

**MEETING**

**STRATEGIC PLANNING COMMITTEE**

**DATE AND TIME**

**WEDNESDAY 13TH MARCH, 2024**

**AT 7.00 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ**

**TO: MEMBERS OF STRATEGIC PLANNING COMMITTEE (Quorum 6)**

Chairman: Councillor Nigel Young  
Vice Chairman: Councillor Richard Barnes

**Councillors**

Claire Farrier	Paul Lemon	Shuey Gordon
Philip Cohen	Richard Cornelius	
Rishikesh Chakraborty	Eva Greenspan	

**Substitute Members**

Danny Rich	Arjun Mittra	Tony Vourou
Mark Shooter	Elliot Simberg	Michael Mire

**You are requested to attend the above meeting for which an agenda is attached.**

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is Friday 8 March 2024 at 10AM. Requests must be submitted to [StrategicPlanning.Committee@Barnet.gov.uk](mailto:StrategicPlanning.Committee@Barnet.gov.uk)

**Andrew Charlwood – Head of Governance**

**ASSURANCE GROUP**

Please note that the below agenda may not reflect the order in which items will be heard at the meeting.

Governance Service contact: [StrategicPlanning.Committee@barnet.gov.uk](mailto:StrategicPlanning.Committee@barnet.gov.uk)  
Media Relations contact: Tristan Garrick 020 8359 2454

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## ORDER OF BUSINESS

Item No	Title of Report	Pages
5.	Addendum (if applicable)	3 - 18

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13<sup>th</sup> March 2024

ADDENDUM TO DIRECTOR OF PLANNING AND BUILDING CONTROL'S  
REPORT

**Agenda Item No. 6**

**23/3964/FUL– Land Formerly Known as British Gas Works, Albert Road, Barnet**

**Pages 11 - 168**

**1. Written Representations received**

Email (with attachment): 6<sup>th</sup> March 2024 – New Barnet Community Association to Officer:

*“RE VQ: ADDITIONAL INFORMATION*

*We did not realise that you could submit additional documentation for next week's planning committee as we understood that this was simply an adjournment. However, given that Fairview have done so and you have included it in the officer's report, please could you also include our analysis of living area sizes of three flat blocks, together with this email, in order to ensure a fair balance.*

*Please note that these areas are dictated in the Housing Design Guide and are 'expected' standards (rather than the optional 'best practice' standards). Since the HDS forms part of the London Plan, it is very much a planning matter. Building regulations dictate specific dimensions for accessibility (such as wheelchair turning circles) but not room areas.”*

**[Note:** The email is accompanied by a PDF document containing Living Space Analysis against the standards set out within the Mayor's London Plan Housing Design Standards LPG (2023) document. The detail provided within the document submitted cannot be fully reproduced in the addendum, however, the file is available on the public access portal, and a screen clipped excerpt which also contains a summary table, is provided below:]

Plot No	Floor	Capacity	L/K/D Area	Nominal	Effective	LonP HDS		Difference	Difference Liv Rm (%) Width	LonP HDS			Notes
				circulation included	L/K/D Area	Minimum Area	Minimum Width			Difference (m2)3	Difference (%)4		
154	3	1B1P	21.4	6.6	14.8	21.0	-6.2	-29.5%	2.00	3.00	-1.00	-33.33%	Breakfast bar dining
155	3	2B4P	29.7	0.0	29.7	27.0	2.7	10.0%	3.50	3.50	0.00	0.00%	
156	3	3B5P	26.5	0.0	26.5	29.0	-2.5	-8.6%	3.12	3.50	-0.38	-10.86%	
157	4	1B2P	25.6	0.0	25.6	23.0	2.6	11.3%	3.00	3.00	0.00	0.00%	LR width includes part dining
158	4	1B2P	20.6	0.0	20.6	23.0	-2.4	-10.4%	3.00	3.00	0.00	0.00%	LR width includes part dining
159	4	2B3P	25.5	0.0	25.5	25.0	0.5	2.0%	3.50	3.50	0.00	0.00%	LR width includes part dining
160	4	2B4P	28.2	0.0	28.2	27.0	1.2	4.4%	3.50	3.50	0.00	0.00%	LR width includes part dining
161	4	1B1P	21.4	6.6	14.8	21.0	-6.2	-29.5%	2.00	3.00	-1.00	-33.33%	Breakfast bar dining
162	4	2B4P	29.7	0.0	29.7	27.0	2.7	10.0%	3.50	3.50	0.00	0.00%	
163	4	3B5P	26.5	0.0	26.5	29.0	-2.5	-8.6%	3.12	3.50	-0.38	-10.86%	
164	5	3B5P	28.3	0.0	28.3	29.0	-0.7	-2.4%	3.20	3.50	-0.30	-8.57%	
165	5	3B5P	29.4	0.0	29.4	29.0	0.4	1.4%	3.50	3.50	0.00	0.00%	
166	5	2B4P	26.9	0.0	26.9	27.0	-0.1	-0.4%	3.50	3.50	0.00	0.00%	

