



Appeal Decision

Inquiry held on 13-19 February 2024

Site visit made on 16 February 2024

by C Masters MA (Hons) FRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Appeal Ref: APP/N5090/W/23/3330577

North London Business Park, Oakleigh Road South, London, N11 1GN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Comer Homes Group against the decision of London Borough of Barnet.
- The application Ref 21/4433/OUT, dated 10 August 2021, was refused by notice dated 23 March 2023.
- The development proposed is 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.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above differs from the application form as the application form included for 461 residential units within the detailed part of the proposal. I have used the description as set out on the decision notice as this provides a more accurate description of development.
3. Prior to the inquiry opening, I undertook an unaccompanied site visit to the site and surrounding area. I undertook an accompanied site visit on Friday 16 February 2024 with representatives from the Appellant and the Council. During this latter visit, we followed an agreed route around the site and viewed the appeal site from a number of vantage points within the surrounding streets.
4. Planning permission exists at the appeal site for a comprehensive redevelopment of the site which was granted on appeal and subsequently varied. The layout and orientation of the residential blocks does not differ from this consented scheme, the only material difference being the increase in the height of the development, with associated

changes to the floorspace and land uses for which permission is now sought.

5. My attention has been drawn to the consultation on possible changes to the National Planning Policy Framework (the Framework) which were published during the inquiry which seeks to, amongst other things, strengthen planning policy for brownfield development, to make it clear that local planning authorities should give significant weight to the benefits of delivering as many homes as possible. This is a consultation document only. As such, I attach only limited weight to this document.

Main Issue

6. The main issue in this appeal is the effect of the proposal on the townscape character and appearance of the area (design).

Reasons

7. The appeal site comprises a 16.53 hectare site which accommodates the former North London Business Park. The existing buildings comprise large low rise campus style buildings set within extensive open areas. In terms of use, the site is largely vacant however there are a number of temporary uses which take place on the site. In addition, the St Andrew the Apostle School (consented under the extant consent at the site and the subsequent S73 variation) is under construction on the site and opened as a free school on the site in temporary accommodation in 2013.
8. The Planning Brief for the site dated 2016 recognises the site presents a significant opportunity to deliver housing growth in Brunswick Park. Although the document is dated, it is cross referenced within the emerging plan (which I shall return to below) under site requirements and development guidelines and accordingly I consider it to provide at the very least a useful background document. The document goes on to describe the site being located within an established suburban area. It notes that whilst any future development proposal must respect the character of the surrounding area where the development meets neighbours, the site is recognised as being large enough to have its own character. This is reinforced by the previous appeal decision¹ at the site which notes that the appeal site has its own character and its appearance is entirely different to that of the surrounding area, a fact that cannot be disputed.
9. The Characterisation Study of the London Borough of Barnet was produced in 2010. Whilst this is some time ago, the document has nevertheless informed the current emerging local plan. Furthermore, there have been no significant changes in the immediate area during this time which would render the document out of date. As a result, in common with other Inspectors² I consider the document to provide a useful broad townscape analysis. The document notes that substantial development took place in the area during the inter war period, and the surrounding area to be predominantly detached and semi detached two storey housing.

¹ APP/N5090/W/17/3189843

² APP/N5090/W/22/3294680

10. The existing topography across the site is varied and there is a distinct level change across the site as the land slopes from its northern boundary to its lowest point on Brunswick Park Road. The appeal site is bounded by a railway line to the west, beyond which lies primarily two storey residential properties. Along Brunswick Park Road to the east, the site is located opposite the New Southgate Cemetery and Crematorium.
11. From what I saw on my site visits, outside of the appeal site, the area comprises two storey terraced, semi detached and detached dwellings set in relatively tight uniform plots. These residential areas are interspersed with a number of local retail parades in the vicinity located on the main roads of Oakleigh Road North and Russell Lane which are typical of suburban outer London Boroughs. Where small pockets of three or four storey development exist, for example the flatted development off Beaconsfield Road, these are isolated.
12. The extant consent on the site permits, amongst other things, a total of 1350 residential units across the site in blocks ranging from two to nine storeys (outline element) and five eight storey blocks (detailed element).
13. I was able to visit a number of agreed vantage points as part of the site visit. It is important to stress that in relation to my analysis below, I am mindful of the views expressed by both the Council and the Appellant, namely that that the experience of a view is a kinetic one and should be considered as such and I have taken this into account in my conclusions below. Nevertheless, the reference numbers used in brackets below correlate to the view number as expressed within the TVIA.
14. The appeal proposal would mean that blocks 4C, 5A, 5B and 3B would increase from nine to twelve storeys in height. These blocks are positioned parallel to the railway line which, along with the steep banking either side, provides a degree of separation between the appeal site and the residential area opposite. However, when viewed from Fernwood Crescent (16), Denham Road and also Oakleigh Road North, looking along Oakleigh Close (18) the buildings would be seen as prominent additions to the skyline, rising quite significantly above the existing two storey properties in the foreground. Given the bulk and massing of the proposed buildings, I am unable to agree with the Appellants conclusion that this would add visual interest to the skyline. It would in my view be in stark contrast to the established suburban character of the neighbourhood, would fail to make a positive contribution to the local townscape and would be a visually dominant feature of the townscape character and appearance of the area, causing harm as a result.
15. In terms of viewpoint 19 (Oakleigh Road South) I concur with the views expressed by the Appellant that the addition of one further storey to block 4B would successfully mark the entrance to the scheme. However, in the appeal scheme, the mass and bulk of the new buildings, primarily the blocks which would be visible behind block 4B would dominate the entrance point and dilute the prominence of block 4B. The scale and massing of these blocks would be in stark contrast to the existing residential properties within the vicinity and overall the proposal would harm the street scene as a result.

