



North London
Business Park
LB Barnet

Rebuttal evidence
of Peter Stewart

January 2024

Rebuttal evidence

- 1.1 This rebuttal evidence, submitted on behalf of the appellant, is provided in response to the proof of evidence of Paul Sallin, submitted on behalf of the local planning authority.
- 1.2 Mr Sallin's evidence addresses the approved and proposed (appeal) scheme in section 5 of his evidence, and sets out the council's case in section 6. Below I set out a response to his evidence in these two sections, in cases where I think this will be helpful to the inquiry. I cite Mr Sallin's evidence in italics and inside quotation marks with his paragraph numbers inside the quotation marks. I refer to my own proof of evidence and to the TVIA [CD01.237] by paragraph numbers in my commentary, in non-italic text, as 'para 1.1' etc.
- 1.3 *"5.5 Key approved and proposed building heights are compared as follows which we understand is based on 3.2m per floor applied to the submitted Development Zones & Maximum Heights plan. This shows maximum building heights mostly increasing across the site, though especially to the core and adjoining the railway line where heights were already tallest in the approved scheme. Block 3A shows the biggest change from eight to thirteen storeys, followed by previously tallest blocks 4C, 5A and 5B which rise from nine to thirteen storeys. It should be noted, these blocks are on high ground relative to Brunswick Park Road by as much as 21m (equivalent to six and a half storeys) and therefore building heights would be particularly pronounced from the lower Brunswick Park Road area."*

The blocks Mr Sallin refers to (3A, 4C, 5A and 5B) are positioned in the lower parts of the masterplan site, precisely for the reason of avoiding the issue of their townscape impact being 'particularly pronounced', as is explained in the DAS, and as can be seen on parameter plan drawing 211_WS_05_03 [CD01.013] which shows building sections relative to topography. Blocks in the outline phases 3, 4 and 5 sit on ground level datums starting at a datum of 57.00. In contrast, the phase 2 lands are positioned at a ground level of c.70.00. The level of Brunswick Park Road varies across the frontage; the entrance to the Site on Brunswick Park Road is c.48.00. The blocks in phases 3, 4 and 5 therefore rise from a datum around 9m higher than Brunswick Park Road, not 21m higher. These buildings are around 200m from Brunswick Park Road at their closest, so the rise in ground level from road to buildings is about 1 in 20 – hardly vertiginous.

- 1.4 *"5.6 It is important to appreciate the height of proposed heights from ground level rather than the above birdseye view which tends to give a misleadingly lower appearance. It is also noted that CGIs in the submission generally omit the taller buildings (at least from the foreground) and often show buildings a storey less than the above annotated birdseye view. Therefore, for reference please see views of example schemes with comparable heights to proposed taller buildings, noting examples are all Housing Design Award nominees and therefore generally represent best case scenarios..."*



The cited examples are tall buildings within masterplans of significantly greater density than is proposed for the Appeal Scheme. The Appeal Scheme proposes buildings of varying heights, set in a generous parkland setting, of overall residential density of c.150 units per hectare. By comparison, the examples provided by Mr Sallin are as follows:

- 50 & 65 Harbord Square (255 units per hectare, source: hdawards website)
- Somermere Drive, Abbey Wood (294 units per hectare, source: hdawards website)
- Keybridge (505 units per hectare, source: hdawards website)
- Faraday works (205 units per hectare, source: architects' website)

Section 3.4 of Des Twomey's proof shows a more comparable scheme in respect of scheme density, Hamilton Gardens, Dublin (Plus Architecture, completed 2022).

I agree that views from ground level are important (views in the TVIA are from pedestrian eye level as is standard). At ground level, the eye is drawn to the base of buildings, with life, activity and active frontages, and a landscape setting of the buildings. Storeys rising above this act as a backdrop.