  

SUMMARY TABLE							
BLOCK	Nr Units	L/K/D Area Fails	% Failure Rate	Worst Case % Failure	Liv Room Width Fails	% Failure Rate2	Worst Case % Failure3
G3 & G4	36	30	83.3%	-15.8%	24.0	66.7%	-22.9%
D	61	23	37.7%	-31.0%	28.0	45.9%	-21.4%
B2	33	11	33.3%	-29.5%	10.0	30.3%	-33.3%

## Officer Response:

The Local Planning Authority cannot decline the written representations that do not materially alter the nature of the proposed development within planning application that has been applied for, prior to the item being reported to the Strategic Planning Committee. Officers are of the view that the representation received from the Applicant does not introduce any new information that materially alters the nature of the proposed development, and does not alter the Officer recommendation to the Planning Committee. It merely clarifies details within the application and highlights the possibility of applying a planning condition to address concerns that have been raised by members of the public and Members, and is a measure that Members could arrive at through discussions at the upcoming Strategic Planning Committee meeting.

With regard to the Living Space Analysis (dated: 20.02.2024) document provided by New Barnet Community Association, Officers have considered its contents and maintain the view given in the previous addendum (Appendix 2 of the cover report) to the Officer Report to the Committee.

Furthermore, the GLA's website (at: <https://www.london.gov.uk/programmes-strategies/planning/implementing-london-plan/london-plan-guidance/housing-design-standards-lpg>) preface to the use of the Mayor's London Plan Housing Design Standards LPG (2023) states:

*"The extent to which proposed developments depart from the approach set out in the LPG, should be taken into account in decision making - however the LPG*

*should not be applied mechanistically. The weight to attach to any departure from standards in the LPG is ultimately a matter for the decision maker.”*

Accordingly, neither Officers, nor the GLA in their response to the application, have applied the standards mechanistically, because on balance the scheme is considered to acceptable. The scheme has been designed in accordance with the Nationally Described Space Standards, which is a minimum requirement.

Email: 7<sup>th</sup> March 2024 – New Barnet Community Association to Members

**[Note:** The email was distributed to the following Members: Cllr Young, Cllr Barnes, Cllr Farrier, Cllr Cohen, Cllr Chakraborty, Cllr Lemon, Cllr Cornelius, Cllr Greenspan, Cllr Gordon, Cllr Rich, Cllr Radford, and Cllr David.]

*“RE VQ: NEW ADDENDUM TO THE OFFICER’S REPORT*

*We have contacted our ward councillors and been advised by them that we should send our response to the latest addendum to the planning committee members as follows:*

*We are surprised and extremely concerned that the planning officer has included additional information from the developer appended to the report which committee members will discuss at next week’s meeting. We believe this is inappropriate and are not sure why the officer has done this.*

*We feel that once again the information is misleading and some is factually incorrect as follows:*

*Room sizes*

*Fairview state that all room sizes meet building regulations when, in fact, room sizes are not a building regulation matter - they are a planning matter. At VQ, there is a widespread failure to meet expected standards for the size of living areas as set out in the Housing Design Standards which form part of the London Plan. In the worst affected blocks, G3 and G4 (which are London Affordable Rent) 83% of living areas are undersized, some by as much as 4.9sqm.*

