

LONDON BOROUGH OF BARNET LOCAL PLAN EXAMINATION

HEARING SESSIONS

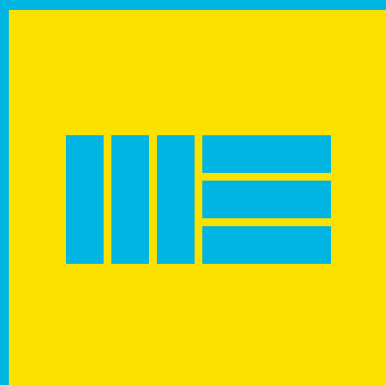
WRITTEN STATEMENT: MATTER 8 – TALL BUILDINGS, QUESTION 4

PREPARED BY MONTAGU EVANS, ON
BEHALF OF THE JOINT VENTURE
BETWEEN BALLYMORE GROUP AND
TTL PROPERTIES LTD (TTLP)

SEPTEMBER 2022



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1.0 INTRODUCTION

- 1.1 Montagu Evans LLP has been instructed by the joint venture between Ballymore Group and TTL Properties Ltd (TTLP) to prepare this statement (the Statement) and participate in the forthcoming examination of the London Borough of Barnet (LBB) Local Plan 2021 to 2036 (the Plan).
- 1.2 The joint venture has the freehold ownership of Edgware Central, including site allocation No.27 and No.28 in the Plan. The joint venture is generally supportive of the Plan, although firmly believe that further modifications are required in order for it to be Positively Prepared; Justified, Effective and Consistent with the 2021 National Planning Policy Framework (the Framework).

2.0 MATTER 8, QUESTION 4, TALL BUILDINGS

Policy CDH04 seeks to provide an approach to tall buildings in strategic locations, is it positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan in those respects? Responses should address the following:

- A) ***Is the overall policy approach consistent with the expectations of Policies H1 and D9 of the London Plan in terms of identification of locations for tall buildings and optimising housing delivery in PTAL3 to 6 locations or within 800m distance of a station or town centre boundary, and the Framework insofar as it seeks to achieve well-designed places?***

2.1 The general thrust of Policy CDH04 is consistent with the London Plan, requiring the identification of suitable locations for tall buildings in sustainable locations. We recognise this approach as being a means of achieving good place-making and increasing housing supply.

2.2 That said, further modifications are required to the drafting of Policy CDH04 to be justified, effective and consistent with national policy. Required modifications in relation to the Edgware Central site are identified in this Statement.

- B) ***Is the identification of the strategic locations listed in the policy where ‘tall’ buildings (defined as 8 to 14 storeys or 26 to 46 metres) are appropriate, informed and justified by robust evidence, and are the locations sufficiently precise?***

2.3 The 2019 Barnet Tall Building Study Update (the Study Update) forms the evidence base for the identification of strategic locations for tall buildings. This approach is broadly reflective of the approach advocated by the London Plan, comprising a macro-analysis that considers the Borough as a whole. The evidence base and how this is transferred to policy are discussed further within this Statement.

2.4 The boundaries of the “Strategic Tall Building Locations” outlined at Map 4 are indicative and at odds with the policy specific locations identified at Policy CDH04 part A. It is suggested that the boundaries of the strategic locations identified by policies GSS02, GSS03, GSS04, GSS05 and GSS06 are included at Map 4.

- C) ***Are there any other locations where evidence suggests that ‘tall’ buildings may be suitable and if so, should these be reflected in the policy?***

2.5 The level of sieve analysis undertaken by the Study Update is high level. The Study Update identifies areas with the greatest potential to accommodate tall buildings, taking into account site constraints and the implications of tall buildings on the area concerned; however, given the level of sieve analysis, it is highly likely that the Study Update overlooks some areas and/or sites that may be suitable for tall buildings.

2.6 The current drafting risks stifling development opportunities in areas not identified as suitable for tall buildings, thus undermining the Council’s strategic growth objective and the requirement to optimise housing delivery. The policy should therefore be drafted to enable Tall Buildings to be delivered outside of these strategic locations in exceptional circumstances where it is shown that they meet the criteria set out at Policy CDH04 and Policy D9.

- D) ***Would the policy approach be consistent with and support the delivery of the specific strategic requirements of Policies GSS01 to GSS12 and the density expectations and site capacities of the proposed site allocations identified in Annex 1 of the Plan?***

2.7 The policy approach is generally consistent with and would support the delivery of the specific strategic requirements of Policy GSS05 and the density expectations and site capacities of the proposed site allocations identified in Annex 1 of the Plan, subject to the amends set out in this Statement.

