**RE : LAND FORMERLY KNOWN AS BRITISH GAS WORKS, ALBERT ROAD, NEW BARNET**

**APP/N5090/W/22/3294689**

**OPENING STATEMENT BY LONDON BOROUGH OF BARNET**

1. The appeal site comprises an extensive parcel of land in excess of 3 ha, formerly part of the British Gas Works site, on the edge of New Barnet town centre. The site is currently vacant.
2. It is a site which LBB consider is appropriate for residential development, and thus there is no issue in this case about the principle of development.
3. LBB’s support of that principle has underpinned their approach in previously granting consent for residential development on the site. As far back as seven years ago, in May 2015, LBB granted consent (B/04834/13) for a scheme which included 305 residential units, with further consents (16/7601/FUL and 17/55/22/FUL) granted in July 2020, resulting in a combined scheme which would provide 371 units.
4. The background to that support can be found in the New Barnet Town Centre Framework (November 2010), a document which the appellant now – incorrectly, in LBB’s view - considers to carry limited weight. The appeal site was identified as part of an Opportunity Site, with heights to be up to 4/5 storeys along the railway line and otherwise reflective of the low level suburban nature of the surrounding area.
5. The parties agree that the combined scheme consent has been implemented and is extant. However, since then attempts have been made to intensify the amount of development that can be squeezed onto the site. Thus an application for a scheme (20/1719/FUL) comprising 652 units in buildings of up to 10 storeys was refused by decision notice issued in December 2020, and that application was followed by a further scheme which is the subject of this appeal and which proposes 539 residential units.
6. The appeal scheme seeks to add 45% more residential units than the permitted combined scheme. The permitted combined scheme comprised 10 blocks, only one of which was 6 storeys or more (Block A, 6-8 storeys), with some height at 2 storeys but the majority at 4 and 5 storeys. By contrast, the appeal scheme comprises 13 blocks, and 10 of these are 6 storeys or more with 8 of those at 7 storeys. At the application stage a height of one building at 8 storeys was lowered to 7 storeys, no doubt to avoid liability to tall building policies[[1]](#footnote-1).
7. LBB’s support both in principle and in practice for significant residential development of the site does not mean that developers of the site have carte blanche, and the site cannot be treated as if it is without limit. Optimisation and maximisation are not the same thing.
8. The scheme proposed was appealed for non-determination but when it did come before the Committee in February 2022, notwithstanding an officer recommendation for approval, LBB resolved that it should be refused for three reasons. RfR2 related to living conditions issues but that objection has been withdrawn ; RfR3 related to a series of planning obligations which now appear to have been resolved by way of s106 commitments agreed by the appellant. That leaves RfR1 : it is LBB’s clear position that the scheme would be harmful to the character and appearance of the area.
9. That harm will be particularly pronounced in the impact on two areas :
10. Victoria Recreation Ground : this is clearly an important and much-valued public park in New Barnet, and the Inspector at his site visit will be able to gauge its strong sense of openness. The wall of development proposed along the western flank of the park will erode the openness of the park and create a sense of enclosure.
11. The suburban enclave to the west of the site, notably around Leicester Road, Bulwer Road, and Lytton Road is a low-rise residential area which would be harmed by the imposition of the appeal scheme into the surroundings.
12. The proposed development would demonstrably and unacceptably harm the character and appearance of the area in a way that the permitted combined scheme would not.
13. Assessment of the impacts on the character and appearance of the area is ultimately a matter of planning judgment. The case papers include a series of AVRs and CGIs prepared by the appellant – these are undoubtedly a useful tool but must be considered alongside the kinetic experience of walking the area and understanding the local context.
14. The appeal is to be determined in accordance with the development plan unless material considerations indicate otherwise[[2]](#footnote-2).
15. The development plan consists of the Barnet Core Strategy (2012), the Barnet Development Management Policies DPD (2012), and the London Plan 2021.
16. The harm to the character and appearance of the area places the scheme in conflict with policies CS5, DM01, and D3, from which it is LBB’s position that the scheme should be regarded as in conflict with the development plan overall.
17. National planning policy in the shape of the NPPF is an important material consideration, but the harm conflicts with the national policies for good design, in particular at paragraphs 126, 130, and 134 of the Framework.
18. Planning is always about balance, as reflected in the statutory test for determination.
19. LBB acknowledge that it is entirely appropriate that the benefits of the scheme are weighed in the planning balance. Principle amongst these are the delivery of both market and affordable housing (at 35%). Whilst it is noted that LBB have a 5 year Housing Land Supply[[3]](#footnote-3), and that the extant scheme would deliver market and affordable housing (albeit in a lower amount), the parties nonetheless agree that this is a matter that should carry significant weight. Other benefits of the scheme include economic and regenerative benefits.
20. However, it is LBB’s case that the benefits of the scheme would not outweigh the conflicts with the development plan.
21. Whereas the extant combined scheme for the site represents a successful response to the site and its surroundings, the appeal scheme looks to over-develop the site at the expense of local character and appearance. The appeal proposal is a textbook example of maximisation masquerading as optimisation. It is LBB’s case that the appeal should fail.

Ed Grant 19th July 2022

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1. LBB define a tall building as 8 storeys or more [↑](#footnote-ref-1)
2. S38(6) PCPA [↑](#footnote-ref-2)
3. 6.5 years concluded by the Housing Trajectory and 5 Year Supply Paper published by LBB in November 2021 ; the appellant does not challenge that LBB are able to demonstrate a 5YHLS, see SOCG at para 6.8. Although the position was challenged in the recent Barnet House Inquiry, the Inspector concluded that he did not need to make a determination on that issue (decision letter dated 12th July 2022) [↑](#footnote-ref-3)