*Building Regulations Approved Document M sets criteria for accessibility/ turning circles for wheelchairs etc. but does not provide any direct guidance on room size. Document M does, however, provide a schedule of furniture and manoeuvring space in Appendix D which should be provided within rooms and this is relevant to room size.*

*However, not all of the required furniture or manoeuvring space is shown on the proposed plans and it is evident that the missing furniture will not fit in many instances, particularly within the undersized living spaces. For example, each living space should contain storage units, which for a 5-person flat should be 500mm x 2.0m long, with sufficient manoeuvring space for access in front. The storage units are not shown on the plans. It is misleading to state that the rooms meet building regulations.*

#### *BRE guidelines on daylight*

*Whilst it is correct that these are guidelines and they are intended to be used flexibly, they are not intended to be endlessly flexible regardless of context. The BRE guidelines state that in special circumstances the developer or planning authority may wish to use different target values. For example, in a historic city centre, or in an area with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings. These examples do not resemble the site at VQ which is open and unobstructed. There is no justification for the extensive departures from targets that are a feature of the current proposals.*

*On average across the entire scheme, 25% of homes fail to meet daylight targets, but this is not spread evenly across all blocks. The best is Block A, which is fully private tenure and has an 11% failure rate. The worst is Block G3, which is London Affordable Rent and has a 38% failure rate. When compared on a similar basis, the existing permitted scheme has an average failure rate of just 1% which is far more in keeping with the local suburban context and the spirit of the BRE guidance.*

*The increased densities in the current proposal should be mitigated with a corresponding increase in design quality to maintain good, comfortable living conditions but the reverse is happening here.*

#### *Opening up windowless rooms*

*Whilst this would be a welcome improvement, it would mean that the developer's daylight analysis is no longer valid and would need to be resubmitted. The effect would be to further reduce the worst-case levels of daylight as the rooms affected are on the lower floors, where the obstruction of neighbouring buildings has most impact. Although explained by the developer as a response to 'Shabbat' requirements and*

*customer choice, it would seem likely that, given their location, the real reason for enclosing these rooms was to exclude them from the daylight analysis in order to improve the perceived failures.*

*Some of the affected rooms are on an external wall with what appears to be a structural column in the location where a window could be placed – so these flats would need to be re-planned from scratch.*

#### *Overheating and noise levels*

*Fairview's statement implies that 40dB is really quiet and therefore people can open their windows but the regulation, Approved Document O, actually says:*

*Windows are likely to be closed during sleeping hours if noise within bedrooms exceeds the following limits.*

*a. 40dB LAeq,T, averaged over 8 hours (between 11pm and 7am).*

*b. 55dB LAFmax, more than 10 times a night (between 11pm and 7am).*

*40 dB averaged over 8 hours means it could be 80 or 90 dB for short periods if the rest of the 8 hour period is 35dB. However, the key issue next to the railway line and based on the previous noise studies is that external noise exceeds 55dB on more than 10 occasions overnight and the 55dB threshold is set on the basis that exceeding 55dB is widely recognised as disturbing sleep and causing adverse health problems. We are therefore surprised that the officer failed to clarify the precise regulations and the implications thereof.*

*While the officer makes the statement that the affordability is not a planning matter, they fail to acknowledge that if 77% of the London Affordable Rent blocks require active cooling yet some of the private blocks, such as Block E , require active cooling in only 26% of the flats, that indicates a design issue with the London Affordable Rent blocks, which is most definitely a planning matter.*

#### *Comparisons with existing housing stock*

*In the affordability section, Fairview conflate cooling in a VQ flat with heating costs of an older property. The comparison should be a flat in this development with active cooling compared to a flat in this development that does not need active cooling. Design has ensured that 56% of flats do not need active cooling and the issue here is why isn't that figure much higher so as to minimise the need for active cooling. Saying that they will pay more for cooling but will save on heating is therefore an entirely erroneous argument.*

*It is therefore disappointing that the officer's comment is that they "note that the benefits of an efficient district heat network combined with quality building materials (with good insulative qualities) would result in what appears to be both a reasonably sustainable and affordable residential development for residents of all tenures across the scheme" when, in fact, that is not the case for London Affordable Rent tenants who will be paying a higher cost for cooling."*

**Officer Response:**

Officers note the concern expressed to Members about the representation sent by the applicant following the meeting and its subsequent coverage within the Officer report. However, as stated above, the Local Planning Authority cannot reasonably decline to acknowledge and respond to matters that do not materially alter the proposed development, nor further influence the Officer Recommendation. It is in the best interest of transparency to ensure that all representations made for and against the development are covered within the Cover report or addendum to the cover report, where appropriate.