E) ***Is there sufficient evidence to support the approach to ‘very tall’ buildings of 15 storeys or more and if so, why are exceptional circumstances required to be demonstrated rather than the identification of specific suitable locations?***

2.8 Policy CDH04 states “*Very Tall buildings of 15 storeys or more will not be permitted unless exceptional circumstances can be demonstrated, such as appropriate siting within an Opportunity Area or a Growth Area*”. The test of “exceptional circumstances” places an arbitrary threshold to deliver very tall buildings. The Study Update has identified locations that have the capacity to accommodate taller development, and subject to assessment against criteria set out within Policy CDH04 and Policy D9, no other policy tests are required to determine the acceptability of a Very Tall Building within the specified areas. As a minimum, Policy CDH04 should clarify that siting within an Opportunity Area or a Growth Area is an exceptional circumstance and that there is no need to demonstrate further exceptional circumstances beyond that.

2.9 The height threshold for Tall Buildings and Very Tall Buildings is not informed by a granular analysis of the local area. The lack of a robust evidence base affirms that these thresholds must form guidance to be tested through detailed planning assessments, rather than absolute parameters. We therefore recommend additional text recognising that there is scope for greater height where a full evidence base supports it.

2.10 This approach was recently tested by the Planning Inspectorate at the Brent Local Plan Review. The January 2022 Report on the Examination of the Brent Local Plan found the Tall Building Policy BD2 to be sound ([here](#)).

2.11 The adopted Brent Local Plan acknowledges “*heights likely to be generally acceptable to the council*”; however, paragraph 6.1.15 of the Brent Local Plan states: “*There might however also be circumstances where the quality of design of a development and its impact on character is such that taller buildings in these locations could be shown by applicants to be acceptable*”. Policy BD2 thus includes the necessary level of flexibility to support the planning application process, and the need to meet other policies of the development plan.

2.12 We consider that the approach taken by Brent Council is sound and can be adopted by the LBB.

F) ***Why would ‘appropriate siting in an Opportunity Area or Growth Area’ constitute exceptional circumstances?***

2.13 See answer to Question 4E.

G) ***Are the policy requirements which defer specific parameters for tall and very tall buildings in identified strategic locations to the preparation of and compliance with a Building Heights SPD; positively prepared, justified, effective, consistent with national policy and in general conformity with the London Plan?***

2.14 A supplementary planning document, by definition, adds further detail to the policies already contained within a Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

2.15 The SPD must be in accordance with Policy CDH04 and not import new policy restrictions. We suggest Part C of Policy CDH04 be amended to state the Designing for Density SPD “*will set out, within the identified strategic locations, further guidance of how the Council will assess the appropriateness of Tall Building proposals. In the absence of the SPD, the Council will assess Tall Building proposals against criteria contained in this Policy CDH04 of the Local Plan and Policy D9 of the London Plan*”.

2.16 We also emphasise that currently there are no delivery timescales for the SPD and its absence leaves uncertainty for an undefined period. In effect, the current drafting would create a policy vacuum which would frustrate sustainable development proposals as well as the Borough’s own strategic objectives (e.g. delivery of housing and employment opportunities).

H) ***Is the policy approach insofar as it relates to heritage assets and their settings, consistent with relevant statutory duties and associated national policy seeking to conserve and enhance the historic environment?***

2.17 Part D iii of the Main Modifications to Policy CDH04 sets out a requirement for proposals to avoid harm to, the significance of heritage assets and their settings. In contrast, paragraph 194 of the Framework requires applicants [our emphasis] “to describe the significance of any heritage assets affected, including any contribution made by their setting”. Paragraph 194 goes on to state “the level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.” Harm to setting is not a recognised test within the Framework and this should be omitted.

2.18 Paragraph 6.18.11 states “Proposals resulting in harm will require clear and convincing justification, demonstrating that alternatives have been explored and that there are tangible public benefits derived that outweigh that harm.” First, we recommend the removal of the word “tangible” to ensure consistency with the drafting of Policy D9, and not place additional requirements on the tests set out within the Framework. Second, the general requirement to balance heritage harm against public benefits is consistent with the Framework, although this test is not carried through to Part D iii of the Main Modifications to Policy CDH04. It is important that this forms part of the policy itself, rather than the supporting text.

