Sawyer Fielding Ltd
Compulsory Purchase Specialists

Secretary of State for Communities and Local Government
National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

17th July 2014

RECORDED DELIVERY

Dear Sirs,

The London Borough of Barnet (West Hendon Regeneration Area) Compulsory Purchase Order No 1 2014

I refer to the above Compulsory Purchase Order which was made on 3rd June 2014 pursuant to Section 226(1)(a) of the Town and Country Planning Act 1990, the Acquisition of Land Act 1981 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976.

For reference, the Order was served on qualifying parties on 5th June 2014. The Order was furthermore revised on 17th June 2014, making amendments to the third paragraph of the Order dealing with discharge of rights, incidents and trusts. This revision was communicated to qualifying parties by letter dated 25th June which also referred to the extension of the period for submitting objections to the Secretary of State to 18th July 2014. The timing of this Objection is served based on the revised deadline for submissions.

Sawyer Fielding Ltd is appointed by the leasehold owner of 59 Tyrrel Way, whose property is required for demolition in the above named Order and is stated in Table 2 of the Order. The owners name and correspondence address are-

Ali Rahimian of 59 Tyrrel Way, West Hendon, London, NW9 7QW

The objector does not consent to the written representations route and reserves their right to be heard if a Public Inquiry is called.

The leaseholder(s) object(s) to the Compulsory Purchase Order on eight grounds contained within this objection letter.

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Ground 1 – Social

ODPM Circular 06/2004 'Compulsory Purchase and the Crichel Down Rules ("Circular 06/2004") Appendix A, paragraph 6 refers to an acquiring authorities 'Wellbeing power' and supports the requirement in Section 226(1)(a) of Town and Country Planning Act 1990 which is subject to subsection 1A of Section 226. 'Wellbeing' is sub-categorised into 'economic', 'social' and 'environmental'.

It is the leaseholders assertion that the proposed scheme does not contribute to the social well being of the land required for the scheme.

Due in part to the twelve years that Regeneration has been 'on the cards', there are a significant number of leaseholders and tenants who have lived on the estate for a significant period of time.

For example, of the twenty six properties required for demolition in the Compulsory Purchase Order which are represented by Sawyer Fielding, twenty four have been owned or lived in by the owner for ten years or more, with six of these owned since the 1980s.

Of the thirty four privately owned residential properties on the estate (therefore excluding ones at Parade Terrace, Perryfield Way, The Broadway which are not on the estate), twenty eight are occupied by the owners. Of the remaining six, four of the owners lived in the properties prior to renting them out when they discovered that selling would be on blighted terms.

This high proportion of owner occupiers is very unusual in our experience on schemes like this.

There is a very strong community on the estate where lots of the owners and tenants know each other which the scheme threatens, unjustifiably to break up.

Examples of how strong this community spirit is include a number of demonstrations against the regeneration that many of the leaseholders and tenants have taken part in.

Several generations of the same family and friends stretch across the entire estate.

Ground 2 – Environmental

Circular 06/2004 Appendix A, paragraph 6 refers to an acquiring authorities 'Wellbeing power' and supports the requirement in Section 226(1)(a) of Town & Country Planning Act 1990 which is subject to subsection 1A of Section 226. 'Wellbeing' is sub-categorised into 'economic', 'social' and 'environmental'.

It is the leaseholders assertion that the proposed scheme does not contribute to the environmental well being of the land required for the scheme.

There is a significant portion of Public Open Space (POS) at York Memorial Park which was appropriated by London Borough of Barnet on 12th September 2013 for planning purposes (previously POS) pursuant to the scheme. The net difference to useable POS of the scheme is a significant deficit and therefore loses the benefits of a park which residents of the estate previously enjoyed for a number of years. The replacement POS has been described as postage stamp areas of landscaping. They are small areas that appear to have been found from residual land not required for the development. These common areas are sufficiently small that it will be practically prohibitive for them to be used for the same purposes as the park was. York Memorial Park was used for play activities and for residents from across the estate to mix with each other, providing some social cohesion and community spirit.

The consultation on this appropriation was not sufficient. I have not yet found a single leaseholder who was aware it was happening prior to notification that it had taken place.

The increased density of housing on the estate is proposed to be circa three-fold current levels. This along with the net loss of POS threatens environmental quality. The requirement in Circular 06/2004 Appendix A paragraph 4 for environmental quality to be improved is unlikely to be met.

Ground 3 – Public & Stakeholder Consultation

It is the objectors assertion that the Public & Stakeholder consultation has been far from sufficient and has involved a long list of pledges and assurances by London Borough of Barnet and it's development partners which have not been kept or are no longer relevant.

In short, the main consultation from 2002 had insufficient approval, was based on an almost completely different scheme, is out of date and secured backing largely based on assurances which are no longer on offer or are now not relevant.

