- iii. a regard to topography and no adverse impact on Local Viewing Corridors, local views and the skyline
- iv. not cause harm to heritage assets and their setting
- v. that the potential microclimatic effect does not adversely affect existing levels of comfort in the public realm.

Proposals for redevelopment or refurbishment of existing tall buildings will be required to make a positive contribution to the townscape.

In view of the fallback position and the need to optimise development on the appeal site, the Council does not (and its reason for refusal 1 does not) object to the scheme on the basis that the development contains tall buildings on a site outside of the strategic locations identified in the Core Strategy. Its position is, rather, that the development fails to demonstrate compliance with criteria (ii) and (iii) of Policy DM05.

DM08 (Ensuring a variety of sizes of new homes to meet housing need)

**DM10 (Affordable housing contributions)**

This policy sets out how the Core Strategy Policy CS4 will implement the borough-wide target for 40% of all new homes to be affordable. The threshold for requiring affordable housing is 10 or more housing units. The maximum reasonable amount of affordable housing that will be required on site will be considered on a site-by-site basis and subject to viability. Delivery of more than 40% affordable housing will also be sought where viable. In

line with the Core Strategy the tenure mix of affordable housing which will be sought is 60% social rented and 40% intermediate.

DM11 (Development Principles for Barnet's Town Centres)

DM13 (Community and education uses)

DM14 (New and existing employment space)

DM15 (Green belt and open spaces)

DM16 (Biodiversity)

DM17 (Travel impact and parking standards)

A number of local and strategic supplementary planning guidance (SPG) and documents (SPD) are material to the determination of the application.

#### Local Supplementary Planning Documents and Guidance:

The Council has a number of adopted Supplementary Planning Documents (SPDs) which provide detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet including generic environmental requirements to ensure that new development within Barnet meets sufficiently high environmental and design standards. They are material considerations for the determination of planning applications:

#### **Characterisation Study of London Borough of Barnet (May 2010)**

The study provides an assessment and understanding of the characteristics of the Borough's built environment. It identifies the different architectural typologies and character areas in the borough.

The site is located within the Friern Barnet and Brunswick Park character area which principally comprises the residential street typology and limited areas of campus and big box typology. The appeal site itself falls within box development immediately surrounded by the primary typology of residential streets comprising of a mixture of secondary typologies

including 'D – Suburban Terrace' to its north, 'F - Flats' to the east and 'E – Urban Terrace' to the east.

Affordable Housing (February 2007 with updates in August 2010)

Delivery Skills, Employment, Enterprise and Training from Development through S106 (October 2014)

Green Infrastructure (October 2017)

Planning Obligations (April 2013)

Residential Design Guidance (2016)

Sustainable Design and Construction (2016)

### **North London Business Park – Planning Brief (2016)**

The Council adopted the North London Business Park Planning Brief following extensive public consultation in March 2016. The brief sets out the spatial strategy for the development of the North London Business Park Site.

#### Strategic Supplementary Planning Documents and Guidance:

Barnet Housing Strategy 2015-2025

Accessible London: Achieving an Inclusive Environment (April 2004)

Wheelchair Accessible Housing (September 2007)

Planning for Equality and Diversity in London (October 2007)

All London Green Grid (March 2012)

Housing (March 2016)

Shaping Neighbourhoods: Play and Informal Recreation (September 2012)

Affordable Housing and Viability (2017)

The Control of Dust and Emissions during Construction and Demolition (July 2014)

Mayor's Transport Strategy (2018)

Play and Informal Recreation (September 2012)

## **6. AMPLIFICATIONS OF REASONS FOR REFUSAL**

## Principle of Development

The Council does not object to the principle of the residential redevelopment of this site or the principle (per se) of tall buildings on the site.

## Impact on the character and appearance of the local area

Reason for Refusal No.1:

- 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.***

The Development Plan policies relied upon for this objection are Policies CS NPPF, CS5, DM01 and DM05 and London Plan Policies D3, D4 and D9 (please note the Council is no longer relying on London Plan Policy D4).

## Barnet's Local Plan – Core Strategy (September 2012)

### Core Strategy National Planning Policy Framework (CS NPPF)

Policy CS NPPF stipulates that planning applications that accord with policies in Barnet's Local Plan and where relevant, policies in neighborhood plans, will be approved without delay, unless material considerations indicate otherwise, as is the case in this instance.

### Policy CS5

Policy CS5 seeks to protect and enhance Barnet's character to create high quality places with the aim to ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high-quality design.