Officers have addressed the objections raised in respect of the proposed room sizes in relation the Mayor's London Plan Housing Design Standards LPG (2023) document, in the Addendum to the Officers Report to the Committee (Appendix 2 of the Officer's Cover Report to the Committee); and further in the above Officer response to the comments raised in the email dated: 6<sup>th</sup> March 2024, addressed directly to the Officer. In respect of Approved Document M of the Building Regulations, it is not a requirement at this stage to detail all furniture, and consequent circulation space within the units. This is assessed at the Building Regulations detailed design stage, and further, M4(2) and M4(3) standards are secured by Planning Condition 52 of the Officer's recommendation.

In respect of the comments on BRE Guidelines on daylight, Officers have no further comments to make as these matters have been addressed under the Consultation section and Sunlight and Daylight section (Paras 2.1.53-2.1.59) of the Officers report to the Committed (Appendix 1 of the Officer Cover Report); and also; in the Addendum to the Officer report (Appendix 2 of the Officer Cover Report).



In respect of the comments on opening up windowless rooms, Officers note the comments, however, consider that it is not a requirement for the scheme to be acceptable, as Officers already consider the existing proposals to be acceptable, as per the comments within the Officer Report to the Committee (Appendix 1 of the Officer Cover Report). It will be for the Members of the Strategic Planning Committee to determine whether it is necessary for this to be further conditioned. Feasibly a revised daylight and sunlight assessment could also be requisite of this, to ensure that there are no internal daylight conditions worse than existing assessment.

In respect of overheating and noise considerations, these matters have been assessed by the Council's Energy and Environmental Health Officers; and also the GLA. All of these consultees are satisfied that the proposed development would comply with the relevant policy requirements, subject to the recommended conditions. This is addressed in the Overheating and Noise sections (paras 2.1.60 -2.1.93) of the Officer's Recommendation Report to the Committee (Appendix 1 of the Officers Cover Report). The need for mechanical cooling is unavoidable due to the methodology of the TM59 Overheating assessment (i.e. not allowing scenarios for the windows to be open), and also taking account of the approach to mitigation of noise from road and railway sources (i.e. requiring closed specific glazed windows). Officers acknowledge that there are costs associated with running mechanical ventilation for cooling purposes during the summer months, however this is not required to be always on, and the future occupiers also have the option to open their windows for natural ventilation, which is not part of a consideration of the TM59 assessment. The assessment also does not take into account that people are likely to install curtains or blinds internally which can reduce solar gain during hot spells. Also, the assessment does not take account of individual preferences and needs, i.e. some people may not need to use the system regularly to achieve their desired thermal comfort in either winter or summer seasons – it is a personal choice. The unit price for energy is also unpredictable, and rises and falls in response to economic trends. As such there are a number of variables that the Local Planning Authority cannot reasonably account for that influence the level of use and subsequent cost of the mechanical ventilation system for future occupiers. However, as referenced in the Cover Report, the scheme will be built with a high standard of insulation, which coupled with the energy efficiencies and heat recovery capabilities of the district heat network, will ensure that costs between the hot and cold seasons are relative and reasonably proportionate.

The application is referable to the GLA, who at Stage 2 (following Member's resolution to approve or refuse the application) will consider all of the Officer reports, consultation responses and supporting application materials, and should they arrive at a different position to the Officer position on the overheating and affordability considerations then they have will have the ability to refuse or request further information / amendments where necessary. To date, the GLA has not indicated any strong objections to the overheating, noise, daylight and sunlight and affordability considerations of the scheme. They have sought further information in anticipation of the Stage 2 referral, and as noted in their latest communication to Officers (following continued independent discussions with the applicant) the GLA have confirmed that they are content with the overheating strategy, and that this item of consideration is now satisfactory.

