

Professor Brad Blitz

7 January 2022

To: Members of the Strategic Planning Committee, London Borough of Barnet

Re: **21/4709/FUL** – Ravensfield House, Fenella Buildings, 1-3 Burroughs Parade, and 3 Egerton Gardens
21/4722/FUL – Meritage Centre, Nos. 32-46 and Nos. 28-30 Church End; Nos. 2-6 Church End
21/4723/FUL – Building 9 and Hendon Library, The Burroughs
21/4724/LBC – Building 9 and Hendon Library, The Burroughs
21/4612/FUL – Land at Car Park, Fuller Street
21/5061/FUL – Land at Prince of Wales Estate, Between Prince of Wales Close and Fuller Street

Dear Councillor,

I am a long-term resident of Hendon, and one of the organisers of the Hendon Residents' Planning Forum, a local group that is deeply concerned about the impact of the proposed development on our community, neighbourhood, and heritage.

We are also concerned about the state of local democracy and are keen to engage meaningfully with the Council, Middlesex University, and their partners to protect and improve our neighbourhood. That is why we proposed alternatives to the Council, including proven ways other local authorities and universities and have employed to finance the redevelopment of campuses and to preserve municipal libraries and community spaces. Regrettably, recommendations based on the successful financing of balanced campus expansion, which drew upon the experiences of UCL and other London universities, were rejected outright by Deputy CEO Cath Shaw.

I am writing to you now, however, regarding the above applications which are due for consideration before the Strategic Planning Committee on 10 January 2022. I have read the public reports pack closely, and believe that you have been provided with documentation that is deliberately misleading and that any decision based on this documentation would fail the tests of bias, unreasonableness, and irrationality, and thus prove unlawful. Any decision by the Committee to approve the applications would then prompt further action, including a request for judicial review, which might then see the Council's decision revoked.

Residents in their hundreds have already raised their objections to the above applications, made on planning grounds, as summarised below.

- 1. The principle of development clashes with local or national policies:** the proposed development, especially the applications relating to the demolition of existing buildings and the construction of new structures in Church End and on the Burroughs (**21/4709/FUL, 21/4722/FUL, 21/4723/FUL, 21/4724/LBC**) are completely at odds with the National Planning Policy Framework (NPPF), the London Plan, and the local authority's own planning policies. The underlying principle for the proposed development is unsound and the technical details of the development clash with existing policy. Further, there are no benefits for the public interest that outweigh the drawbacks of what is being proposed. **None of the four supporters (three of whom are employed by Middlesex University) is a resident of Hendon and lives in the area slated for development.**