I) ***Would the individual requirements of development proposals result in a design-led approach and are they sufficiently clear and effective, when taken together, so it is evident how a decision maker should react to development proposals?***

2.19 Policy CDH04 provides a clear set of design requirements for assessing tall buildings, including reference to criteria contained at Policy D9C of the London Plan. As outlined above, the reliance on a future Designing for Density SPD and the need to demonstrate ‘exceptional circumstances’ for ‘very tall’ buildings creates uncertainty as to how a decision maker would assess tall building proposals. The amends outlined at Section 3 of this Statement would make Policy CDH04 sufficiently clear and effective to allow a decision maker to react to development proposals.

J) ***The Council’ s proposed modifications, include changes to Map 4 of the Plan and seek to reinforce the need for careful consideration of heritage assets. Why are such changes necessary for soundness and would they require any consequential modifications to the policy, its supporting text or other parts of the Plan?***

2.20 The proposed modifications to paragraph 6.18.2 states “However, given the historical and suburban character of the Borough the potential for Tall Buildings is highly constrained in Barnet. Such a form of development is not the preferred model for delivering high densities”. It should be made clear that the quote relates to the Borough as a whole, mindful that the strategic locations have been identified following a sieving exercise, including proximity to heritage assets. The sieving exercise identifies sustainable locations for growth in line with the Framework requirement for making best use of brownfield land and the London Plan Policy D3 requirement to optimise site capacity through a design led approach.

2.21 To this end, paragraph 6.18.1 recognises “certain locations will evolve a different local character”. To achieve this evolution and change, tall buildings in the selected strategic locations must be a preferred model to deliver higher densities, in accordance with the general thrust of Policy CDH04.

2.22 The decision maker is required by statute to give considerable importance and weight to the desirability of preserving or enhancing the significance of heritage assets. The Council’s proposed modifications are not necessary for soundness.

K) ***Would any other changes to the policy or its supporting text, including the Council’ s proposed modifications relating to character and appearance and fire safety considerations, be necessary to achieve soundness?***

- 2.23 In relation to specific policy drafting, paragraph 6.18.12 states [our emphasis] “*The Council requires that visual impact is addressed in terms of long range views from the top of the building, mid-range views from the surrounding neighbourhood and intermediate views from the surrounding streets.*” Views from the top of a building are not material to the determination of a planning application. We suggest “from the top of the building” be deleted or amended to state “of the top of the building”.
- 2.24 We also query whether “intermediate views” should read “immediate views” to be consistent with Policy D9 of the London Plan. This also applies to Policy CDH04 Part D ii.
- 2.25 Paragraph 6.18.12 states “*Map 4 shows locally important views, as well as conservation areas in the Borough, the extent of Green Belt / MOL and the location of existing tall buildings together with the strategic locations identified for tall buildings. The Council will seek to ensure that development is compatible with such views in terms of setting, scale and massing. Proposals for buildings of height that the Council considers cause harm to these views will be resisted.*” It is suggested that the Designing for Density SPD incorporate management guidance to determine what facets of the view are important to provide a framework to understand how “harm” may be construed.
- 2.26 Finally, and importantly, paragraph 6.18.3 states [our emphasis] “*development proposals that include tall buildings must demonstrate compliance with all relevant parts of Policy CDH04 as well as the requirements listed in the London Plan Tall Buildings policy D9... “.* This is contrary to Policy D9 itself, in relation to the requirements listed at Part C, which states [our emphasis] “*Development proposals should address the following impacts... “* The drafting of D9 recognises that tall building applications should address all relevant parts of the policy criteria, although a scheme may still be found acceptable if not compliant with all relevant parts of the policy, when read as a whole.

3.0 CONCLUSION AND RECOMMENDATIONS

3.1 With reference to paragraph 35 of the Framework, we consider that further modifications are required to Policy CDH04 in order for it to be sound. The principal issues here comprise:

- A) lack of evidence to support the height thresholds for 'tall' and 'very tall' buildings. The height thresholds are therefore not justified and should form recommendations only;
- B) lack of evidence to limit Very Tall buildings to appropriate siting within an Opportunity Area or a Growth Area. The exceptional circumstances test is not justified and should be based on a fine grain assessment against criteria set out at Policy CDH04 and Policy D9. As a minimum, Policy CDH04 should clarify that siting within an Opportunity Area or a Growth Area is an exceptional circumstance and that there is no need to demonstrate further exceptional circumstances beyond that.