In addition, it is important to note that the scheme is a Joint Venture proposal with OneHousing (a Registered Social Housing Provider) and in order for them, or another Social Housing Provider, to take on responsibility of the respective affordable units within this scheme they would have to be satisfied that all of the units meet their affordability requirements, which would include the affordability of the mechanical ventilation system.

Email: 11<sup>th</sup> March 2024 – New Barnet Community Association to Officer

*“RE VQ: ADDITIONAL INFORMATION*

*We note that you have been out of the office until today. However, we should be grateful if you would confirm receipt of the email sent on 6<sup>th</sup> March together with the attached analysis of living room areas. As stated in the email, we did not realise that in the case of an adjournment it was possible to submit additional information. However, since there is an additional Applicant's Representation on the portal, we should be grateful if you would also submit our living room area analysis together with the original email in order to ensure a fair balance - even though it is now rather late in the day. As noted before, these areas are dictated in the Housing Design Guide and are 'expected' standards (rather than the optional 'best practice' standards). Since the HDS forms part of the London Plan, compliance is very much a planning matter.”*

**Officer Response:**

Confirmation of receipt by email has taken place, prior to the publishing of this addendum. All emails and supporting documents from New Barnet Community Association concerning the additional representation has been uploaded to the application. The matters regarding the Housing Design Standards are addressed above in the Officer responses to the emails of the 6<sup>th</sup> and 7<sup>th</sup> of March 2024.

Email: 12<sup>th</sup> March 2024 – Applicant to Members, with Officers cc'd

**[Note:** The email was distributed to the following Members: Cllr Young, Cllr Barnes, Cllr Farrier, Cllr Cohen, Cllr Chakraborty, Cllr Lemon, Cllr Cornelius, Cllr Greenspan, Cllr Gordon, Cllr Rich, Cllr Radford, and Cllr David. CC'd: James Langsmead, Fabien Gaudin, Andrew Dillon. The attachment named Victoria Quarter clarifications is available on the public access website. It contains clarifications to matters raised at the previous meeting, including: Space Standards, Daylight, Affordability, Overheating and Internal Kitchen Diners].

*“Dear Councillors,*

*Ahead of tomorrows meeting, please find attached some clarifications in relation to the questions that were raised at the February committee before it was adjourned.”*

## **Officer Response**

Officers have no new comments on the above. The attachment re-iterates points addressed previously in Officer reports, application material and Committee discussions. Documents are available for viewing on the public access website.

## **2. Consultee Comments Received:**

Email: 12<sup>th</sup> March 2024 – GLA Officer sent to Officer

*I can confirm that we have received Revision 4 of the applicant's Overheating Report which includes the full results for the 'restricted window openings removed' scenario to demonstrate compliance with DSY1. This resolves the outstanding comment on the overheating strategy, and the item can be closed.*

## **Officer Response:**

The overheating strategy is deemed to be acceptable by the GLA. Email is available for viewing on the public access website.

**3. Omission and Addition of text in Officer Report to Committee (Appendix 1 of Officer Cover Report) to reflect latest 12<sup>th</sup> March 2024 Council Cabinet decision of Main Modifications to the Emerging Barnet Local Plan (Reg 24).**

*Note: ~~[strikethrough]~~ denotes deletion/omission. Underlined text denotes inclusion of additional text:*

Omission/deletion under Key Relevant Planning Policy section of report:

~~As part of this stage (Reg 24), the Inspector in his Interim Findings and Next Steps letter of August 17th has set out how the Council can through making Main Modifications to the Local Plan address issues of legal compliance and deficiencies in soundness. These interim findings are a clear indication of what the Local Plan and the policies and site proposals within will look like at adoption, subject to making the Inspector's suggested Main Modifications. Whilst the Council moves forward to formal consultation on the Main Modifications (expected to commence in January 2024) the Interim Findings and Next Steps letter of August 17th shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.~~

Addition in place of omission:

*In order to address issues of legal compliance and deficiencies in soundness the Council has produced Main Modifications to the Local Plan ([LINK](#)). These Main Modifications were approved by Cabinet on March 12<sup>th</sup> and will now be subject to a period of formal public consultation commencing in May 2024. Whilst the Council moves forward to formal adoption of the Local Plan (subject to the outcome of the public consultation and the Inspectors Report) the Main Modifications shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.*

**Agenda Item No. 7**

**23/3964/FUL – Whalebones, Wood Street, EN5 4BZ**

**Pages 169 - 262**

*Note: Order of amendments follow the committee report structure. Deleted text is denoted by square brackets and ~~[strikethrough]~~ text below. Addition of any corrected text is denoted by **bold underlined** text below.*

- Amendment to S106 Obligation No.4 (Carbon Offset) contribution:

Contribution of **£90,558** ~~[91,390]~~ towards the Council's carbon offset fund.

