

**Statement of Common Ground between
London Borough of Barnet (LBB)**

and

Hill Residential Ltd, Trustees of the Gwyneth Cowing Will Trust and Trustees of the Gwyneth Cowing 1968 Settlement (the site promoters)

December 2022

Site 45, land adjoining The Whalebones, Wood Street

1.0 Introduction

This Statement of Common Ground (SoCG) between LBB and Hill Residential Ltd, Trustees of the Gwyneth Cowing Will Trust and Trustees of the Gwyneth Cowing 1968 Settlement (known as the site promoters), addresses planning matters specific to Site 45.

- 1.1 The purpose of the SoCG is to document the planning matters being addressed and the progress in cooperating to address them. It focusses on areas of agreement or disagreement between the LBB and the site promoters. The document is intended to be 'live', and it can be updated as circumstances change, and agreement occurs between the parties on any outstanding issues.
- 1.2 This iteration of the SoCG applies to Barnet's submission (Regulation 22) Local Plan (Core_01) and to the Council's subsequent table of Proposed Modifications to the Draft Barnet Local Plan (EXAM 4) which was published on the Examination website on 27 June 2022. It sets out how the development of the site can overcome the issues identified by the appeal decision dated November 1st 2021 (EB_SDG_04).

2.0 Site Specific Matters

- 2.1 The site promoters have been working with LBB since 2017 on the development of the site.
- 2.2 The site lies within the Wood Street Conservation Area and adjoins a Grade II listed property called, variously, *The Whalebones* or *Whalebones House*. The site is undeveloped, save for including part of the former (curtilage listed) Stable Block to *The Whalebones*, some buildings used in association with the farm business tenancy on site and a building used by the Barnet Guild of Artists. The whole site is under a Farm Business Tenancy, although activities are focused now in an area in the centre of the site. That part of the site is used as a small holding for the keeping of fowl. The redevelopment of the site makes provision for the small holding use to continue on the eastern part of the site, adjoining Welhouse Cottage, the home of the tenant.

2.3 The areas north (B) and east (C) of The Whalebones historically formed part of the grounds of the house. The area to the west (A) was historically a tree nursery and allotments and was associated historically with a property called Elmbank, subsequently redeveloped as Collison Avenue. As a consequence the area to the west is distinctly different in character and appearance to the areas to the north and east of The Whalebones.

2.4 In July 2019 the promoters submitted a planning application to LBB for

Demolition of non-listed structures and construction of a new single storey building to be used as an artists'/bee keepers' studio building (Use Class D1) and new vehicular access point off Wellhouse Lane. Construction of 152 new residential dwellings (Use Class C3) consisting of 53 single family dwellings and 99 flats ranging from 2 storey to 4 storeys in height. New landscaping, public open space, play areas, public realm, ecological enhancements and private agricultural land. Creation of new vehicular access points off Wood Street and off Wellhouse Lane. New pedestrian and cycle access points off Wood Street and Wellhouse Lane, restricted emergency vehicle access off Wellhouse Lane.

2.5 Both parties agree that during the course of the application Historic England (HE) did not object to the principle of development. HE considered that greatest potential for development existed to the west, that the development mitigated harm, but that harm could be further mitigated. In HE's letter dated 19 August 2019 (attached at **Appendix 1**), HE stated:

"We consider that opportunities exist to reduce the adverse impact, preferably by concentrating all the residential development to Area A at the far western edge of the conservation area or through a reduction in height of the taller elements, to better preserve the historic parkland quality of Area C."

2.6 In January 2020 LBB published the Regulation 18 draft Local Plan (Core_07). That draft identified the land as Site 45 (p241) for mixed development of c149 homes, community uses and local green space.

2.7 In November 2020 LBB's Strategic Planning Committee resolved to refuse the application, against officers' recommendation, and on the Chair's casting vote. On 9th March 2021, LBB refused the application on the grounds of harm to heritage assets and the absence of a S106 agreement.

2.8 In April 2021 the site promoters appealed that decision.

2.9 In June 2021 LBB published the Regulation 19 draft Local Plan (Core_01). The proposal remained as Site 45 for around 149 homes, community facilities and local green space.