2. **Lack of need:** Middlesex University has sufficient dorms which are at a reasonable distance from the campus. Middlesex is no different from any other London university in this regard. Moreover, Middlesex University can build on its existing footprint, as originally proposed in Local Plan Reg. 18 – a site dropped from subsequent plans – and evidenced by its recent decision to redevelop the site housing its real tennis court. Middlesex University's *Access and Participation Plan* 2019-20 produced as these applications were being developed records that the university serves a commuter population, including a large number of mature, part-time, and non-traditional students, who do not require on-site accommodation.
 3. **Overshadowing/loss of privacy:** the developments especially on the Fenella and Ravensfield site (**21/4709/FUL**) and adjacent to the Church (**21/4722/FUL**), will dominate neighbouring properties and threaten their privacy, as well as impacting on congregants of St Mary's Church. It is an incontrovertible fact that the location of the proposed developments on the Burroughs and Church End will have a negative impact on the surroundings.
 4. **Harm to the host building** – the Library: although a separate planning application has been submitted for listed building consent (**21/4724/LBC**), the proposed development will make significant and permanent changes to listed features, including the roof.
 5. **Detrimental impact on neighbouring amenity:** all of the applications (**21/4709/FUL, 21/4722/FUL, 21/4723/FUL, 21/4724/LBC, 21/4612/FUL, 21/5061/FUL**), will have a negative impact on the neighbouring amenity i.e. the residents' quality of life, as set out in the London Plan which defines amenity as "an element of a location or neighbourhood that helps to make it attractive or enjoyable for residents and visitors". The rationale for development, to introduce an additional 565 students (*in fact 1700 in the Local Plan Reg. 19*) has generated much anxiety from residents who have reported antisocial behaviour including crime, drugs, litter, and noise. Despite Middlesex University's existing policies, and the assurance that it will manage the new dorms, **the university has proven incapable of preventing antisocial behaviour, including two murders on its Hendon campus and in one of its dorms**. In addition, the buildings by virtue of the design, scale, and mass, will dominate the street scene and have a negative effect on the lives of residents, which will only be exacerbated by the introduction of even great numbers of students housed in the vicinity.
- Loss of homes:** the proposed developments on the Burroughs (**21/4709/FUL**) which would replace Ravensfield House, Fenella Building, 1-3 Burroughs Parade and 3 Egerton Gardens, and at 28-30 Church End (**21/4722/FUL**) will result in loss of family homes, and buildings which Barnet Council in its 2011 and 2012 Character Appraisals, and more recently Historic England identified as making a positive contribution to the area. Such demolition is not warranted.
6. **Negative effect on character and appearance of the area:** all of the proposed developments (**21/4709/FUL, 21/4722/FUL, 21/4723/FUL, 21/4724/LBC, 21/4612/FUL, 21/5061/FUL**), and have been criticised by Historic England, the Barnet Society. The proposed developments span two historic conservation areas that define Hendon, which would be forever changed.
 7. **Traffic and parking pressures:** all of the proposed developments (**21/4709/FUL, 21/4722/FUL, 21/4723/FUL, 21/4724/LBC, 21/4612/FUL, 21/5061/FUL**), will generate greater traffic and increased pressure on existing car parking, even with the proposed offer of re-provision. Put simply more students will mean many people and more cars. The university's assurances have not prevented the increased and improper parking of cars all around Church End and Greyhound Hill, and we, therefore, have no basis to believe they can enforce parking in the area.

The public reports pack prepared for the Strategic Planning Committee meeting of 10 January 2022, contains multiple errors of fact, numerous typos, and is by all accounts a rushed and sloppy document. There are too many contentious points to mention below, given that this is a 400-page document that includes seven planning applications. I, therefore, set out the **most egregious examples of bias and factual inaccuracy.**

MATERIAL CONSIDERATIONS: THE SPD (BURROUGHS AND MIDDLESEX UNIVERSITY) AND LOCAL PLAN (REG. 19).

National planning practice guidance (NPPG) explains that a material planning consideration is one that is relevant to making a planning decision to grant or refuse an application for planning permission.

Over the past two years, Barnet Council has led consultations over development plans, including on the future of Hendon, the Burroughs, and Church End. These include the production of a draft Supplementary Planning Document (SPD), Business Case for the Hendon Hub development, and a draft Local Plan (Reg. 19), all of which have already been approved by Council on 20 July 2021, 27 July 2021, and 19 October 2021, respectively.

The Council maintains that the SPD has not yet been adopted, and yet may still lend material weight to applications. Residents have challenged this assertion, and one, Richard Lecoat, has filed a request for judicial review. While it is for the court to determine the lawfulness of the SPD, what is evident from the reports pack is that the Council is both trying to have its cake and eat it.

On page 15 of the reports pack, the authors write 'A number of local and strategic supplementary planning guidance (SPG) and documents (SPD) are material to the determination of the application.' They then introduce the following:

"The Burroughs and Middlesex University Supplementary Planning Document (SPD) has not yet been formally adopted. The Council has been advised by leading and junior counsel that although not adopted, the draft SPD nonetheless may be regarded as a material consideration. The Council has also been advised that the weight to be given to any material consideration is a matter of planning judgement. The draft SPD is yet to be formally adopted. The Chief Executive has also been delegated 'to make any necessary minor changes to the SPD in consultation with the Chairman of the Committee before its final publication'. That process has yet to be undertaken. The draft SPD is also supplementary to proposed policies in the emerging plan (Barnet's Draft Local Plan) some of which are subject to objection and all of which have yet to be subject to independent examination by an inspector at an examination in public. In addition, the draft SPD is currently subject to an application for judicial review. The Council is robustly defending its position and hopes to be successful in those proceeding [sic.]. However, if the judicial review application were to be successful and if the Council had relied on the draft SPD in the determination in favour of the grant of this application there would be a possible risk that it might be regarded as having contaminated the lawfulness of its decision to grant planning permission. That risk however small can be avoided if the draft SPD is not given any weight. Accordingly, having regard to all of these factors, officers have exercised their planning judgement and have not given the draft SPD any weight in the determination of this application."