- 1.5 *"5.7 It should be noted in both the approved and proposed schemes there are seemingly significant unexplained differences/unknowns in relation to number of storeys and building heights, shown/described in plans and documents which causes some confusion and concern, e.g. over the difference between parameters and indicative/proving heights, how this relates to proposed densities and whether we are consistently getting an accurate understanding of the respective schemes including in the all-important Townscape and Visual Impacts. For example, (i) the TVIA does not appear to clarify what building heights were used, and (ii) numbers of storeys shown in the Design and Access and Design Principles Document are often less than those possible under the Development Zones & Maximum Heights plan."*

The TVIA [CD01.237] (para 5.21) explains how building heights are described. Paras 5.22-5.42 of the TVIA describe building heights consistently with this and with the heights shown on planning application drawing 211_WS_02_01 [CD02.001].

The Original Scheme application and the Appeal Scheme used different stated building height conventions in certain documents. For the sake of clarity for the appeal, the Appeal Scheme maximum building heights have been stated in the same manner as the Original Scheme (building storey height including ground) on Parameter Plan 211_WS_02_01 Rev D [CD01.002].

The detail phase area and the outline phase area of the masterplan have been three dimensionally modelled and represented in AutoDesk Revit 2022 software, spatially georeferenced to the National Grid. The overall heights as stated in the Appeal Scheme submitted parameter plans are accurately represented in the geo-referenced model used for the images provided in the TVIA, which are verifiable.

- 1.6 *"5.8 This section undertakes a summary review of respective Townscape and Visual Impact Assessments (TVIAs), focusing on areas identified in the reasons for refusal. It should be noted the faint appearance of approved and proposed buildings often give a misleadingly reduced impact, whereas a more accurate picture is presented where buildings are properly rendered, e.g. view 7 from New Southgate Cemetery."*

The parameter volumes shown in the 'as proposed' images in the TVIA are diagrams, not visual representations of a scheme design. As described in para 3.45 of the TVIA, assessment of the effect is not an assessment of the images, it is an assessment of the likely effect of a real building (of up to the maximum extent shown by the diagram) as seen in the view.

To assist the consideration of the Appeal Scheme, additional visualisations showing indicative building elevations, materials and fenestration have been provided and are set out in my proof of evidence.

- 1.7 *"5.9 Fernwood Crescent - Approved buildings would rise relatively modestly on the skyline, rising just above the tree line and rooftops, whereas current proposals which are visible distinctly high rise, monolithic and urban in character would, irrespective of any future architectural qualities, present an inherently undesirably stark, oppressive, inelegantly formed, claustrophobic and imposing contrast to the spacious and tranquil predominantly 2 storey somewhat landscape characterized suburban context."*

I set out my assessment of this view at para 7.20 of my evidence. It is the contrast with the foreground that is criticised by Mr Sallin. In their urban character and their form the proposed buildings are comparable with the consented scheme. I do not agree that the resulting contrast is undesirably stark, oppressive, inelegantly formed or claustrophobic; there is an apparent contrast but for the reasons set out in my evidence this is appropriate in the circumstances and not harmful. "Imposing" usually means grand and / or impressive but I consider that the effect would be less pronounced than that, given the distance involved. I don't see how the effect of the new buildings seen in the view could be termed claustrophobic, which would require a sense of being in a confined space, to an unpleasant degree – the proposed buildings do not create any sense of enclosure in this view.

- 1.8 *"5.10 Denham Road – We are still awaiting (from the Appellant) TVIA views for Denham Road. In the meantime, similar issues as for Fernwood Crescent can be estimated based on the view from Barfield Avenue which is set further back from the site by approximately 170m, yet still shows proposed development to be starkly more imposing than that approved and excessively so considering the suburban setting. The impact will only be slightly reduced owing to the presence of a 4 storey building on Denham Road (currently the tallest in the area surrounding the site)."*

I set out my assessment of this view, which has now been provided, at para 7.22 of my evidence; the new buildings would appear at a lower apparent height than houses close to the viewpoint, and could be clearly understood as lying in the middle distance; they would

appear as a coherent set of buildings, with variation in the heights and forms of the buildings providing visual interest on the skyline. Mr Sallin, in the absence of that view at the time he is writing, makes a comparison with the nearby view from Barfield Avenue, view 15 in the TVIA. He characterises the effect on that view as excessively / starkly more imposing than the approved scheme, and therefore presumably unacceptable in his terms. The view from Barfield Avenue is not mentioned in the reason for refusal and not addressed in my evidence, but the image in the TVIA shows that the effect on that view is noticeably smaller than the views identified in the reason for refusal.