2.10 In July 2021 LBB wrote to PINS advising that at the appeal they would not be contesting reason for refusal 1 in relation to heritage. Reason for refusal 2 was overcome by execution of a S106 agreement.

2.11 An inquiry was held 31st August to 3rd September 2021, and the appeal was dismissed 1st November 2021 (EB_SDG_04).

2.12 The Inspector concluded that:

- 2.12.1 "...residential development would be suitable in principle in this location..." (para. 54)
- 2.12.2 Within Area A the "...lower lying area has a less mature parkland character and so is of comparatively reduced sensitivity... I find there to be limited further harm to visual amenity resulting from the impacts viewed from this location"
- 2.12.3 "...found... harm to be less than substantial in Framework terms." (para. 49)
- 2.12.4 "Whilst the benefits of the appeal scheme are clearly significant, collectively these would not overcome the cumulative substantial weight I attach to the identified harms." (para. 55)

3.0 Duly made site specific representations to the Local Plan (Site 45)

- 3.1 Three parties made site specific representations on Site 45.
- 3.2 The Barnet Society (ID013) seeks a reduction in the number of homes or the site's omission, and a more imaginative use of the open space.
- 3.3 Theresa Villers, MP opposes development of the site.
- 3.4 The Queen Elizabeth's School seeks that appropriate provisions are made during construction and operation to prevent any undue impact on the schools operation or pupil safety.
- 3.5 Neither the Greater London Authority nor Historic England have objected to the site allocation or commented upon it.

4.0 Areas of agreement/disagreement

- 4.1 LBB and the site promoters agree that:
 - 4.1.1 residential development on part of the site is acceptable in principle;
 - 4.1.2 the sole issue upon which the appeal was dismissed related to harm to heritage assets (specifically the grade II listed Whalebones and the Wood Lane Conservation Area) not being outweighed by the benefits of the scheme put forward;
 - 4.1.3 any development of the site is likely to result in some less than substantial harm to heritage assets, which arises from the change in character of the land, from an open site to a site which is partly open and partly developed
 - 4.1.4 the harm needs to be weighed against the benefits of development;
 - 4.1.5 The site promoters have prepared a new concept plan to demonstrate how a revised scheme could be developed to reduce the harm identified by the Inspector of the planning appeal (EB_SDG_04) whilst maintaining significant public benefit. Therefore the indicative residential capacity would be 100 to 120 homes. The Council remains of the view that the site is suitable for development and, subject to detailed discussions, a revised scheme could overcome the Appeal Inspector's conclusions;
 - 4.1.6 A new scheme that draws development back from the Wood Street frontage and removes the homes in Area C would reduce the level of harm, as these were 2 key issues identified by the appeal inspector as harmful;

- 4.1.7 Discussions between both parties are ongoing regarding a revised planning application. On the basis of a detailed planning application submitted by mid 2023, the development timeframe would be 0-5 years, and therefore be delivered early in the Local Plan period and contribute to LBB's 5 year housing land supply.
- 4.1.8 The heritage harm arising from the appeal scheme was "less than substantial". Any reduction in the amount of development would further reduce harm and mitigate that harm.
- 4.1.9 At the Local Plan EIP hearing sessions in November 2022 the inconsistency of terminology with regards to proposed open space provision at Site 45 was highlighted. The Council will make a proposed modification to Annex 1 Summary Table and Site 45 to replace references to "Local Open Space" and "Local Green Space" with "publicly accessible open space".
- 4.1.10 The proposed modifications at Annex 1 with regards to Site 45 would help make the Plan more sound. Both parties agree the Proposed Modifications at Table A.
- 4.1.11 The Proposed Modifications at Table A include a correction to the site area. The submitted local plan's reference to 2.2 Ha covered only that part of the site on which residential development was proposed. The corrected site area covers the whole allocation of Site 45.
- 4.1.12 a construction management plan conditioned as part of any application can ensure no undue disruption to Queen Elizabeth's School during the construction phase;
- 4.1.13 the provision of pedestrian crossing facilities on both Wood Street and Wellhouse Lane (as agreed as part of the dismissed appeal) would provide for a safer environment for children travelling to school during the operational phase.

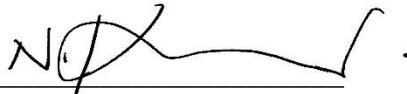
4.2 There are no areas of disagreement.