- Deletion and rewording of S106 Obligation No. 6 (Open space Phasing Plan and Landscape Management Strategy):

~~[Provision of open space phasing plan and Landscape management strategy of each area (A, B,C)]~~ **“Provision of on-site open space, phasing and landscape management strategy Provision of on-site open space in perpetuity, details of phasing of delivery and long-term management strategy”**

- Deletion of S106 Obligation No.13 (Air Quality Neutral Damage Costs) as not required;

~~[A contribution of £4,135 towards making the development air quality neutral]~~

- Deletion of reference to 'phase' wording within Condition 6 (CEMP):

No development (including Demolition, Ground Works, and Site Preparation Works but excluding Investigative Work) shall commence ~~[within a phase]~~ until a Construction Environmental Management Plan (CEMP), setting out the construction and environmental management measures associated with that the Development [~~Phase~~], has been submitted to and approved in writing by the Local Planning Authority.

- Amendment to wording of condition No. 9 (Invasive Species):

Prior to the commencement of works (excluding Demolition and ~~[Investigate]~~ **Investigation** Work), details of an Invasive Species Management Plan shall be submitted to and approved by the LPA and shall be undertaken throughout the hereafter approved works. The document shall include a detailed plan showing the location of invasive species (Schedule 9 listed species Wildlife and Countryside Act 1980 (as amended), and details of any avoidance, treatment, removal, and bio-secure disposal measures.

- Replacement of para. 2.12 to provide update on Local Plan Modifications:

~~[As part of this stage (Reg 24), the Inspector in his Interim Findings and Next Steps letter of August 17th 2023 has set out how the Council can through making Main Modifications~~

~~to the Local Plan address issues of legal compliance and deficiencies in soundness. These interim findings are a clear indication of what the Local Plan and the policies and site proposals within will look like at adoption, subject to making the Inspector's suggested Main Modifications. Whilst the Council moves forward to formal consultation on the Main Modifications (expected to commence in Spring 2024) the Interim Findings and Next Steps letter of August 17th shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.]~~

**In order to address issues of legal compliance and deficiencies in soundness the Council has produced Main Modifications to the Local Plan. These Main Modifications were approved by Cabinet on March 12<sup>th</sup> and will now be subject to a period of formal public consultation commencing in May 2024. Whilst the Council moves forward to formal adoption of the Local Plan (subject to the outcome of the public consultation and the Inspectors Report) the Main Modifications shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.**

- Clarification to the last sentence of para.3.2 to provide clarity that the existing stable block lies outside of the application site:

The site also contains a building currently used as a studio by the Barnet Guild of Artists. ~~[and t]~~ **The adjoining stable block is used by the Barnet Beekeepers' Association. This does not form part of the proposal and lies outside of the application site.**

- Acknowledgment of representation received from the Tenant Farmers Association dated 12/03/24:

The above application is to be considered by the Strategic Planning Committee of Barnet Council at its next meeting on 13 March 2024. Despite the heavy list of objections against this application, the Planning Officer has recommended approval subject to s106 provisions. However, I would like to ask you to refuse consent for this application in view of the impact on the personal circumstances of the tenant farmer occupying the site and that it also offends public policy in reducing the area of land within the tenanted sector of agriculture.

The Tenant Farmers Association (TFA) is aware that the site proposed for this development is occupied by an agricultural tenant under a tenancy agreement regulated by the Agricultural Holdings Act 1986. The landlord of the tenant farmer, the Trustees of the Gwyneth Cowing Will, is one of the joint applicants and is bringing forward this application despite the requirement upon the trustees to maintain the site under its control as agricultural as far as is practicable under the terms of the will of the previous owner of the site. Should this application be approved, which for the avoidance of any doubt the TFA opposes, the owner of the property will face a legal challenge against any change of use which will undermine its settled intention to proceed with any development.