The above statement raises several questions:

1. If the Draft SPD is relevant and material, then why is it not given any weight to the applications?

2. If the draft SPD is given no weight, then what of the many responses to the document, and the consultation process? Do these also have no weight?
3. Having spent more than two years developing the SPD, advocating for it, and defending the lawfulness of the document approved on 20 July 2021, how can officers reasonably maintain that they are not influenced and can remain impartial?

There is the further **matter of bias or at least appearance of bias**. The substance of the above planning applications has been given recent consideration in the Hendon Hub Business Case, and arguably also the Local Plan (Reg. 19), which makes specific reference to the 'emerging SPD' and lists the draft SPD as a source to support the proposed developments in Hendon.

Councillors have *already voted* to approve the Hendon Hub Business Case and Local Plan (Reg. 19), based on descriptions and designs, which are replicated in the above planning applications.

While the application documents are not identical to those presented before the Council when it approved the draft SPD, Local Plan, and Hendon Hub Business Case, the rationale and outline of the developments i.e. the declared purpose of the proposed developments – which has been overwhelmingly contested by residents -- is the same. ***Hence, it is difficult to see how a councillor who voted to approve say the construction of new buildings on the Burroughs and Church End, based on the same specific information provided, might vote otherwise, and how they could be considered impartial.***

The suggestion that Barnet Council can now consider the above applications is therefore irrational and perverse.

IRRATIONALITY: NON-COMPLIANCE WITH EXISTING POLICY

The officers are correct that the London Plan, and the development plan documents in the Barnet Local Plan 2012, are the statutory development plans which serve as the main policy basis for the consideration of these planning applications. Barnet argues that these Development Management Policies provide the borough-wide planning policies that implement the Core Strategy and that these policies will be used for day-to-day decision making. What is being proposed, however, does not comply with the existing policy.

In our comments on the above applications, and on the designs previously shared with the Council, regarding the Hendon Hub Business Case, we have identified major inconsistencies with existing policy. In particular, we note that applications **21/4709/FUL, 21/4722/FUL, 21/4723/FUL, 21/4724/LBC** are at odds with existing policy as set out in both the Local Plan 2012 and London Plan 2021 and that the officers have incorrectly asserted otherwise.

Growth, Sustainability, and Neighbourhood Policies

Regarding Barnet Local Plan 2012 - GSS01 Delivering Sustainable Growth, we note that Hendon does not feature in the locations targeted for growth, which stops at West Hendon. The 2021 proposals, which the Council approved in July 2021, list growth areas including Brent Cross, Colindale, New Southgate, and Mill Hill East as well as town centres at Burnt Oak, Chipping Barnet, Cricklewood, Edgware, Finchley Central, Golders Green, and North Finchley.

Further, the Draft Local Plan Reg. 19 states, 'outside these locations, growth has been supported in places with capacity for change and where local character and distinctiveness are recognised' (Local Plan Reg. 19, page 23). This condition is not satisfied in the above applications. The proposed

developments spanning the two conservation areas of the Burroughs, and Church End, do not seek to protect the character and distinctiveness, as previously recognised in the 2011 and 2012 Character Appraisal Statements.

The proposals by virtue of their size, scale, and density pose major threats to the character of the area. This fact has been recognised by Historic England in two letters submitted to the Council, on 22 February 2021, and 19 July 2021, where this heritage body identifies significant harm resulting from the proposed developments in the two conservation areas, including the proposed alterations to Hendon Library, and the erection of unsympathetic buildings on the Burroughs, and more importantly, the overdevelopment of buildings in Church End, overlooking the ancient church.

Further, the London Plan 2021 seeks to promote “Good Growth - growth that is socially and economically inclusive and environmentally sustainable”. A central pillar of the Good Growth ambition is Policy CG1 – Building Strong and Inclusive Communities. The proposed developments conflict with this policy which qualifies that buildings should “work with local heritage and identity, and social, physical and environmental infrastructure that meets London’s diverse needs”, and further recommends taking advantage of the knowledge and experience of local people, and early engagement with local people to arrive at better planning proposals.