5.0 Governance arrangements

This SoCG will be kept up-to-date and will form a key part of implementation of Local Plan policies and any future Local Plan review.

6.0 Signatories

Both signatories agree that this statement is an accurate representation of areas of agreement and disagreement between the two parties.

Signed: 

Signed: 

Name: Neeru Kareer

Position: Assistant Service Director Planning & Building Control

London Borough of Barnet

Date: 3rd January 2021

Name: Colin Campbell

Position: Head of Planning, Hill Residential Ltd

On behalf of the site promoters

Date: 3rd January 2023

PROPOSED MODIFICATIONS WITH REGARDS TO SITE 45			
Ref	Existing text	Track changes	Clean
10.19.1	The Schedule of Proposals in Annex 1 highlights new Local Open Space at Whalebones Park which will be designated in accordance with NPPF para 99.	The Schedule of Proposals in Annex 1 highlights the provision of new publicly accessible Local Open Space <u>new publicly accessible Local Open Space</u> open space at Whalebones (Site 45) Park which will be designated in accordance with NPPF para 99 <u>to help address an existing local deficiency in open space.</u>	The Schedule of Proposals in Annex 1 highlights the provision of new publicly accessible open space at Whalebones (Site 45) to help address an existing local deficiency in open space.
P290 site 45, non-residential column	Community facilities and local green space	Community facilities and local green <u>publicly accessible open</u> space	Community facilities and publicly accessible open space
P290 site 45, Site column	Whalebones Park	<u>Land Adjoining The</u> Whalebones Park	Land Adjoining The Whalebones
P290 Indicative Units column	149	149 <u>100 - 120</u>	100 - 120
P353 Site No.45 title	Land at Whalebones	Land at <u>Adjoining The</u> Whalebones	Land Adjoining The Whalebones
P353 site 45 site size	2.20 Ha	2.20 <u>4.37</u> Ha	4.37 Ha
P354 Proposed use/allocation	90% residential with 10% local open space and community facilities.	90% residential with 10% local open space and community facilities.	residential publicly accessible open space and community facilities.
MM369	MM369 90% residential with 10% local open space and community facilities. Residential led development with local green space and community uses	Residential led development with <u>publicly accessible open</u> space and community uses	Residential led development with <u>publicly accessible open</u> space and community uses
P354 indicative residential capacity	152	152 <u>100 - 120</u>	100 - 120
Site requirements, 3 rd sentence	There should be provision of a new Local Open Space and a community facility, subject to legal agreement with developer	There should be provision of a new Local Open Space <u>publicly accessible open space</u> and a community facility, subject to legal agreement with	There should be provision of publicly accessible open space and a community facility, subject to legal

	on continuing management and maintenance	developer on continuing management and maintenance	agreement with developer on continuing management and maintenance
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Appendix 1 – Historic England’s letter dated 19 August 2019



Ms Elizabeth Thomas
London Borough of Barnet
Barnet House
1255 High Road
London
N20 0EJ

Direct Dial: 0207 973 3749

Our ref: P01092988

19 August 2019

Dear Ms Thomas

**T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990**

**WHALEBONES WOOD STREET BARNET EN5 4BZ
Application No. 19/3949**

Thank you for your letter of 30 July 2019 regarding the above application for planning permission. Historic England provided pre-application advice on these proposals in our letter dated 12th April 2019. The scheme now submitted for planning permission appears consistent with those presented to us at that time, and the following advice is therefore a reflection of our pre-application comments.

Historic England Advice

Significance of the Historic Environment

The site consists of three parcels of largely undeveloped private land, identified in the pre-application documents as areas A, B and C. The site equates to approximately 4.5 hectares and does not contain any listed heritage assets; the only structures on the site are of poor quality. The application site forms the western boundary of the Wood Street Conservation Area, which special interest primarily lies in the gradual urban growth of the historic market town of Chipping Barnet. The western end of the conservation area, where the application site is situated, is predominantly characterised by 19th century small scale domestic vernacular residential developments interspersed by open areas of green space.

The application site is in private ownership and is not publically accessible, so its primary contribution to the conservation area is its heavily tree and hedge screened boundary with more natural open areas, providing an open and rural landscaped character. Where the screening isn't as heavy, or in winter months, the sloping topography allows glimpsing views through the site as well as longer distance views into the Dollis Valley, strengthening the rural characteristic and appearance of this part of the conservation area.

