

## **1. Introduction**

- 1.1 This Summary Proof of Evidence is submitted on behalf of London Borough of Barnet with reference to the decision to refuse planning permission, for the scheme which is the subject of this appeal.
- 1.2 I am Dominic Duffin, Principal Planner for Regional Enterprise ('Re') which is a joint venture between Capita and the London Borough of Barnet. I therefore act as a Principal Planner for the London Borough of Barnet.
- 1.3 I have provided evidence focused on the reasons for refusal, the relevant planning policy framework and planning matters that apply to the proposed development, including the planning balance.

## **2.0 The Appeal Site**

- 2.1 The application site is located to the north of Victoria Road comprising of land formerly part of the British Gas Works site. The site is 3.03ha and currently vacant with the former buildings, structures and hard surfacing removed.
- 2.2 The site is located on the edge of New Barnet town centre which is to the immediate south along East Barnet Road. Adjoining the site to the east is Victoria Park (aka Victoria Recreation Ground) with the New Barnet Leisure Centre located on the eastern side of the park. The Albert Road Gas Works is located to the north with a right of access provided from Albert Road running through the site. The wooded embankment to the railway line runs along much of the western boundary, with the railway line raised 10m above the site. In the south west corner are a number of two storey buildings including the Builders Arms and The Railway Bell PH. A range of two, and occasionally, three storey semi-detached and terrace houses are located to the south east of the site.

### **3.0 The Appeal Proposal**

- 3.1 The planning application sought permission for the redevelopment of the site to provide 539 residential units (Use Class C3) within 13 buildings ranging from 4 to 7 storeys, with 267.1sqm of retail/commercial space and 112.7sqm of community space (Use Class E and F) at ground floor, new public realm with communal landscaped amenity areas, alterations and additions to existing highways arrangements plus the removal of existing elevated footbridge and creation of new pedestrian routes, 334 car parking spaces (including car club and accessible provision) with basement and surface level provision, secure cycle parking, servicing and other associated development.
- 3.2 35% of the units would be affordable housing, equating to 149 units of both London Affordable Rented and Shared Ownership. The scheme would provide a total of 334 car parking spaces. The scheme provides a total of 1,713 sqm of public open space on site and 5,158 sqm of communal amenity space as well as 5,583 private space in the form of terraces and balconies. The open space is provided in three areas around Block A/B1/B2 and between B1/B2, C1/C2 and D1/D2.

### **4.0 Planning History**

- 4.1 There are a number of extant permission relating to the appeal site (see Planning History within Proof of Evidence). The extant planning permissions result in a combined scheme which provides a total of 371 units; 18% affordable by habitable rooms; 618m<sup>2</sup> of mix use commercial floorspace; and 396 car parking spaces along with the other improvements to the surrounding area secured via legal agreement. The schemes would provide ten blocks ranging in height from 4-8 stories.

### **5.0 The Determination**

- 5.1 The application the subject of this appeal was heard before the council's Strategic Planning Committee at a meeting held on 22nd February 2022. The application had been recommended for approval by officers, subject to conditions and s106 contributions. The recommendation was not endorsed by members, and the scheme was refused for 3 reasons relating to, concerns with impacts on the character of the area (RFR1), concerns about the amenity levels of some of the units (RfR2) and owing to the absence of an executed Legal Agreement to secure scheme characteristics and contributions, to mitigate the impact of the development (RFR3). A suitable agreement to secure this is now at an advanced stage.
- 5.2 On the 16th June 2022, council members formally authorised officers to withdraw RfR2, and accordingly officers wrote to the appellant and the Rule 6 party on the 17th June to indicate they would not be defending this reason. Accordingly, my accompanying Proof of Evidence focuses on RfR1 and RfR3.

## **6.0 Main Matters – RfR1 (Character and Appearance)**

- 6.1 As detailed within my Proof of Evidence I explore the effect of the appeal proposal from three identified areas. These being;
1. Leicester Road, Lytton Road and Bulwer Road (These are suburban roads west of the site);
  2. Victoria Recreation Ground;
  3. Victoria Road
- 6.2 Whilst recognising the extant schemes that are in place, and acknowledging that the general principle of redevelopment of the site is not contested, I conclude that the appeal scheme introduces a level of development which will cause harm to the character and appearance of the area. This would be particularly apparent with regards to the impact, and relationship, that would result between the appeal scheme and the

suburban scale development that exists to the west of the appeal site (identified at no.1 above). 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. Overall, the development would fail to appropriately integrate into the existing residential fabric and would appear incongruous in the street-scene.

- 6.3 I have also concluded that, with regards to Victoria Recreation Ground, the increase in development, over and above the level of development that would be provided with the extant schemes, would, owing to a change in orientation and increase in height of the proposed buildings, significantly reduce the current sense of openness and appearing unduly dominant. Whereas the extant consents would largely preserve the open edges of the park, the appeal scheme would not. The appeal scheme would have a detrimental impact on the park, failing to retain an open edge and resulting in a sense of enclosure.
- 6.4 In views from Victoria Road there would be a negative impact on the lower 2 storey scale prevalent along this road. I accept there is little to no material change on the impact on Victoria Road between the extant and appeal scheme and the council considered the transition in scale acceptable. However, I am including impact on Victoria Road in my overall assessment because it is now to be considered in conjunction with the impact on the western residential streets and Victoria Recreation Ground. However, in my view the impact on Victoria Road is much less significant than the impact on the western residential streets and Victoria Recreation Ground.

## **7.0 Main Matters – RfR3 (Planning Obligations)**

- 7.1 The Community Infrastructure Levy Regulations 2010 (Regulation 122), provide that a planning obligation must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

7.2 These tests listed above are also replicated in paragraph 57 of the NPPF.

7.3 A draft Heads of Terms has been submitted (as detailed in the proof of Evidence) and the obligations are considered necessary, and should be secured by a Section 106 legal deed if the application was to be approved, all of which are considered to comply with the NPPF, the Development Plan, and the three Regulation 122 tests referred to above, and that without the obligations the scheme would represent an unsustainable development.

7.4 A S106 document Agreement addressing these matters has been submitted to the Council, 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 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. A suitably executed agreement would address the 3<sup>rd</sup> reason for refusal.

## **8.0 Benefits and Balance**

8.1 My Proof of Evidence acknowledges the benefits of the scheme and apportions weight to these benefits as part of an overall balancing exercise.

8.2 It is the council's position that the scheme is harmful to the character and appearance of the area. The proposal is in conflict with policy D3 of the London Plan (2021) and Policies CS NPPF, CS5 and DM01 of the Barnet

Local Plan Core Strategy and Development Management Policies (2012) and paras. 126, 130 and 134 of the NPPF.

- 8.3 Whilst I acknowledge the benefits of the scheme, this is not outweighed by the conflicts with the Development Plan. I therefore consider the appeal scheme is in conflict with the Development Plan overall.
- 8.4 It is understood that the five-year housing land supply is not currently in dispute, with the appellant reserving the right to revisit this issue following the outcome of a separate, recent appeal at Barnet House, 1255 High Road, Whetstone, N20 0EJ (APP/N5090/W/21/3289161). It is the Council's case that a 5 Year Housing Land Supply (5YHLS) can be demonstrated. However, notwithstanding this it is respectfully submitted that even if the Inspector found the Council could not demonstrate a 5YHLS then it is considered the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, in accordance with Paragraph 11d of the NPPF.
- 8.5 It is respectfully submitted that planning permission should not be granted.