As noted above, the proposed developments are out of keeping with the local area and have been contested by residents in their hundreds, as well as the Barnet Society and Historic England. Further, we note that the Council did not engage early with “local people” but concealed plans from the public, which has led to recent legal challenges, including a case before the First Tier Tribunal.

The proposed developments run counter to the London Plan and do not meet the area’s objectively assessed needs. They are therefore not consistent with the aim of achieving sustainable development. We note that Middlesex University is not only financially struggling, but cannot provide evidence why the construction of student dorms across the street from the campus would improve the student experience, which is by all accounts measured by the quality of academic course, teaching facilities, and graduate opportunities. The university’s claims are based on nothing more than supposition and are contradicted by recent extensive surveys by the Higher Education Design Quality Forum.¹

The London Plan Policy SD1 Opportunity Areas advises that “The quality and character of predominantly residential neighbourhoods, where more local uses predominate, should be conserved and enhanced.” It also advocates, using the ‘Healthy Streets Approach’ “to create vibrant neighbourhoods that are appealing places to walk, cycle and spend time, and providing local people with access to the facilities and services that they need.” Crucially it emphasises that “the quality and character of the [Central Activities Zone] CAZ’s predominantly residential neighbourhoods should be conserved and enhanced.” **Residents have already indicated to councillors in their hundreds that rather than conserve neighbourhoods, the proposed developments would devastate this heavily residential community, by enlarging the Middlesex University campus around them.**

There has been tremendous public opposition to the proposed development in the above conservation areas, and particularly with respect to the heritage assets on the Burroughs (the Library), and around Church End. This includes two petitions which included some 2000 signatories in total, and formal objections raised by letter and in Council meetings. **The proposed developments provide no public benefits to residents and have also been opposed by the Barnet Society. Moreover, not one of the just four supporters is a resident, and then any suggestion of building inclusive communities, while dismissing the universal opposition from residents, is again, perverse and irrational.**

¹ See HEDQF – STUDENT LIFE *Student views of their university*, 2021. Available at: <https://www.hedqf.org/wp-content/uploads/2021/06/HEDQF-Student-Life-2021-short.pdf>

Heritage, Design and Street Scene

The 1990 Listed Buildings Act, the National Planning Policy Framework (NPPF), the London Plan and local plan, provide the framework for decision-making on heritage applications. At paragraph 192, the NPPF emphasises "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation". There is no evidence here that the proposals for the redevelopment of the Meritage Centre site, or the Ravensfield and Fenella buildings enhance the existing heritage assets. Rather, the officers have minimised the heritage impact of the proposed developments.

They report that there are no heritage objections to proposal **21/4709/FUL** – Ravensfield House, Fenella Buildings, 1-3 Burroughs Parade, and 3 Egerton Gardens and that there is approval to propose 3 to 4 storey buildings in Church End, as stated in **21/4722/FUL** – Meritage Centre, Nos. 32-46 and Nos. 28-30 Church End; Nos. 2-6 Church End.

The officers have selectively interpreted the advice received from Historic England, which recognised the importance of the heritage assets included within the areas proposed for in two letters submitted to the Council, on 22 February 2021, and 19 July 2021. **In its letter of 19 July 2021, Historic England identifies on ten occasions, significant harm resulting from the proposed developments in the two conservation areas**, which include proposed alterations to Hendon Library, and **the erection of unsympathetic buildings** on the Burroughs, and more importantly, the overdevelopment of buildings in Church End, **overlooking the ancient church**.

It is also important to record that the officers ignored the cautionary advice from Historic England, which recommended that low-rise structures would be appropriate for the area where the Meritage Centre currently sits and that **the test for harm to heritage is the overall setting, not simply the replacement of buildings**. They also ignore the advice from Historic England that the demolition of 28 Church End, a positive contributor to the conservation area, would cause harm to the conservation area, made worse by the loss of 30 Church End,

"The small size and fragility of this conservation area means that the loss of these buildings has a considerably greater relative impact on the conservation area than it would in many other conservation areas."