Within the supporting text, para 10.1.6 states,

“For Barnet to grow successfully it is imperative that safeguards are in place to protect and enhance the suburban quality of the borough. There is a need to identify the physical elements within the built environment that give Barnet its character and highlight those areas of the borough that may require further protection from development.”

### Barnet's Local Plan – Development Management Policies (September 2012)

#### DM01 – Protecting Barnet's Character and Amenity

The Council will not accept designs for new development that are inappropriate to their context or do not take opportunities to improve the character and quality of an area. High quality design solutions help to make new places in the borough which can add to and complement the existing suburban character. Contemporary design may be appropriate provided it has regard to the local context. (Para 2.2.1)

It is an objective of DM01 to ensure development proposals are based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the scale, height, density and pattern of surrounding buildings, spaces and streets. (Policy DM01 b)

Whilst the policy intention is to protect local character, it should not be used to restrict well designed and sympathetic development which meets other objectives in the Core Strategy, Development Management Policies DPD, the Council's suite of Design Guidance Notes and Supplementary Planning Documents.

The Characterisation Study should be referred to for a more detailed description of the typologies and used as a tool to help judge the effect of a development on character. The Supplementary Planning Document (SPD) Residential Design Guidance provides more

specific requirements on development that is suitable for Barnet's distinctive suburban character. (Para 2.3.9)

#### DM05 – Tall buildings

This policy states that tall buildings outside the strategic locations identified in the Core Strategy will not be considered acceptable.

Proposals for tall buildings will need to demonstrate:

- i. an active street frontage where appropriate
- ii. successful integration into the existing urban fabric
- iii. a regard to topography and no adverse impact on Local Viewing Corridors, local views and the skyline
- iv. not cause harm to heritage assets and their setting
- v. that the potential microclimatic effect does not adversely affect existing levels of comfort in the public realm.

#### Policy CDH04 - Tall Buildings (Emerging Plan)

This policy sets out the requirements and sites for a tall buildings (8 to 14 storeys (26 to 46 metres above ground level)) may be appropriate in the following strategic locations:

- Brent Cross Growth (Opportunity) Area (Policy GSS02);
- Brent Cross West Growth (Opportunity) Area (Policy GSS03);
- Colindale Growth (Opportunity) Area including Grahame Park Estate (Policy GSS06);
- Cricklewood Growth (Opportunity) Area (Policy GSS04);
- Edgware Growth Area (Policy GSS05);
- West Hendon Estate (Policy GSS10);
- New Southgate Opportunity Area<sup>27</sup> (Policy GSS09);
- Major Thoroughfares - Edgware Road (A5) and Great North Road (A1000) (Policy GSS11); and the
- Town Centres of Finchley Central and North Finchley (Policy GSS08)

As above, although the site does not fall within the strategic locations identified for tall buildings in emerging policy CDH04, the Council is not objecting on that basis as a matter of principle. Rather, as per the criteria requirements of DM05 and emerging policy CDH04 this appeal scheme would not make a positive contribution to the existing streetscape at this location.

The proposal involves increasing the height of the buildings from the existing and from the permitted scheme, to propose buildings ranging between 10 to 13 storeys, particularly to the blocks adjacent to the railway line. Due to their excessive height, scale and massing these buildings, in conjunction with the smaller buildings in the development proposal, will fail to successfully integrate into the existing urban fabric which are predominantly made of two, three and few 4 storey buildings.

### London Plan

#### Policy D3 - Optimising site capacity through the design-led approach

The policy states all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth.

The council consider of particular relevance D.3 (1) and (11), which are set out below:

D.3 (1) “ enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions”;

And;

D.3 (11) “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”.

In the case of the appeal proposal, the prevailing pattern of developments around the locality consists of predominately low rise 2 and 3 storey residential dwellings.