The application site is adjacent to the Grade II listed Whalebones and associated



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ancillary structures, comprising of the stable building and a pair of whalebones that sit at the top of the driveway and are of significant local interest.

Relevant Policies

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 impose a statutory duty upon local planning authorities to consider the impact of proposals upon listed buildings and their settings. Section 72 requires planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Government guidance on how to carry out those duties is found in the National Planning Policy Framework (NPPF, Feb 2019). At the heart of the framework is a presumption in favour of 'sustainable development' of which protecting and enhancing the historic environment in a manner appropriate to its significance is established as an environmental objective.

Section 16 of the NPPF sets out how the historic environment should be conserved and enhanced, and makes it clear in Paragraphs 185 and 192 that LPAs take account of desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on a heritage asset (which includes its setting), local planning authorities should give 'great weight' to preserving the asset's significance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (paragraph 193).

The NPPF states that any harm or loss should require clear and convincing justification (Para 194). It also requires decision makers to determine whether the harm is substantial, or less than substantial. If the harm is deemed to be less than substantial, Para 196 of the NPPF requires the harm to be weighed against the public benefits of the proposal.

Finally, paragraph 200 states that local planning authorities are required to seek opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset, or better reveal its significance) should be treated favourably.

Historic England Position

Historic England's locus is to comment on designated heritage assets that fall within our statutory remit. Our single area of interest regarding these proposals is the impact of the development in relation to its effect on the character and appearance of the Wood Street Conservation Area. There may also be impacts to the setting of the





Grade II listed Whalebones Cottage, which your local conservation specialist will be able to provide advice upon.

The proposed development involves the demolition of the non-listed structures and construction of 152 residential dwellings of between two and four storeys, and new single storey artist and beekeeper studio building, in addition to landscaping and public realm improvements.

The majority of the development is concentrated in the mostly westerly portion of the site, identified predominately as Area A, with further smaller scale development proposed to the southern edge of Area C and western edge of Area B. Area A appears the least sensitive to change as historically seems to have been subject to different ownership and more intensive land use than the rest of the application site. Area C and some degree Area B, appears to have consistently had a parkland-like character more closely associated with the Grade II listed Whalebones and therefore development here is more sensitive.

From the visualisations provided we are of the view the development is likely to be well screened in longer views through the conservation area and the main visual impact would be limited to short distance views looking south and north across the site from the adjacent paths along Wood Street and Wellhouse Lane respectively.

Whilst the additional landscaping and screening proposed will help to some degree to minimise any potential impact, the spread and visibility of this development across the site would collectively represent a visible urban hardening of the western end of the Wood Street Conservation Area. The ability to appreciate the open and natural landscape qualities and character of the conservation area here would be somewhat eroded, as would the glimpsing views out into Dollis Valley. For these reasons the proposed development would in our view cause harm to the character and appearance of this part of the conservation area.

As mentioned above, paragraphs 192 and 200 of the National Planning Policy Framework emphasise that planning authorities should look for opportunities for new development to enhance or reveal the significance of designated assets, and that they should take account of the desirability of local development making a positive contribution to local character and distinctiveness. We consider that opportunities exist to reduce the adverse impact, preferably by concentrating all the residential development to Area A at the far western edge of the conservation area or through a reduction in height of the taller elements, to better preserve the historic parkland quality of Area C.

Recommendation

Your authority should take these representations into account, and that the application should be determined in accordance with national and local policy guidance, and on



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the basis of your specialist conservation advice. It is not necessary for us to be consulted again. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

This response relates to designated heritage assets only. If the proposals meet the Greater London Archaeological Advisory Service's published consultation criteria we recommend that you seek their view as specialist archaeological adviser to the local planning authority.

The full GLAAS consultation criteria are on our webpage at the following link:

<https://www.historicengland.org.uk/services-skills/our-planning-services/greater-london-archaeology-advisory-service/our-advice/>

Please contact me if we can be of further assistance.

Yours sincerely

Andrew Scott

Assistant Inspector of Historic Buildings and Areas

E-mail: Andrew.Scott@HistoricEngland.org.uk