Regarding the student accommodation proposed to replace the Meritage Centre. Historic England writes:

*"However, the area of each of the two proposed blocks in the conservation area is comparable to that of the church. **This is considered an excessive size and coarseness of grain in a conservation area the character of which is fundamentally defined by being a historic hamlet that consists of small domestic buildings that are subservient to the church in terms of their size. While the grain of the Meritage Centre is too coarse, the proposed development would make this worse.**"*

Also, while the July 2021 letter from Historic England does not deal with the proposals for the Ravensfield and Fenella sites, they provide advice regarding the replacement of Building 9 that is relevant:

"Symbolically and visually it would cause a degree of damage to the setting of the town hall for a neighbouring building to be higher than the town hall, which should in terms of the hierarchy of classical architecture be the dominant building."

Moreover, in the letter of February 2021, **Historic England advised that future landmark buildings should not compromise existing landmarks**, including the Town Hall and Library Building – advice which had not been heeded. **The proposals on the Burroughs include plans for buildings up to 7 storeys, immediately opposite the Grade II listed Town Hall and Library, both of which are just 2-3 storeys high.** The proposed development is located between two historic conservation areas. While the land where Ravensfield and Fenella buildings currently sit is not within a conservation area, again, the test for harm to heritage is the overall setting, not simply the replacement of buildings. It is incontrovertible that the proposed development on the Burroughs will have a detrimental effect on the character and setting of other landmarks, such as the Hendon Methodist Church, a 1937 Art Deco church constructed by Welch and Lander and part of the 20th Century Society’s Campaign for Outstanding Buildings. The above suggests a breach of compliance with Section 16 from the NPPF concerning conserving and enhancing the historic environment.

The proposed new library is indicative of poor design. **Poor design is not just about how a building looks – it is also about how a place and building will function in the short and long term.** There is insufficient space to cater for all the activities listed, and organisations promised homes in this building. **This is clearly contradictory to national planning policies concerning achieving high-quality design – as laid out within Section 12 of the NPPF and the National Design Guide; as well as Policy D4, D5 from the London Plan concerning Design; Policy CS5 and Policy DM02 and DM05 from the Barnet Local Plan 2012.**

The proposals by virtue of their size, scale, and density pose major threats to the character and heritage of the area, as outlined in the 2011 and 2012 Character Appraisals for The Burroughs and Church End and therefore conflict with Barnet Local Plan CDH08 Barnet’s Heritage. Similar arguments can be made regarding **Urban Design (Barnet Local Plan Policy CDH01 Promoting High Quality Design) and impact on Barnet’s District Town Centres (GSS08)**, given that the developments will dominate the civic centre of Hendon, and the administrative seat of Barnet.

Biodiversity and Environmental Concerns

During the consultation period for the SPD, Hendon Hub, and Local Plan Reg. 19, Barnet Council did not conduct an Environmental Impact Assessment to assess the likely significant environmental effects of the development around the proposed development. Although the Scoping Report was dated 2 June 2021, it was not available for public consideration until 16 July 2021, and hence there was no opportunity for public consultation. We also note that Natural England was not consulted in the production of the officer’s report. Thus it did not comply with regulation 18(4) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, nor provide the opportunity for early engagement on environmental matters contrary to the London Plan 2021.²

Apart from roosting bats, neither the Scoping Report, nor the Environmental Assessment documents mention other protected species that we know live on those sites including certain birds, and slow worms. Moreover, they offer no specific suggestions as to how the applicant will mitigate the effects of development on the natural environment on these species, and thus these applications run counter to *Barnet Local Plan Policy ECC06 Biodiversity*.

² Barnet published a Scoping Report on 2 June 2021, which was recommended by Hardeep Ryatt, Principal Planner - Major Developments on 12 July 2021. This document was signed off by Fabien Gaudin, Service Director – Planning and Building Control on 16 July 2021.