16. The mass and bulk of the scheme would be particularly prominent when viewed from the New Southgate Cemetery (7) and the general area around this entrance driveway which is verdant and provides a very pleasant break in the built frontage along Brunswick Park Road. In both the appeal scheme and the consented scheme, the School building provides a statement yet well balanced addition to the foreground of this view fronting Brunswick Park Road (8 and 9). However, the appeal proposal before me would result in the bulk and massing of the blocks located behind the school increasing to such an extent that they would dominate the skyline, would be totally at odds with the established character and appearance of the area and would fail to make a positive contribution to the local townscape. They would be visually obtrusive elements in townscape terms, and the existing trees would do little to screen the impact of the proposal on this view.
17. In reaching my view, I am mindful of the views expressed by the previous Inspector on this site³ which were subsequently endorsed by the Secretary of State. In summary, that the scheme which would encompass nine storeys close to the western boundary of the site by the railway line, with buildings of no more than five storeys high along the north and east boundaries, would mean that the proposed scheme respects existing development, but maximises the potential of the site's location away from boundaries to existing development. Whilst I concur with this assessment, this scheme was for a much lower scale development than the scheme before me.
18. Much was made at the inquiry of the fact that the site is a large site and can deliver its own character and appearance. There can be no doubt that the consented scheme on site, with buildings up to nine storeys in height, would deliver a significant change to the townscape character and appearance of the site and the wider area. However, in line with policy D3 of the London Plan, the important assessment under the current policy framework is whether the development is the most appropriate form and land use for the site. The supporting text at paragraph 3.3.2 confirms that optimising site capacity should be based on an evaluation of the site attributes, its surrounding context and its capacity for growth. This to my mind includes an assessment of how the development respects the existing townscape parameters of an area and the two elements cannot be considered in isolation.
19. I am also mindful of the fact that when assessing the impact of the consented scheme in broader townscape terms, the Inspector concluded that a characteristic of the London cityscape, even in the suburbs, is glimpsed views of tall buildings from many public vantage points. This was a statement which the Secretary of State also agreed with. This may well be true nearer to town centres and transport nodes. However, from what I saw from my site visit, I am not entirely convinced that such a broad brush statement is entirely applicable to the suburban character of this particular part of Barnet. Similarly, the Appellant has referred me to other examples of large scale redevelopments in London where there are contrasts in scale and form with lower rise surrounding areas. In my view, the examples referred to within the boroughs of Ealing, Brent,

³ APP/N5090/W/17/3189843

Islington and Newham present entirely different townscape and locational characteristics to those experienced within Barnet and at the appeal site itself. In any event, these factors alone are not in my view sufficient justification to warrant the increase in building heights proposed by the scheme before me.