- 1.9 *"5.11 Oakleigh Close - Again, the proposed high-rise urban character of development clearly looms inappropriately largely, grating with the otherwise low rise spacious suburban context. This represents a very significant change from that approved. The visual imposition would be increased further down Oakleigh Close from Oakleigh Road North, noting view 18 (below) is the furthest point."*

I set out my assessment of this view at para 7.21 of my evidence. I don't agree that the proposed buildings loom as seen from this point – they are below the prevailing roofline. As one approached the site down Oakleigh Close, the proposed buildings would be closer and therefore would look larger, but the buildings at the bottom of Oakleigh Close would appear larger as well, and more quickly, since when you arrived in front of those houses they would obscure the new buildings beyond them. So any 'visual imposition' of the background buildings relative to the foreground buildings would reduce, not increase, as you walked in the direction of this view.

- 1.10 *"5.12 Oakleigh Road North (this should be Oakleigh Road South) - Despite the faint presentation of proposed buildings and the camera position being somewhat down the hill, TVIA view 19 clearly shows an inappropriately imposing sense of urban monolithic massing in jarring conflict with the two storey suburban context. The approved view is arguably mitigated by the perception of there only being a lone, arguably slim and elegantly formed 'tall' building, whereas the current proposal would greatly widen the sense of tall buildings and create a bulky mass."*

This view is not referred to in the Reason for Refusal, which refers to Oakleigh Road North, and is not considered in my evidence. The view is assessed in the TVIA at paras 6.118 to 6.121. The buildings of the Appeal Scheme that can be seen will be understood to be larger than the house in the foreground but they do not rise above the tree line and will not be inappropriate or monolithic. They form a suitable introduction to this major development at one of its principal entrances.

- 1.11 *"5.13 New Southgate Cemetery – TVIA View 7 more accurately indicates how buildings might look. This clearly shows a strong physical presence, despite the exact view position being somewhat obscured by trees. Proposed development appears as a large ungainly grouping of high-rise buildings which unattractively detract from the human scale suburban setting and the visual tranquility of what the Barnet Characterisation Study (p.104) highlights as "one of the great Victorian cemeteries." Approved development*



appeared within the tree line and was therefore somewhat hidden, whereas proposed buildings would be very imposing above the tree tops."

I set out my assessment of this view at para 7.19 of my evidence. In the case of the detailed elements of the Appeal Scheme, which make up most of what can be seen of the scheme in this view, the view illustrates how those buildings would look, not how they might look. The scheme does not appear ungainly and it has no effect on the tranquility of the cemetery. This viewpoint is at the edge of this large cemetery and the Appeal Scheme would not be seen from most of the cemetery; this view shows what you would see as you were leaving it.

- 1.12 *"5.14 Design Review was provided by Urban Design London's Design Review Panel in April 2021 prior to submission of the application in August 2021. Concerns were raised over the increased density of the scheme and changes to the internal layouts which on some buildings achieves more dwellings per floor than the approved scheme:"*

"5.15 With respect to the revised scheme the Panel is concerned about the quality of the proposal and does not consider that the proposed changes to the internal building layouts and the increased density across the site are currently justified on design grounds.

The Panel look forward to seeing the Scheme again as it progresses."

"5.16 We are not aware of any substantive changes in relation to the above points and the appellant did not submit the scheme for a follow-on review despite the above prompt. "

The Panel's comments are mostly focussed on internal layout and density, rather than townscape effects. As I understand it, Mr Sallin was not involved in pre-application consultations. 'Substantive changes' in relation to the above points did in fact occur; these are outlined in Section 4 of Des Twomey's evidence. The Panel's role is to provide advice to officers, not to make decisions; as officers recommended the Appeal Scheme for approval, presumably they considered that the relevant points had been addressed to their satisfaction.