Although the legislation governing the tenancy in place over this land confers security of tenure for the lifetime of the tenant farmer and for two further generations by statutory succession, should this planning application be approved, the tenant would face an incontestable notice to quit from the landlord which would unseat him from his agricultural tenancy. Notwithstanding the notice provisions referred to, there exists long standing industry approved guidance for how landlords should consult with tenants in circumstances where the landlord desires to seek consent for change of use. The TFA does not believe that those guidelines have been followed in this case. That failure represents a breach of what would be considered good practice in the conduct of the landlord's negotiations with the tenant.

It is also clear that the Planning Officer has not taken sufficient concern to ensure that the personal circumstances, hardship and difficulties of the tenant have been addressed. This failure is not just one of process, but it is a material consideration that must be addressed by the local authority. It is noted that the landlord asserts that the impact on the tenant farmer is not a planning matter. This is incorrect.

The Council should be aware that the need to consider the impact of the proposed development on the personal circumstances of the tenant farmer as a material planning matter is supported by case law including R v Vale of Glamorgan District Council (ex parte Adams) [2000] and Westminster City Council v Great Portland Estates plc [1985]. It is alarming therefore that the Planning Officer's report makes no assessment of the impact on the tenant/occupier and on this basis alone, the application should be refused. Whilst it is the case that these considerations should only override other planning considerations where the impact is significant, it would be extraordinarily difficult to understand a circumstance which is more significant than a situation where an individual is going to be deprived of their livelihood and dwelling. These considerations therefore need to be given at least equal weight with the other planning policy and community impact assessments.

The TFA would encourage you to acknowledge the widespread concerns that have been expressed about this development in terms of the impact on the local environment, the local economy, a long-established farming family and the loss of agricultural land to the tenanted sector of agriculture alongside the specific concerns about the impact on the personal circumstances of the occupier and vote to refuse this application.

### **Officer Response**

Consideration of the agricultural holding (and by extension the tenants) has long been identified through this pre-application and application process, by both the Council and applicant. The proposal includes the provision of a secure and dedicated agricultural holding for the tenant to have continued use of, securely located adjacent to their dwelling Wellhouse Cottage. It will be large enough to continue and maintain an agricultural holding.

The reduction of agricultural land has been addressed within the committee report (para. 4.1 – 4.6), with the application being supported by an Agricultural Viability

Assessment and Addendum. This confirmed that the site is not an agricultural viable unit and is unable to viably support a community farm. Barnet and GLA Officers are satisfied that this has been robustly assessed.

Officers do not agree that insufficient concern has been applied to this assessment. The circumstances of the tenant have always been made very clear and a consistent approach has been applied across both the previous and current application. Within the agreed SoCG dated 03/01/2023 that was considered as part of the emerging Local Plan EIP and submitted before this application, it acknowledges that the site is under a 'Farm Business Tenancy' and "*redevelopment of the site makes provision for the small holding use to continue on the eastern part of the site, adjoining Wellhouse Cottage, the home of the tenant.*" The committee report recognises the commitments to the tenant to be allowed continued use and is secured by a specific obligation in the S106 agreement.

Officers do not agree that that report makes no assessment of the impact on the tenant, the report clearly identifies the assessment of the existing situation, the proposed provision, securing its re-provision within the legal agreement and weighs that within the planning balance. This was also the case of the previous application and subsequent appeal decision, with the Inspector raising no concerns with this approach.

It is not correct to state that tenant is going to be deprived of their livelihood and dwelling. Provision in the form of an agricultural holding is proposed and will be legally secured if permission is granted.

- Addition of comment from Barnet Guild of Artists to Neighbouring / Residents Associations and Local Amenity Groups

### **Barnet Guild of Artists**

As Secretary of the Barnet Guild of Artists I wish to express the Guild's approval of the revised proposed development of the Whalebones site. The new artists' studio and beekeepers' facility, an element of the project, is very important to us and is to be rented to us for the foreseeable future in accordance with the wishes of the late Gwyneth Cowing.