20. I acknowledge that the detailed elements of the scheme would to some extent set the design standard for the remainder of the scheme. I am also mindful that Officers for both the Council as well as the GLA recommended the appeal scheme for approval and the scheme was subject to input from the Design Review Panel. Nevertheless, these factors do not lead me to reach a different conclusion to the one expressed above. I am also aware that the extant consent on the site presents an important material consideration and, in my view, represents a realistic fall back position. It is undeniable that this fall back scheme would deliver a marked change to the townscape character and appearance of the area. However, this fact alone does not in my mind provide sufficient justification for the size and scale of the buildings proposed by this appeal.
21. I therefore conclude the proposal would cause harm to the townscape character and appearance of the area. In this way, the proposal would conflict with policy CS5 of the Barnet Local Plan Core Strategy (CS) 2012, as well as policies DM01 and DM05 of the Barnet Development Management Policies (DMP), 2012. Policy CS5 refers to protecting and enhancing Barnet's character to create high quality places and requires, amongst other things, that development in Barnet respects local context and distinctive local character. Policy DM01 of the DMP is a criteria based policy relating to protecting Barnet's character and amenity. Part b of the policy requires development proposals be based on an understanding of local characteristics. The policy goes on to state that proposals should preserve or enhance local character and respect the appearance, scale and mass as well as height of the surrounding buildings, spaces and streets. Policy DM05 of the DMP relates to tall buildings and advises, amongst other things, that proposals for tall buildings will need to demonstrate (ii) successful integration into the existing urban fabric.
22. In reaching this view, I acknowledge that the Appellant contents that policy CS5 of the Core Strategy and DM05 of the DMP should be given reduced weight due to their conflict with policy D9 of the London Plan which I refer to below. It was common ground between the parties that the locational requirements referred to within these policies conflict with policy D9 of the London Plan. It was also common ground that policy D9 of the London Plan is the precedent policy for the consideration of tall buildings. I concur with this assessment.
23. However, in the case of policy CS5, this policy not only deals with tall buildings but wider issues concerning protecting and enhancing Barnet's character to create high quality places. This text is entirely consistent with the Framework and the approach to creating high quality places. As a result, I am not convinced that this factor alone would warrant reduced weight for the policy conflict I have identified above. In the case of policy DM05, I attach reduced weight to this policy conflict for the reasons set out above.

24. The proposal would also conflict with policies D3 and D9 of the London Plan, 2021. Policy D3 relates to optimising site capacity through the design-led approach and advises, amongst other things, D (1) development proposals should enhance the local context by delivering buildings and spaces that positively respond to local distinctiveness through their scale and D (11) should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality. Policy D9 is the overarching policy concerning tall buildings. The proposal would conflict with part C (ii) of this policy which advises, amongst other things, that in relation to mid range views from the surrounding neighbourhood, particular attention should be paid to the form and proportions of the building. It should make a positive contribution to the local townscape in terms of legibility, proportions and materiality. The decision notice also refers to policy D4 of the London Plan however the Council did not rely on this policy as the inquiry.
25. For the same reasons, I am also of the view that the proposal would conflict with a number of objectives contained within the Framework, namely paragraph 135. In addition, my attention has also been drawn to the National Design Guide, which identifies 10 characteristics for well designed places. These include, amongst other things, the importance of context and ensuring well designed places integrate into their surroundings as well as identity, advising that well designed new development is influenced by the characteristics of the existing built form including a consideration of the height, scale and massing and relationships between buildings. For the same reasons, the proposal would conflict with this guide.

Other Matters

26. The Appellant contends that the proposal would deliver a significant number of benefits in the form of public open space including play space, new school, playing fields and pitches. However, these benefits are already consented on the site and in the case of the school, are in the process of being delivered. The only difference in terms of the school delivery is that the appeal proposal would facilitate junction improvements to Brunswick Park Road which are not covered by the consented scheme. Be that as it may, I do not consider that this benefit would be sufficient to outweigh the conflict with the development plan I have identified. Assuming these highways works are integral to the delivery of the school, I can see no reason why these works could not be covered by a separate consent.
27. The proposal would also deliver a substantial uplift in community floorspace over and above the consented scheme. This facility would be operated by Community Wholecare Centres to deliver health and wellbeing services to the new residential population to be created on the site. The Appellant produced detailed evidence regarding this facility and how it would operate. I also recognise that a number of representatives spoke in favour of the appeal proposals and the benefit that this aspect of the scheme could deliver. The evidence presented by CWC in terms of partnership working with local Churches was compelling in this regard

and I recognise that this facility would be of benefit to the wider community.