- 1.13 *"6.1 Views from the Townscape and Visual Impact Assessment (TVIA) clearly demonstrate that the suburban character of the local area would neither be reasonably protected nor complemented by proposed development. Evidence of the area's low rise suburban character is provided in section 3 including reference to the Barnet Characterisation Study."*

The character of the Site's setting is considered in the DAS and in the TVIA. There is in my view no harm to the suburban character of the surroundings. The Appeal Scheme contrasts with this character but not in a harmful way. Such contrast is recognised as appropriate in paragraph 44 of the National Design Guide [CD07.004].

- 1.14 *"6.2 The use of characterisation studies is promoted in national through to local planning policy. For example, in the Barnet Local Plan (Development Management Policies), supporting text to Policy DM05 Tall Buildings states:*

"Applicants should use the Characterisation Study as a starting point for a 360o appraisal of the impact of the design of tall and medium rise buildings on their surrounding area. Varying heights, proportion, silhouette and facing materials at the design stage may all help contribute to assessing how to lessen negative impacts. The level of detail the applicant needs to provide will depend on the impact. Setting as well as the height can contribute to impact."(para.6.1.4)"

As noted above, the character of the Site's setting is considered in the DAS and in the TVIA. The level of detail provided is appropriate; the detailed part of the Appeal Scheme has a high level of detail and serves to set standards; the Design Principles document provides appropriate guidelines for the outline stages, all consistent with current good practice.

- 1.15 *"6.3 The approved scheme was cleverly designed and presented to maximise the height, massing and density, without causing unacceptable conflict with the local suburban character setting. In my opinion it reached the very upper limit of what might be considered acceptable in response to the setting, policy context and wider planning balance in circumstances where different decision-makers might reasonably reach differing views on this point. Crucially, in response to identified views, it generally kept below tree tops or thereabouts, did not unreasonably impose upon skylines or immediate neighbours too glaringly or at least too often (e.g. view 11 Howard Close appears an exception), and used height variation to generally avoid the sense of height being perceived as too obviously wide and monolithic. The approved scheme is clearly different to the context, but it successfully argued that it did not represent excessive change and harm. Whilst the Council still disagrees with its approval via appeal, we understand why a different decision-maker was to reach a reasonable judgement that it was acceptable when weighed against the planning benefits."*

"6.4 By contrast, the proposed scheme often protrudes glaringly above the tree tops (e.g. see 5.15 New Southgate Cemetery), presents a wide and monolithic sense of tall buildings (e.g. see 5.14 Oakleigh Road North) and excessively imposes on the suburban skyline (e.g. see 5.11 Fernwood Crescent) It would be visibly high-rise, monolithic and urban in character, and irrespective of any future architectural qualities, presents an undesirably stark, oppressive, inelegantly formed, claustrophobic and imposing contrast to the spacious and tranquil predominantly 2 storey somewhat landscape characterized suburban context."

These points have been addressed in my comments on section 5 of Mr Sallin's evidence. References to the two storey surroundings need to be seen in the context of para 22 of the SoS decision [CD04.001], where the contrast with this form was considered to be acceptable.

- 1.16 *“6.6 As the Inspector will be well aware, it is important to recognise that LVIA’s only tell part of the story with regard to visual impact. Visual impact is not just a collection of picture stills from surrounding streets and spaces. Visual impact is a lived and memorised experience, whereby neighbouring local people view and sense the development as they go about their lives and is often experienced kinetically, e.g. from their windows, garden and street, and on their trips within the local area including inevitably through the development. Also, just because somewhat distant high-rise development might technically sometimes measure the same height as close-up low-rise buildings in a picture, this ignores peoples’ ability to decipher perspective and ascertain a real perception of proposed built height and massing. This feeds into a multi-dimensional and associated visual impression of a development which is also significantly influenced by its wider character impact, for example including its character within, impact on local suburban community and culture, night lighting, traffic, etc. Just as a person’s perceived visual beauty and compatibility is influenced by their perceived personality, a place’s visual beauty and compatibility (with local character) is influenced by local residents’ wider experience. In this respect, it becomes even more clear that high rise urban development up to 13 storeys significantly conflicts with the local area’s distinctly low-rise suburban character. The Inspector is invited to take this into account when examining the images and on the site visit.”*

I agreed with much of this paragraph, and similar points are made in the methodology section of the TVIA, and I agree that judgement informed by a site visit is important. The penultimate sentence does not however follow from what precedes it, and jumps to represent Mr Sallin’s own opinions, which have already been made clear.