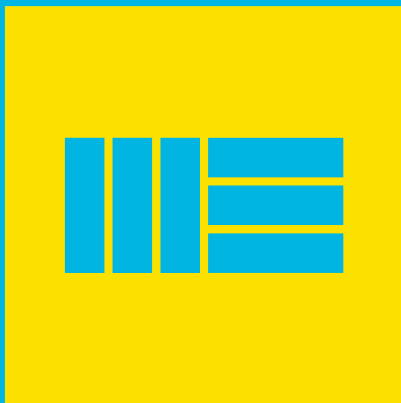
Recommended Modifications

3.2 To address the matters raised in the Statement, the following modifications are recommended:

- 1 Amend paragraph 6.18.2 to state *"However, given the historical and suburban character of the Borough the potential for Tall Buildings is highly constrained in Barnet. Such a form of development is not the preferred model for delivering high densities in the Borough as a whole."*
- 2 Amend paragraph 6.18.3 to state *"development proposals that include tall buildings should address all relevant parts of Policy CDH04 as well as the requirements listed in the London Plan Tall Buildings policy D9... "*
- 3 Amend paragraph 6.18.11 to state *"Proposals resulting in harm will require clear and convincing justification, demonstrating that alternatives have been explored and that there are ~~tangible~~ public benefits derived that outweigh that harm."*
- 4 Amend paragraph 6.18.12 to state *"The Council requires that visual impact is addressed in terms of long range views of from the top of the building, mid-range views from the surrounding neighbourhood and ~~intermediate~~ immediate views from the surrounding streets."*
- 5 Amend paragraph 6.18.12 to state *"Map 4 shows locally important views, as well as conservation areas in the Borough, the extent of Green Belt / MOL and the location of existing tall buildings together with the strategic locations identified for tall buildings. The Council will seek to ensure that development is compatible with such views in terms of setting, scale and massing. Proposals for buildings of height that the Council considers cause harm to these views will be resisted. The Designing for Density SPD will incorporate management guidance to determine what facets of the view are important to provide a framework for assessment."*
- 6 Amend the bullet points in Part A of Policy CDH04 to include North Finchley in the list of strategic locations where tall buildings may be appropriate, and amend the final sentence as follows: *"Sites where Tall Buildings may be appropriate have been identified in Annex 1 - Schedule of Proposals for ~~the Finchley Central~~ Town Centres ~~of Finchley Central and North Finchley~~ (Policy GSS08) and the Major Thoroughfares – Edgware Road (A5) and Great North Road (A1000) (Policy GSS11)."*
- 7 Amend Policy CDH04 Part B as follows: *"Very Tall buildings of 15 storeys or more (~~Very Tall~~) will not be permitted ~~unless exceptional circumstances can be demonstrated, such as appropriate siting within an Opportunity Area or a Growth Area. Very Tall Buildings are not acceptable~~ outside an Opportunity Area or a Growth Area identified as a strategic location in CDH04A unless they satisfy the criteria in London Plan Policy D9(C). Any proposal for a Very Tall Building must have a legible and coherent role, integrating effectively to its location in compliance with part D."*

- 8 Amend Part C of Policy CDH04 to state: *“The Council will produce the Designing for Density SPD which will set out, within the identified strategic locations, further guidance of how the Council will assess the appropriateness of Tall Building proposals; this will ~~include~~ address the impacts detailed in London Plan Policy D9C, setting out site-specific and character considerations including typologies related to uses, views, form, public realm, safety, amenity and microclimates. In the absence of the SPD, the Council will assess Tall Building proposals against criteria contained in this Policy CDH04 of the Local Plan and Policy D9 of the London Plan.”*
- 9 Amend Policy CDH04 Part D ii to state: *“how the building responds to topography, with no adverse impact on longer range Locally Important Views (as shown in Map 4), as well as mid-range and ~~intermediate~~ immediate views”*
- 10 Amend Part D iii of Policy CDH04 to state *“Proposals should take account of, and avoid harm to, the significance of heritage assets ~~and their settings~~. Proposals resulting in harm will require clear and convincing justification, demonstrating that alternatives have been explored and that there are clear public benefits that outweigh that harm. The buildings should positively contribute to the character of the area”.*
- 11 Include text at the end of Policy CDH04 to state *“Policy CDH04 indicates heights that may be acceptable to the Council in strategic locations. Proposals will still need to be assessed in the context of other policies to ensure that they are appropriate in that location and that the proposal is deliverable when the plan is read as a whole. It is recognised that there may be circumstances where the quality of design of a development and its impact on character is such that taller buildings in these locations could be shown by applicants to be acceptable.”*
- 12 Include text at the end of Policy CDH04 to state: *“Tall Buildings may be acceptable outside of these strategic locations in exceptional circumstances where it is shown that they meet the criteria set out at Policy CDH04 and Policy D9.”*

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