

19 April 2023

Planning Policy Team
7th Floor
2 Bristol Avenue
Colindale
London
NW9 4EW

By Email Only: forward.planning@barnet.gov.uk

Dear Sir/Madam,

BARNET LOCAL PLAN REVIEW EXAMINATION IN PUBLIC: COMMENTS TO EXAM 75 (NOTE ON SITE ALLOCATIONS) AND EXAM 79 (NOTE ON TALL BUILDINGS)

Introduction and Background

This letter of representation has been prepared on behalf of our client, Comer Homes Group ('Comer'), in response to the Barnet Local Plan Examination Documents ref. 'EXAM 75' and 'EXAM 79'.

Comer are the freehold owners of the North London Business Park (NLBP) located at Oakleigh Road South, London, N11 1GN which benefits from an extant hybrid planning permission granted by the Secretary of State (SoS) in February 2020 for comprehensive redevelopment for blocks of up to nine storeys and 1,350 residential dwellings.

The Barnet Local Plan Examination hearing sessions began on 20th September 2022 and closed on 11th November 2022. Following the closure of the hearings, the London Borough of Barnet (LBB) have continued to prepare and publish a number of Examination Documents seeking to address the Inspectors' Action Lists and the Council have invited representors to make comments specifically and only on the 'EXAM' documents and Statements of Common Ground by no later than 5pm on 26th April 2023.

Comer have previously made representation to the regulation 18 and regulation 19 versions of the Local Plan and have participated at the Local Plan hearing sessions. The comments in this letter set out Comer's continued concerns with the draft policies of the Local Plan in light of the new Examination Documents published by the Council.

EXAM 75 Note on Site Allocations

At the hearing sessions on 4th and 8th November that considered Matter 10 (Site Allocations) the Inspector requested provision of a Note covering several queries related to the site allocations in the Local Plan. Subsequently LBB have produced Examination Document 'EXAM 75' (Note on Site Allocations) in which the Council has sought to respond to these queries.

Point 2 of the Note seeks to answer specific questions about individual sites including Site 2: North London Business Park. The Inspector wanted to understand the status of the 'pending' planning application for NLBP which is a reference to the now refused hybrid application (ref. 21/4433/OUT) for up to 2,419 homes in blocks of up to 12 storeys (the 'uplift scheme').

In their response the Council acknowledges that the Barnet Planning Committee resolved to refuse the application, against Officer recommendations for approval, on 15th December 2022 on grounds of overdevelopment, design, bulk, and mass with the decision notice confirming the reason for refusal on 23rd March 2023. The Council state that, in light of the refusal, the site's indicative capacity will remain as originally stated (1,350 residential units) within the Site Proposals Schedule.

We consider the Council's reasoning for restricting the site's capacity to 1,350 continues to be irrational irrespective of the uplift scheme refusal. Comer's regulation 19 representations consider this point in detail and therefore will not be repeated again but are still considered valid.

The refused uplift scheme demonstrates that the site can be optimised to accommodate nearly 2,500 dwellings without any unacceptable visual, functional, environmental, and cumulative impacts, which Officers at LBB and the Greater London Authority (GLA) both agree with. Indeed, some 600 additional homes could be accommodated within the approved residential blocks through internal design alterations only. The Council's published Examination Documents following the hearing sessions do not take this consideration into account.

While the Mayor did not call the refused application in for their own determination, a positive Stage 2 report was published by the GLA on 20th March 2023. The report is clear that the GLA are supportive of the proposed further optimisation of the site to deliver an uplift of up to 1,069 new homes over the extant planning permission which would '*accord with the design-led approach to optimising the housing capacity of the site, in line with the London Plan*'.

In summary, the draft allocation as currently worded has not been positively prepared as it limits the optimisation of the site from being achieved, which is not in the interests of achieving sustainable development. The capacity quoted in the allocation is not justified or effective as no up-to-date evidence has been provided by LBB to demonstrate that the site is unable to accommodate further intensification. The allocation as drafted is inconsistent with national policy as it does not enable the delivery of the most optimum form of sustainable development that can be achieved. The Local Plan as currently drafted is therefore not sound.

EXAM 79 Note on Tall Buildings

At the hearing session on 2 November 2022 that considered Matter 8 (Design, Tall Buildings and Heritage) the Inspector requested provision of a Note covering a number of issues relating to draft policy CDH04 on Tall Buildings. Subsequently LBB have produced Examination Document 'EXAM 79' (Note on Tall Buildings) in which the Council have sought to further clarify, explain, and justify the draft policy and have proposed a series of modifications to the submission version of the plan.

Point 11(a) of the Note seeks to explain the reasoning for excluding broad areas such as the North London Business Park from being a location suitable for Tall Buildings. In this respect, EXAM 79 states the following:

'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...'

The Council's explanation for excluding the NLBP site remains outdated and fails to recognise the Secretary of State's (SoS) decision in granting permission for 1,350 homes in buildings up to nine storeys in February 2020. The SoS agreed 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". Indeed, the Secretary of State's decision does not appear in the list of Examination Documents highlighting the little weight the Council have given to the SoS's decision to date.

The Council's stance continues to be an unsound approach by virtue of it not being positively prepared, justified or effective. It is inconsistent with the National Planning Policy Framework (NPPF) 2021 and London Plan Policy D9 which sets out an expectation for Boroughs to determine if there are locations where tall buildings may be an appropriate form of development. In this case, the SoS has already deemed it an 'appropriate' site for tall buildings which the Council has failed to give appropriate weight to.

The above points raised by the Council, namely the reliance on the Tall Buildings Study and methodology for selecting 'appropriate' sites; the character of the surrounding area; and the site's PTAL have all been discussed in detail in Comer's regulation 19 representations. These representations remain valid and wholly unaddressed by the Council in their EXAM 79 response. While we do not wish to repeat previous representations, Comer's position can be summarised as followed:

- Policy D9 of the London Plan 2021 states that Boroughs should determine if there are locations where tall buildings may be an appropriate form of development.
- Within the Regulation 19 version of the Local Plan, LB Barnet have drafted Policy CDH04 which attempts to identify the locations within the Borough where tall buildings may be appropriate.
- Draft Policy CDH04 defines tall buildings as ranging between 8 to 14 storeys or 26 to 46 metres above ground level. The draft policy does not include the NLBP site as an identified location where tall buildings may be appropriate.
- The Secretary of State (SoS) granted hybrid planning permission in February 2020 for 1,350 new homes in buildings up to nine storeys on the NLBP site.
- Comer Homes Group therefore have permission to deliver nine storey buildings on the NLBP site, which sits within the tall buildings range identified by LB Barnet's draft tall buildings policy.
- Draft Policy CDH04 needs to include the NLBP site as a location where tall buildings may be appropriate in light of the SoS decision.
- LB Barnet has provided no evidence to date that supports or justifies the irrational omission of the NLBP from draft policy CDH04.
- The limited and out-of-date evidence that has been relied on by LB Barnet demonstrates the Local Plan has not been positively prepared, is not justified or effective, and is inconsistent with national policy.
- The Local Plan therefore does not pass the national policy test of soundness.

Conclusion

I trust the contents of this letter are sufficiently clear, however we would welcome further engagement to discuss these concerns. If you have any queries at all, please do not hesitate to contact Charles Mills of Daniel Watney to discuss further. We look forward to hearing from you.

Yours faithfully,



Daniel Watney LLP