- 1.17 *“6.7 We are not against different compatible development typologies being introduced into an area with a strong pre-existing character, and of intensification. We also fully support a design led approach to optimising site capacity. This can often contribute to the sustainability and rich diversity of an area. However, change needs to be carefully managed over time and typologies need to be sensitively matched and moderated according to the character tolerance levels of an area at any given time. Design, as defined in national through to local planning policy, is not just about dressing up predetermined height and massing. In accordance with planning policy, this is not about maximising capacity without controls. This is about optimising capacity, ensuring design quality standards in response to context are also reasonably met. A design led approach, means, amongst other things, the consideration of height, massing and townscape from the outset.”*

‘...typologies need to be sensitively matched and moderated according to the character tolerance levels of an area at any given time....’ The meaning of this is not entirely clear but I assume it concerns appropriateness of new development to existing contexts. The typologies – building types and form types – proposed in the Appeal Scheme are the same as in the Original Scheme – principally, terraces, freestanding apartment blocks, courtyard blocks – and have not changed as a result of the increased height. ‘Character tolerance levels’ presumably means the ability of an existing environment to

accommodate new development that contrasts in its character. The paragraph recognises the desirability of contributing to sustainability and diversity; I agree, and my evidence explains why the resulting contrast between the proposal and its context is not harmful.

- 1.18 *“6.8 Proposed development involving a visibly significant condensed area of high-rise development for scant good reason would inherently be in stark incompatible conflict with the surrounding distinctly low-rise, spacious, low-key suburban location, relatively isolated with regard to local amenities and public transport. This would not be gentle intensification targeting a relatively sustainable location, but would instead be unwanted, aggressive and opportunist intensification.”*

I disagree. This would be appropriate intensification of a promising but underdeveloped site in a major city where there is a need for more housing to be provided within the existing built up area. It is clearly not unwanted as far as the many people who are looking for somewhere to live are concerned. I do not see the intensification as aggressive, though I admit I am not sure what that means in this context. The Site is allocated for development, so the application is not opportunistic.

- 1.19 *“6.9 The appeal scheme fails to demonstrate that the visual appearance of buildings will in any way exceptionally mitigate for excessive height and massing. Quite the opposite is evident. Apartment block proposals for the detailed element of the application are somewhat bland, standardised and generic. Furthermore, the outline element of the submission doesn’t include a design code as promoted by policy, and instead relies on a Design Principles Document which lacks detail, variety and aspiration.”*

The Design Principles document is consistent with good practice for large outline planning applications, and comparable with other such documents for comparable schemes in London. The NPPF refers to design guides or codes as alternatives (NPPF paras 132, 133, 134); guides are generally less prescriptive than codes and they are considered acceptable. The greater rigour of a code may be more suitable where designs are to conform to an immediately adjacent established pattern of building; that is not the case here. Contrary to what is stated here by Mr Sallin, there is plenty of detail, variety and aspiration in the Design Principles document.

A design code for such a large site would certainly give more fixity on the architectural style, however it could also be unduly prescriptive, constricting and do little more than reflect the current architectural vogue. The Design Principles document seeks to provide quality benchmarks to protect the masterplan from poor future architectural input, covering wide themes for material use, proportion, scale at ground, interface with public realm etc. – a standard approach for sites of this kind that are not likely to be developed out in a single phase, and one that in my experience has been encouraged by the GLA.

- 1.20 *"6.10 Independent Design Review raised concern over the design and density of the scheme, though we are not aware of any substantive changes being made to address these and no follow-on meeting was organized..."*

See my comment at para 1.12 above.