Consultation since then appears to have been with much smaller groups and is not sufficient to reflect the will of the estate. Even these smaller groups have expressed considerable angst at the changing landscape of what is on offer in the regeneration.

The main consultation on which London Borough of Barnet seem to rely on is the postal ballot which was carried out between 25th November 2002 and 6th December 2002, carried out by an independent organisation.

The consultation was a simple yes/no answer to the following question-

"Barnet Council and Metropolitan West Hendon wish to....regenerate West Hendon. This will involve modern homes for all existing residents.....In principle, do you support this aim?"

Resident testimony of their memories from the time suggests that London Borough of Barnet's development partner at the time (Metropolitan – who are still involved

now as a junior partner to BDW Trading Ltd) went door-knocking on the estate to receive further responses to the consultation. This brings into question the impartiality.

The low turnout (63%) combined with the numbers in favour (75%) produce an overall percentage in favour of the scheme as less than half.

The question is also sufficiently vague that it would be reasonable for residents to consider it in light with all of the other pledges and assurances which had been made by London Borough of Barnet or it's development partner.

There are a number of very significant changes since the consultation took place which gives it extremely little relevance. For example-

- At the point of the consultation, the Council's JV partners in regeneration were Metropolitan Housing Trust, Lovell Parnerships and Bellhouse Joseph, all of which formed a consortium. 3 years after the consultation, Lovells and Bellhouse dropped out and were replaced with Barratt Homes Ltd (now known as BDW Trading Ltd) who are the main development partner
- In the 11.5 years since the consultation, some of those entitled to vote will have changed and those who are entitled to vote may have a different opinion
- The consultation included Ramsey Close which is no longer part of the scheme
- Despite the footprint of the overall regeneration scheme now being smaller than consulted on, the number of new properties to be built has increased from 1100 to over 2000

In particular, there are a number of assurances also made by London Borough of Barnet and the consortium that were provided in writing to all leaseholders in a series of newsletters and other documentation. All of these are taken verbatim from publications from London Borough of Barnet or it's development partners at the time of the public consultation in late 2002.

"Modern homes for all existing residents" : This comes from the consultation question and may not now be provided due to stringent requirements to qualify.

"No-one being re-housed will be required to live on a floor higher than their current home" : As the new development will have a greater density, there are no assurances that this can now be met. Many leaseholders do not wish to move to a higher floor than they are currently on.

"Owner occupiers will have the opportunity to transfer their existing equity into their new home": Existing equity may be insufficient to purchase another property due to separate requirements for minimum shares. It would be helpful for the London Borough of Barnet to clarify whether any additional compensation (statutory loss and/or disturbance) could be added to equity from the property vendors sell.

"You can swap your existing home for a new home on West Hendon": This guarantee appears to no longer be in place as there are a series of qualification criteria which not everyone will attain.

"You can revert to a tenancy" : This appears to no longer be on offer and may not be possible due to the limited housing stock which both London Borough of Barnet and Metropolitan Housing association have.

"All existing residents will have the opportunity to move into their new home within 5 years of the first new home being completed": New homes have already been completed in a trial phase. However, the objectors property is not phased until after this 5 years has expired.

"Subsidised service charge for affordable homes" : It appears that this assurance is no longer on offer. Many leaseholders may not be able to afford what may be higher service charges than they have typically incurred over the last few years.

"Ground floor maisonettes (the new ones – ed.) will have a private front garden" and non ground floor properties will have **"private outside space.....either a balcony, roof terrace or private back garden"** : There are now very few maisonettes due to be built despite the majority of the properties that are being demolished being maisonettes. Those that are being built have already been allocated/sold according to leaseholder testimony.

"New homes will be at least as large as existing homes. In some instances rooms will be bigger": It now appears as if the new properties will be smaller

"Residents will be able to make choices from a menu of options as to....."the style and location of their property" It now appears as if there is no choice

Clearly, it would be beneficial for all qualifying leaseholders to have detailed information about the shared equity deal on offer. Many voted in favour of the regeneration based largely on what was previously on offer.

However, with the developer having changed and 12 years having passed, what is currently on offer now appears to be completely different with leaseholders non-the-wiser as to what they are entitled to.

Though shared equity is not an entitlement under the Compulsory Purchase Code, the public and stakeholder consultation was based largely on offers that are no longer in place on a scheme which has a different developer, is far larger, builds different types of properties and is in many ways, completely different to that which stakeholders voted on in 2002.

It is the objectors assertion therefore that the revised scheme with the offers it has for displaced leaseholders is not in the public interest.

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Ground 4 – Sustainable development – housing density

The Planning & Compulsory Purchase Act 2004 Section 39 requires regional and local plans to be prepared with a view to contributing to achievement of sustainable development. Section 1 and 17 require adoption of a Spatial Planning approach and Circular 06/2004 Appendix A paragraph 9 confirms the importance of these requirements in assessing the scheme.