The demolition of perfectly sound, existing buildings undermines Barnet’s policies on environment and climate change including those contained in the Local Plan 2012 - ECC01 Mitigating Climate Change and ECC02 Environmental Considerations. The 2021 Industrial and Decarbonisation Strategy recognises the role the construction sector plays in achieving the government's net-zero target. It, therefore, sets guidance including efforts to decarbonise construction, by increasing the circularity of materials and repurposing of existing buildings. **The proposed developments conflict with the National Planning Policy Framework (NPPF), as well as the UK’s Industrial Decarbonisation Strategy 2021, and *Our Waste, Our Resources: A Strategy For England, 2018* which recommends keeping materials in use for as long as possible.**

ABUSE OF PROCESS: NON-TRANSPARENCY AND MISDIRECTION

On 29 May 2019, LB Barnet, published ‘Project Brief including Strategic Outline Case (SOC) – Proposed Hendon Redevelopment’ which identified the Ravensfield, Fenella, and Meritage Centre sites in Hendon, which are before the Committee for consideration. We note that this document was withheld until 17 June 2021, and only made public following a Freedom of Information request by Brad Blitz on 20 April 2021. This document explicitly sets out that

“The rationale to support the development of this Project [sic.] is derived from LBB's strategic objectives to maximise capital and revenue opportunities and provide for a sustainable financial future.”

These applications are therefore not motivated by a concern to provide affordable housing, better educational provision, or improve the street scene, as the officers maintain, and any suggestion otherwise is simply further indicative of bad faith.

To date, Barnet Council has refused to publish all documents related to the business case and has also failed to provide the legal advice stated in the Reports Pack. Nonetheless, residents have conducted further studies, and believe that the Council is seeking to enter into a weak covenant with Middlesex University, that could imperil the Council's finances, even to the point of bankruptcy, following the example of Croydon, Slough, and Spelthorne. For this reason, local chartered accountant Alexander Fischbaum prepared detailed letters which were sent on 27 July 2021 to both the members of the Council and the Council’s auditors (BDO), addressed to the Complex Insolvency Team.

The Council has spent tens of thousands of pounds on planning but has not requested its auditors or similar to provide an opinion regarding the financial standing of the only tenant, i.e. Middlesex University, contrary to its fiduciary duties. As Mr. Fischbaum explains, the weak covenant of the university exposes the council to future costs, should the university be unable to afford the upkeep of these buildings, not to mention the prospect of further redundancies at the University.

Regarding the viability of Middlesex University, we wish to draw the Committee’s attention to the fact that on **14 October 2021 wrote to the UK Government Insolvency Service to give advance notification of 43 redundancies including in the Faculty of Health, Social Care, and Education** – areas which Middlesex University COO, James Kennedy, assured the Council were indicative of the university's social value to Barnet. **Put simply, relying on Middlesex University puts Barnet Council at risk of lost council tax receipts, additional costs of maintenance, security, insurance of buildings, and further costs to convert buildings to other uses since university and student accommodation cannot simply be repurposed for other users.**

Since the developments were first proposed, the higher education and environmental landscape has changed remarkably. While Middlesex University’s own documents record that it is principally a

commuter university, it has also experienced many significant threats to its income. Some of these relate to its reputation, now near the very bottom of UK universities (123rd/132), and its difficulties of recruiting and retaining students, and preparing them for graduate careers. **Crucially, the University will be hit hard as a result of the 2021 cuts in funding for art and design courses.** We note that the subsidy for each full-time student on an arts course has been reduced by 50% from £243 to £121.50, just as Middlesex University is seeking to expand its provision in this area, including by building a new creative arts building on the Burroughs! Further, the anticipated changes in Higher Education policy, including possible reductions in tuition fees, and lowering the repayment threshold to £22,000 will devastate both teaching-intensive universities with little reserves, and poor students who will be forced to take on more debt, and earlier in their careers. In addition to the rising inflation and maintenance costs (heating and electricity), these scenarios can only harm Middlesex University.

Given the above context, **we have reached the conclusion that:**

- 1. the above applications are not being proposed to advance the public interest;**
- 2. this process has a built-in bias, and**
- 3. officers are deliberately misdirecting the Committee, raising potential charges of misconduct.**

These claims are further substantiated by the revelation on 5 January 2022 by Mirnali Rajaratnam of HB Public Law, that the officer's reports are not informed by legal advice. She writes, "There is no separate written opinion or document upon which the report relies for these opinions."

Any decision to approve these applications would therefore be irrational, unreasonable, and unlawful.

We, therefore, urge you to reject the above applications and allow residents to engage meaningfully with the Council and Middlesex University in the preparation of a Community Development Plan, which we believe will strengthen the community, enhance our heritage assets, and provide a means of protecting the future of the university in this most difficult hour.

Yours sincerely,



Professor Brad Blitz