- 1.21 *"6.11 With regard to Policy D.3 of the London Plan, in respect of part 1, the scheme does not, in my view, enhance local context by positively responding to local distinctiveness relating to the low-rise suburban character in the identified surrounding streets. In respect of part 11, I do not consider that the scheme responds to the existing character, as found within the surrounding streets. The development is also in conflict with Core Strategy CS5 and DPD DM01 and DM05. In terms of national policy, it is in conflict with policies 129, 131, 132 and 135. It is also at odds with the National Design Guide paras 40, 41, 43, 51 and 53. The proposal is also contrary to the Residential Design Guide SPD."*

The extent to which the Appeal Scheme responds to the existing character of the Site's surroundings is not significantly different from the extent to which the Original Scheme responds.

- 1.22 *"6.11 As detailed above, I do not consider this site suitable for this level of tall building development, and the appeal scheme would not contribute positively to the character of the area."*

I consider that the Site is suitable for the height of buildings proposed. The Original Scheme would contribute positively to the character of the area; the Appeal Scheme is not fundamentally different and would contribute positively in much the same way. The intensification and the increase height have not undermined the positive contributions.

- 1.23 *"6.13 In light of the above appraisal it is considered that the appeal proposal fails to reflect the height, scale, and massing of the surrounding residential scale buildings resulting in a harmful juxtaposition between the proposed buildings and the surrounding area. The proposed development would therefore be out of character with the existing low rise suburban development in surrounding roads. The scheme would also appear excessively dominating when viewed New Southgate Cemetery, considerably over and above the impact from the extant schemes. In my view the proposal would therefore conflict with policies Policy D3 and D.9 of the London Plan (2021); Policies, CS5, DM01 and DM05 and national policy within the NPPF."*

To the extent that the Appeal Scheme presents contrast rather than conformity, this is appropriate and not harmful. It would not appear excessively dominating from anywhere.

- 1.24 *"6.14 It is notable that at the under the recent appeal determination at "Victoria Quarter" (CD6.006), which the council would consider to have a similar character to that around this appeal site, the Inspector concluded that the introduction of buildings up to seven storeys would cause harm to the character of the area;*



- a. *“Overall, I consider that the sheer scale of the proposed development would cause a dislocation within the area, inserting an alien typology of larger mass and scale and disrupting any sense of continuity between the areas to the west and east of the site”*

The Victoria Quarter site and its context are different from the Appeal Scheme site and its context, and the design proposals are different. The point at 6.14 of Mr Sallin's evidence could just as well be raised as a criticism of the Original Scheme, which was granted planning consent. It is not a relevant comparison.

- 1.25 *“6.17 With regard to this appeal, the revised NPPF also contains new drafting on protection from “out of character” residential development. Paragraph 130 states:*

130. In applying paragraphs 129a and b above to existing urban areas, significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. Such circumstances should be North London Business Park, Oakleigh Road South, London, N11 1GN evidenced through an authority-wide design code which is adopted or will be adopted as part of the development plan.”

“6.18 It is the Council's position that the proposal is wholly out of character in terms of the level of development proposed, and para. 130 of the NPPF provides further, recent policy support that the Member reason for refusal can be substantiated.”

NPPF paras 129 and 130 are about plan-making, not development management. Para 130 says the proposals that are out of character 'may be inappropriate', not 'will be inappropriate' or even 'are likely to be inappropriate'; additionally, this would need to be evidenced by an authority wide design code as referred to - which has to be taken through the plan-making process (e.g. as opposed to an SPD) - but there is no such code in Barnet. Nevertheless, as a general point, cases where such contrast could be inappropriate, in my view, are likely to be those where large new development is immediately adjacent to low rise existing development. That is not the case here, and the scheme has been carefully designed to avoid this.

In conclusion, I disagree with Mr Sallin's assessment of the Appeal Scheme in almost every respect. In the conclusion to my proof of evidence I state at para 8.5 that 'The case made in the RfR must therefore boil down to a contention that the changes in the effects on the local views identified in the RfR, as a result of the changes between the Original and Appeal Schemes, is the reason that an acceptable scheme has become an unacceptable scheme.' If that is accepted, in respect of the differences between two versions of the project that are not fundamentally different, then it is difficult to see how the degree of vehemence levelled by Mr Sallin at the Appeal Scheme – which is completely at odds with the views of his local authority colleagues – can be justified.