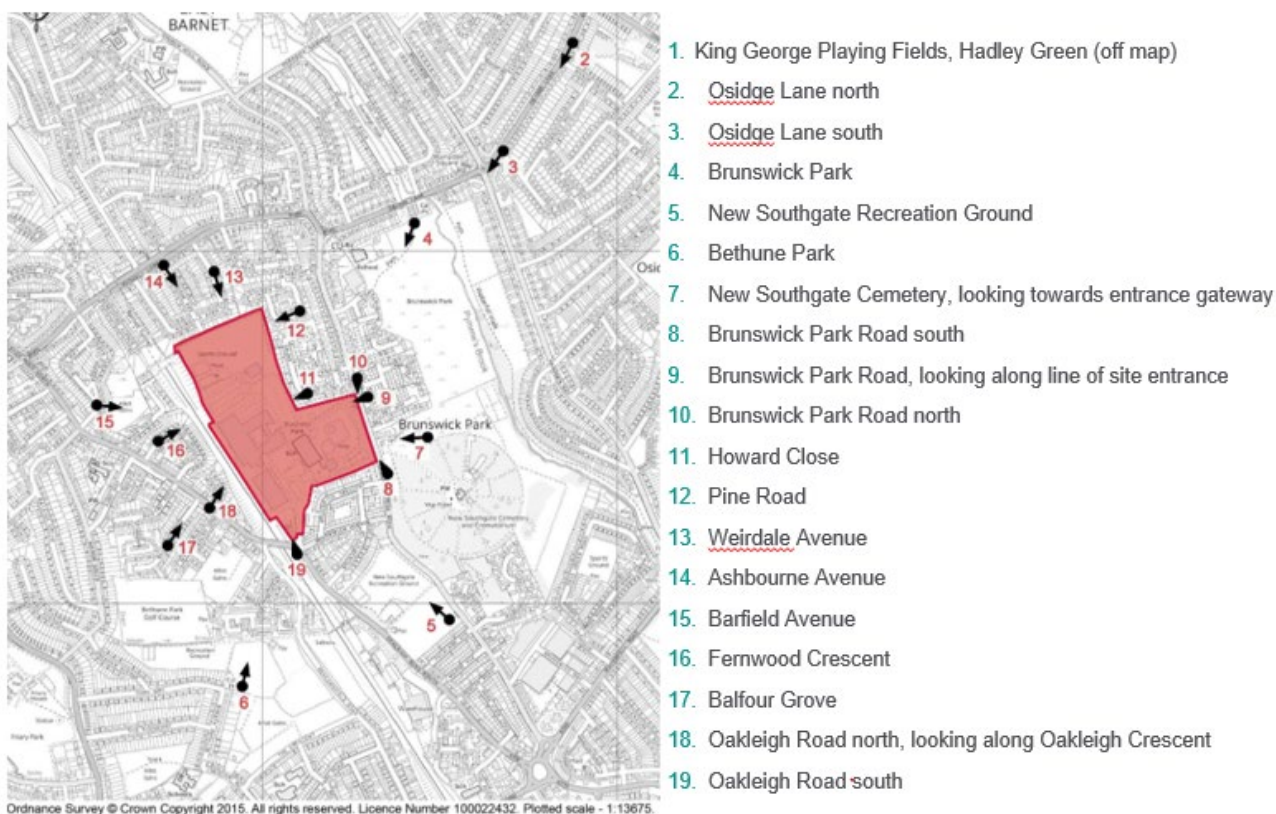
Beyond the railway embankment the height and massing increases with a number of large blocks extending up to 4 storeys in height along Denham Road (although these are physically separated from the proposed development site by the railway line).

The appeal proposal fails to reflect the height, scale, and pattern of these surrounding buildings resulting in a harmful juxtaposition between the proposed buildings and the surrounding area.

The proposed development would be out of character with the existing low rise suburban development in surrounding roads. In the context of these surrounding suburban streets, the proposed scheme would be highly dominant, discordant, and harmful, therefore it fails to have regard to local context. This is illustrated in the townscape visual appraisal views, most notably along 7- New Southgate Cemetery, 16 - Fernwood Crescent/Denham Road, 18 - Oakleigh Close and 19 - Oakleigh Road North. Although the visual images assist in the assessment, the nature of this harm is best understood as part of a kinetic moving experience and the site visit will be important to appreciate that.

The image below indicates the viewpoints. To clarify, no.19 has been incorrectly annotated by the applicant as Oakleigh Road South in their verified views, it should be Oakleigh Road North.





In the context of these surrounding suburban streets, the proposed scheme would be highly dominant, discordant, and harmful, therefore it fails to have regard to local context. Due to its excessive height it would appear prominent within the site and will appear visually intrusive when viewed from the adjacent street, forecourts and rear gardens of adjacent neighbouring properties. Whilst the appellant states that the proposed scheme will only be a minor increase over the extant consented scheme, the Council consider the increase in development to be significant.

With regards to policy D.9 of the London Plan the appeal scheme would be contrary to the Impacts section of this policy and would fail to integrate successfully into the character of the area.

The proposal would harm the character and appearance of the area. The Council will describe the character and appearance of the surrounding residential streets and will argue that by virtue of height and scale, the proposed development will not respect or enhance local context, will not respond to local distinctiveness or to the special features or characteristics of the locality.