If the current application were to fail there would be no guarantee that the site would be retained by the Trustees of the Gwyneth Cowing estate or, therefore, that any future development proposals would provide us with a studio. We believe a new BGA studio would promote the growth of our small local charity; to continue as the community hub we've worked so hard to develop, for friends to meet, for artists to create. We therefore urge The Barnet Planners to approve the new proposals.

- Amendment to para 3.3 which should read from:

Barnet Residents [~~Society~~] Association



- Addition to end of para. 4.14 to confirm public open space will be secured in the S106 for perpetuity:

**There will be a specific requirement in the S106 that the public open space will be secured in perpetuity and the applicant has confirmed a commitment to this.**

- Addition to end of para.4.19 to confirm existing Studio will not be demolished until new replacement building is built:

**The S106 will secure the provision of new studio building prior to the demolition of the existing building.**

- Correction to affordable housing provision table under para. 4.37

Tenure	No. Habitable Rooms (%)	
Shared Ownership	[172] <b>173</b> (35.1%)	65 (37.6%)
Affordable Rent		108 (62.4%)

- Correction to para 3.71 relating to Air Quality Neutral Damage Costs:

...Therefore, the applicant has provided a technical note relating to the damage cost calculation. The note sets out a total damage cost of £4,135 **as a result meeting of the higher local parking standards.** [~~in combination of a range of~~] **The note highlights the range of proposed** mitigation measures **already proposed within the scheme,** such as EV charging points, improvements to pedestrian crossings and car club. **As the range of proposed mitigation measures greatly exceeds the alternative damage cost figure, the proposal is considered to be acceptable with regard air quality neutrality.** [~~This will be secured as a S106 obligation.~~]

- Addition to para. 3.109 to further expand on Historic England comments:

**Within the Historic England Pre-Application Letter dated 11 September 2023 which was provided by the applicant, they commented “We are broadly content with the proposals which better reflect the established character and appearance of this part of the conservation area.”**

- Correction to para. 3.149 to update Use Class for studio building:

There are no car parking standards for [D1] **F1/F2** use (studio/event/community space) and thus provision is assessed on a case-by-case basis.

- Correction to para.3.172 to confirm applicant’s commitment to secure open space in perpetuity:

In terms of management, it is [~~anticipated~~] **committed** by the applicant that the ownership of new public open spaces and children's play area within the park area will be transferred into an Open Space Trust who will be responsible for the management and maintenance of these areas in perpetuity. This will be secured by a S106 obligation.

- Update BNG units in para.3.198

The proposed post-development onsite BNG score including all habitat retention, enhancement and creation will be **35.54** [~~35-34~~] habitat units and 7.10 hedgerow which equates to a Net Loss of -13.07 Biodiversity units onsite, and net gain of +1.25 hedgerow unit onsite. This loss will be principally from the reduction of other neutral grassland and other acid grassland (17.77 units onsite)

- Update to para.3.199

To address the significant onsite Net Loss MKA Ecology have proposed the following offsetting scenario as outlined in the **Biodiversity Net Gain Assessment, MKA Ecology (dated 31/01/24)** [attached PDF (MKA Ecology, January 2024)].

- Update legislation and carbon offset contribution mentioned in para.3.206 following further assessment:

The development will be constructed to comply with Part L 2021 [~~2013 (with 2016 amendments)~~] of the Building Regulations and in line with the London Plan to achieve a minimum of 71.9% CO2 reduction for the domestic elements. In order to achieve zero carbon, the developer will need to make a carbon offset contribution to bridge this gap. A contribution of £**90,390** [~~91,390~~] will be required to be secured via planning obligation.

- Amendment to para. 3.224 to confirm LPA has given special regard to the Statutory duty:

**In line with the Planning (Listed Building and Conservation Area) Act 1990 Sections 16,66 and 72, special regard is given to preserving the heritage asset and** [~~It~~] in applying paragraph 208 of the NPPF and Barnet policy DM06 c, **Officer's have given great weight to the statutory duty in respect of the heritage assets and in undertaking a balancing exercise,** it is considered that the package of public benefits is of considerable importance and it would outweigh the harm that would arise through the impact on the setting of the designated heritage assets in this case. **The application is therefore recommended for approval.**