28. The emerging plan has reached an advance stage of preparation and I have had regard to this in accordance with paragraph 48 of the Framework. The examination hearings have concluded, and the Inspectors have written very clear post hearing notes to the Council in terms of next steps and drafting the main modifications. The appeal site is allocated as site 2 within this emerging plan. Although the appeal site was put forward as a suitable location for tall buildings, the post hearing note does not suggest that this position has been accepted by the Examining Inspectors. This is despite the consented scheme comprising tall buildings. Nevertheless, the post hearings note identifies that main modifications should include changes to the site allocation at the appeal site to provide certainty that the indicative supply in the Plan is 1350 dwellings based on the consented scheme. The note goes on to state that this should be expressed as a minimum and any subsequent proposals which would seek an uplift to this figure would need to be demonstrated through a design-led approach in accordance with policy D3 of the London Plan. In short, assessing proposals as I have done here. Given the status of the emerging plan and the advanced stage this has reached, I afford the emerging policy position moderate weight.
29. A signed Section 106 Agreement was submitted on 23 February 2024. This identifies commitments to providing affordable housing, public open space, land for the school, provision of SME business space, employment and training contribution, provision of community and healthcare space, community sports facilities, highway and public transport improvements, contribution towards carbon offsetting, reptile monitoring and protection measures and associated monitoring fees. I have had regard to these mitigating measures and benefits in determining this appeal. However, as I am dismissing the appeal, aside from those factors which are benefits in the overall planning balance, it is not necessary for me to consider these obligations further.
30. I am mindful of those representors who have supported the appeal scheme both in writing and orally at the inquiry itself. I have had regard to the views expressed however they have not led me to reach a different conclusion in relation to the main issue before me.
31. My attention has also been drawn to a number of other appeal decisions⁴ within Barnet itself but also beyond. Where relevant, I have had regard to these decisions in reaching my conclusions on the scheme and have referenced the relevant decisions as appropriate. However, it is also accepted that each case must be determined on its own merits and circumstances and it is a matter for the decision maker to undertake the planning balance exercise.
32. The Appellant contends that significant weight should be afforded to the substantial CIL contribution which the appeal scheme would deliver and in support of this position, has referred to the conclusions drawn by the previous Inspector and Secretary of State on this issue. In my view, the

⁴ APP/N5090/W/22/3313797, APP/N5090/W/22/3304952, APP/N5090/W/22/3307073, APP/N5090/W/21/3271077, APP/E5900/W/17/3190685

funding secured in relation to the CIL contribution constitutes limited weight. This is a view also held by other Inspectors⁵. Even if I were to agree with the Appellant on the weight to be attached to the CIL contribution, it would not outweigh the harm I have identified above in any event.

Planning Balance

33. I have concluded that the proposal would conflict with the adopted development plan and its relevant policies when read as a whole. The proposals would also be in conflict with the Framework and the National Design Guide in terms of design.
34. Against this conflict, I have also considered the benefits the proposal would deliver. The proposal would deliver 2419 dwellings of which 512 would be affordable. This is a substantial uplift when compared to the consented scheme which would deliver 1350 market homes and 135 affordable dwellings. I afford very significant weight to the delivery of these additional homes on a large brownfield site.
35. There would be wider benefits associated with the uplift in the provision of the community and healthcare space which would be provided by the appeal scheme. This would be primarily mitigation in terms of provision for the residents who would occupy the development. However, I recognise that this facility would be of benefit to the wider community. As such, I attribute moderate weight to this factor in favour of the appeal proposal. I have also attached moderate weight to the wider economic benefits an uplift in the amount of development on the site would deliver, as well as moderate weight to the Brunswick Park Road highways works.
36. Many of the other suggested benefits by the Appellant would not be additional planning benefits over and above the consented scheme which I have already concluded represents a lawful fall back position. For example, the school proposals (save for the additional Brunswick Park Road highways works) and community sport facilities, flood attenuation improvements, the decontamination of land, tree planting, urban greening and highways improvements. I therefore attach limited weight to them.
37. To conclude, whilst the proposal would deliver a number of benefits, they do not in my view outweigh the very clear conflict with the development plan. The Framework and the National Design Guide which I have identified above.

Conclusion

38. To conclude, for the above reasons and having taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Masters

INSPECTOR

⁵ APP/N5090/W/21/3271077 and APP/E5900/W/17/3190685

APPEARANCES

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**for the Section 106 Session*

Documents submitted at the inquiry

- Opening Statement on behalf of the Appellant
- Opening Statement on behalf of the Council
- Statement on behalf of Rt Hon T Villers
- Statement on behalf of Cllr Paul Lemon
- Statement on behalf of Robin Booth
- Statement on behalf of Pat Bohan
- Statement on behalf of Josh Mastin Lee
- Statement on behalf of Jez Simms including questions for the Appellant
- Statement on behalf of Peter Headland
- Statement on behalf of Raymond Stiles
- Note on signalised junction
- Agreed list of revised conditions
- NPPF Consultation document
- London Plan Review Report
- Closing Statement on behalf of the Council
- Closing Statement on behalf of the Appellant