

Barnet House, Whetstone

Appellant's Opening

The first reason for refusal

1. Barnet House is a 1960's Seifert tall building. It isn't one of his better buildings. It is reviled *by the Council* having been described during the Committee meeting¹ which resolved the putative reasons for refusal variously as:

"hideous"

"an eyesore"

"extremely ugly and oppressive"

*"ghastly"*²

2. We propose to retain the main structure of the tall building, including its cores, and by expanding the size of the building (including a modest [2.1 m] increase in its height) repurpose it from offices to residential, with a health facility or affordable workspace at the base. The appearance of the building would change markedly to that of a contemporary residential block. The existing rear wing and surface level car parking would be replaced with a new predominantly 5 storey residential block rising to 6 storeys as it turns the bend in Baxendale.
3. The Council object to our proposals because the Committee consider the appeal scheme would cause harm to – in the words of the 1st reason for refusal, would be *"to the detriment of"* – *"the character and appearance of the area and the visual amenity of adjoining residential occupiers."*
4. How would this harm arise? The reason for refusal contends that the appeal scheme would be *"discordant and visually obtrusive."*
5. The obvious point which arises is whether it is apt to characterise the *existing* tall building as "discordant" (OED *"incongruous"* *"not in harmony with the surroundings"*) and "visually intrusive" (OED *"noticeable or prominent in an unwelcome and intrusive way"*).

¹ 22nd February 2022

² See the transcript at CD 4.4 Local residents have recently voted it Barnet's ugliest building <https://www.mylondon.news/news/nostalgia/london-flats-homes-prices-ugly-23626773>

6. It is clear the Committee see the Seifert tower block this way.
7. The fork in the road is whether our proposals would make matters better or worse.
8. The relevant part of **Policy DMO5**³ states:

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

9. And the supporting text explains:

*“Redevelopment of existing tall buildings will need to consider the potential to improve on the impact of the existing building.”*⁴

10. Put simply, we consider what we propose would alleviate rather than compound.
11. It is our case that in its reconfigured form the appearance of the tall building would be improved and would read as a residential block to the benefit of, rather than (as contended in the RfR) to the detriment of, the character and appearance of the area.
12. The other tower which bookends the high street, Northway House, has already been reconfigured as a palpably residential building, with a substantial block behind.
13. The RfR refers to *“the visual amenity of adjoining residential occupiers”* which seems to be a reference to outlook from properties in Baxendale in particular to the 5 / 6 storey new block which would be the closest part of the appeal scheme to them.
14. This element of what we propose would be compatible with the newbuild residential blocks on the other (southern) side of Baxendale and in the High Road.
15. Ours is an era of intensification and densification of brownfield urban / suburban sites especially ones like the appeal site which is *“sustainably located in terms of access to shops and services .. [and] ..in terms of access to public transport also”*⁵ so as to make better use of them, for pretty obvious reasons.
16. The relevant part of **Policy DMO1 e**⁶ states:

“Development proposals should be designed to allow for adequate .. outlook for adjoining .. occupiers ..”

17. Our neighbours’ outlook would be (more than) adequate.

³ CD 5.2 [original] page 29

⁴ CD 5.2 para. 6.1.7 [original] page 28

⁵ CD 4.2 (the officer’s report to Committee) electronic page 45

⁶ CD 5.2 [original] page 16

18. It is worth noting that the officer's report⁷ to Committee provides no support for either of the RfR.

19. While it is true that the officer asked the members "to consider" various points which bear upon the 1st RfR without expressing the officer's view on them one way or the other, it is equally true that:

(a.) the officer did not express the view that the proposals are unacceptable in any regard;

(b.) the officer advised members "*.. the development would broadly comply with .. policies on density*"⁸ and, surely importantly,

(c.) "*.. the proposed development generally, and taken overall, accords with the relevant development plan policies, satisfying exceptions, where appropriate.*"⁹

What if there would be harm to the character and appearance of the area / the visual amenity of adjoining residential occupiers?

20. We see our scheme as beneficial in overall terms rather than detrimental but if you disagree then plainly the nature and degree of any such harm would fall to be weighed against the undoubted public benefits the proposals would deliver.

21. Plainly, *all* the public benefits need to be placed in the weighing scales.

22. Of the seven public benefits which are common ground,¹⁰ namely:

- 1) 260 homes,
- 2) of which 32 would be affordable homes;
- 3) a health facility or affordable workspace;
- 4) reusing sustainably located brownfield land;
- 5) improved public realm;
- 6) various environmental improvements, and
- 7) various financial contributions,

we wish to say a few words in opening about three of these.

⁷ CD 4.2

⁸ CD 4.2 electronic page 46

⁹ CD 4.2 electronic page 81

¹⁰ There are other public benefits which appear not to be common ground.

23. *First*, 260 homes is an important benefit of making good use of a vacant, tired, office complex and site whether or not the Council can demonstrate a 5 year housing land supply. If the Council cannot, then the benefit becomes *even more* significant¹¹ but if the Council can that doesn't mean it is insignificant.
24. *Secondly*, 32 affordable homes is a worthwhile benefit especially where, as here, there is an acute need for them.¹² *Every affordable home matters*.
25. *Thirdly*, the improvements to the public realm in quantitative terms by tripling the width of the High Road pavement (from 3 metres to 9 metres) and in qualitative terms by introducing well-considered landscaping including seating areas, would hugely improve the way passers-by experience the tall building at street-level. Currently (well, imagining the hoardings not being there) a low hedge defines the boundary between the pavement and the private realm, where surface level car parking abuts the hedge. The transformation would be extremely beneficial.
26. It is our case that the public benefits would outweigh any detrimental impacts (if any) and associated inconsistencies with planning policies (if any).

The 2nd reason for refusal

27. This will be resolved by the completion of the s106 planning obligation.

Overall conclusion

28. Would this part of Whetstone be a better place with our proposals than it is now?
29. The sensible conclusion is it would be.

Chris Katkowski QC

Alan Evans

10th May 2022

Kings Chambers

¹¹ And the "tilted balance" in NPPF 11 d) ii. would apply.

¹² See your colleagues decisions in CD 8.1 (1/11/21 para. 41 "acute") and CD 8.2 (30/9/21 para. 39 "much needed").