The West Hendon estate currently comprises of 680 one bedroom flats, two bedroom maisonettes and three bedroom houses whilst the proposed development will be for over 2000 properties, thereby creating a significant increase in housing density.

Though the individual Compulsory Purchase Order is pursuant to the construction of 659 residential properties, the Statement of Reasons refers to the wider regeneration scheme of 2000+ properties and as such grounds of objection within sustainable development are on the basis of the overall scheme.

According to the planning statement of 15 February 2013, the current population of the estate is estimated at 1,475 and that will rise to 9,161 once the new development is complete. The first Compulsory Purchase Order will make significant inroads into this ambition being achieved, if consented in its current form.

This increase in density greatly exceeds the recommendations by the Greater London Authority (GLA) and would give permission for four tower blocks to be built as high as 29 storey's (possibly as high as 31 storeys), where there are currently 4 storey blocks.

The Unitary Development Plan adopted by London Borough of Barnet Policy C1(a) referred to in the Statement of Reasons is vague in its reference for the estate for "high density housing." This along with the London Plan Core Strategy contradict the GLA's requirement.

Ground 5 – Sustainable development – environmental impact

The increase in density detailed above would put a significant strain on the local environment.

Along with the reduction in POS already referred to, the increase in density has the potential to create additional pollution. This pollution has the potential to be harmful to both residents and Flora & Fauna. This is particularly relevant with the Welsh Harp Reservoir bordering the proposed development.

The Welsh Harp reservoir is 170 hectares of open water, marshes, trees and grassland and is designated a 'Site of Special Scientific interest.' Being less than 10 miles from central London, it is unusual to find an area of such natural beauty in a location like this.

The construction phase in particular which will include pile driving could be a significant interference with the Welsh Harp area and various pollution to the area from the construction and the affects of a completed scheme. No study appears to have been undertaken to assess the impact on the Welsh Harp in particular.

The proximity to the Welsh Harp is an attraction to many leaseholders who enjoy their views over it and want to maintain its unspoilt nature. The scheme purports to build a 29 storey tower block in close proximity to the Welsh Harp.

Ground 6 – Funding

Sections 6.10-6.16 of the Statement of Reasons state the London Borough of Barnet's belief that funding is place for delivery of the scheme, through a CPO Indemnity agreement (CPOIA) dated 5th February 2014 under which the developer will indemnify the London Borough of Barnet.

In section 6.16, the addresses of the properties required for demolition in CPO required are stated.

There are a large number of properties which have an estimated vacant possession date of March 2017. It is safe to assume that a number of these would be residential owner-occupiers who would be in a position to require the London Borough of Barnet to acquire their properties early under a blight notice, now the CPO has been made.

Should this be the case, the developer's ability to buy the objectors property along with others in the scheme is questionable.

There are also a large number of leasehold properties which are included in the Compulsory Purchase Order on a 'rights of access' basis only. As a high proportion of these are owner occupiers, there is a risk to the budget of these owners serving blight notices to require the London Borough of Barnet to acquire their properties despite not having a need to do so in this CPO.

There is no guidance in the Compulsory Purchase Order that these additional costs have been accounted for in the budget. Therefore, the requirement in Circular 06/2004 Paragraph 16(iii) for the financial viability of the scheme has not been satisfactorily established.

Paragraph 16(iii) also refers to the timing of the funding being of particular importance and as illustrated above, is of particular concern with this scheme.

Ground 7 – Lack of information

My client is losing rights of access which benefit the leasehold property my client owns.

However, despite request, no information has been provided by the acquiring authority as to what rights are being taken. Table 2 references the rights being taken as "rights of access benefitting (the property" but does not elaborate on what these are.

It is only proper that my client is informed (through me) exactly what rights are required, how they will impact on my client, what mitigation works are being taken and what length of time the rights will be taken for.

There is no clarity at the moment whether the rights being taken are minor ones that would have little affect on my clients property or major ones which could have a significant affect.

Ground 8 – No attempts to negotiate prior to CPO being made

Prior to the Compulsory Purchase Order being made, my client had not been made aware that any rights of access would be taken. There is a general sweeping stance on rights of access in one of the consultation documents that is equally unclear and does not advise who it will apply to.

It is well accepted under Circular 06/2004 that the acquiring authority should make reasonable efforts to negotiate for any rights they are taking. Approximately one week ago, their appointed agent wrote to my client inviting them to submit a claim for compensation.

Procedurally, it is for the acquiring authority to make an offer to open negotiations which has not been complied with. My client is also unable to quantify a claim as the acquiring authority have not replied to request for clarification on what rights are actually required.

I have also enclosed a letter from Andrew Dismore, Assembly Member for Barnet & Camden to express his concerns and also his memory of events since the consultation from 2002.

Please acknowledge receipt of this objection.

Yours sincerely

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