Whilst the North London Business Park Planning Brief acknowledges the size of the site enables development to define its own character, in particular in the higher density zone, it also notes that tall buildings are not envisioned in this location and that the implication of this policy is that development of 8 storeys or more in height will not be supported. Whilst it is acknowledged that the brief does state the reasoning as being the site is not identified as a strategic location for tall buildings, the Council still consider there are sound planning reasons to restrict unlimited tall buildings at this location and the reasoning within the Planning Brief will have taken account of the character of the surrounding area also.

Reason for Refusal No.2:

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.***

The heads of terms arising under a s.106 deed to address the matters raised by reason for refusal no.2 are:

(a) Legal Professional Costs Recovery

Paying the Council's legal and professional costs of preparing the Agreement and any other enabling arrangements.

(b) Enforceability

All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority.

(c) Affordable housing

21% affordable housing by units across the whole development (2428) units in total) on the basis of the following tenure split.

Affordable Rent (246 Units)

20 x 1 bed

136 x 2 bed

90 x 3 bed

Shared Ownership (266 Units)

92 x 2 bed

174 x 2 bed

- (d) Affordable Housing – Review Mechanism Early, Mid and Late  
Viability Review mechanisms to be agreed in liaison with the GLA
- (e) School plot land transfer to the EFA on a levelled, decontaminated and serviced plot.
- (f) Community Use Agreement School
- (g) Details of Delivery of SME Business Space including new Start up Units including tenancy details and rental costs.
- (h) Details of new Community and Health Care Space
- (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.*

(i) Provision of Minibus Services in perpetuity, details of number of vehicles, frequency of movement and mechanism of funding to be specified.

(j) Bus Services Contribution of up to £1,525,000

(k) Betstyle Circus Feasibility Study

(l) Off Site Highway Works and Transport Measures

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

(m) Travel Plan measures and monitoring:

Including Provision of Travel Plans covering the following:

Travel Plan – School

Travel Plan - Residential

Travel Plan – Non Residential

Travel Plan - Nursery

An appropriate Travel Plan Monitoring Fee would also need to be paid.

(n) Section 278 Works

Necessary works to the public highway under section 278 of the Highways Act to facilitate the implementation of the development

(o) Carbon Offset Payment (Currently £4,196,877)

(p) 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.

(q) Public Open Space

Provision of Public Open Space which shall remain open and accessible to the general public.

(r) Reptile Receptor Site Protection, Management and Monitoring

Appropriate identification of any off site location to be agreed with the LPA. Either works to be carried out to satisfaction of LPA or a financial contribution to be made to the LPA to enable the translocation, management and monitoring.

(s) Section 106 Monitoring contribution

(t) All financial contributions listed above to be subject to indexation.

A S106 document addressing these matters has been submitted on a unilateral basis and the Council and the appellant are in dialogue in respect of the drafting and any other issues arising. At the time of writing, the Council are not aware that any of the matters above are not agreed by the appellant. In advance of the Inquiry the Council will provide a justification document in relation to the various matters contained with the s106 document.

## **7. BENEFITS AND BALANCE**

### Benefits of the scheme

The appellant has listed a number of benefits that would accrue from this scheme, most notably;

- The proposal will provide 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.
- Redevelopment of an existing edge-of-centre brownfield site.
- Provision of new public link and public realm assisted by the proposed landscaping.

Whilst the council acknowledge the range of benefits that would be delivered, and that this should attract due weight, a lot of the benefits would be delivered by the extant scheme, or a similar more modest level of development, and none of these benefits either individually or cumulatively would outweigh the significant harm to the character of the area that would result from this development.

### Balance

The proposal is in conflict with the Development Plan overall. That conflict is not outweighed by other material considerations. The Council do not consider that the tilted balance applies, and as outlined in the attached 5 year trajectory, the Council consider they have a 5.2 years supply of deliverable sites, but even if it did, the Council consider the adverse impacts of the scheme would significantly and demonstrably outweigh any benefits, when considered as a whole.

## **8. Conditions**

The Council and the Appellant will work together to provide an agreed list of conditions for the Inspector's consideration at the Inquiry.

## **9. Documents**

A list of core documents will be agreed with the Appellant. The Council may include relevant case law and appeal decisions.

## **APPENDIX A**

(Left intentionally blank – please see separate document)

**APPENDIX B 1 – 3**

(Left intentionally blank – please see separate documents)



