

Dear Chair,

Applications: HGY/2022/4552 and HGY/2023/0236

1. I am grateful for the opportunity to speak at the committee meeting. The reason I am writing this letter is there are important points that need to be taken into account by the committee, that three minutes per speaker against the application cannot accommodate, especially with the new material that was uploaded on 27/10/23. This note addresses:
 - a. Consultation;
 - b. Response to new material; and
 - c. Mischaracterisations and material omissions in the Planning Officer's report ("Report").

Consultation

2. Comments from various Haringey departments have been posted seven and a half months after the originally publicised consultation deadline.¹
 - a. 13 October 2023 – Conservation officer's comments on both applications.
 - b. 16 October 2023 – Design officer's comments on both applications.
 - c. 18 October 2023 – Transportation planning comments on HGY/2022/4552.
 - d. 19 October 2023 – Health in All Policies Officer's comments on HGY/2022/4552.
 - e. 24 October 2023 – Head of Building Control's comments on HGY/2022/4552.
 - f. 27 October 2023 – Arboricultural Officer's comments on HGY/2022/4552.
 - g. 27 October 2023 – Carbon Management comments on HGY/2022/4552.
3. On 27/10/23, six working days before the planning committee's meeting, the council uploaded at least fifteen (15) new documents from the applicant that had not been made available to the community for the original consultation nor for the revised consultation deadline (that had not been advertised to the community). This includes the independent financial viability review by BNP Paribas, and developer's responses, which were available from March, April and May 2023. These are critical documents to the objections raised by the community on affordable housing.
4. The local community are not planning experts and I feel that the community has not been fairly consulted with further documents being provided after the consultation process has been closed to the community.

Response to the new material

5. The independent financial viability review is not robust because relevant factors have not been taken into account.
6. *Comparators*: BNP Paribas were not invited to consider two schemes surrounding the application site to assess value per square foot, namely Caxton Square (0.7 miles from the site) and Campsbourne Well (1 mile from the site), which were both proposed in the consultation response seeking an independent review of the financial viability

¹ The original deadline given was 24/2/23. Due to confusion on publicised deadlines for HGY/2022/4552 and HGY/2023/0236 this was extended to 8/3/23. It is noted that planning website has since updated to say the end of the consultation period was 18/8/23 – this was not notified to the local community.

assessment. These comparator developments were raised in my response of 23/2/23 before BNP Paribas' report.

7. *Lifecycle*: Neither applicant nor BNP Paribas take into account value of the land over the lifecycle of the development. If what applicant says is true, the assessments do not take into account the increased value of the land following the alleged increased amenity and attraction of the site.
8. *Affordable housing assumptions*: BNP Paribas note that the applicant and developer: “have not undertaken an assessment of the proposed Development including the provision of affordable housing. Therefore, we are unable to comment upon their assumed affordable housing values.” This means that the bare assertion that affordable housing is not viable omits a critical aspect of the analysis, i.e. the difference between the realisation of a development with and without affordable housing provision.
9. *Private enrichment*: BNP Paribas itself observes in the March 2023 review that “There are no provisions in the PPG nor in the Local Plan that requires the Council to set aside the normal approach to viability in order to fund the works to a third party’s assets” and refers to the Sandown racecourse decision, which concluded a standard approach to testing viability should be adopted. Works for the benefit of the applicant’s third-party assets and the value of private enrichment of the applicant is:
 - a. Repairs to the church - £206,325 (Planning Statement ¶7.21)
 - b. Build of the new church hall - £790,331 (Planning Statement, ¶7.21)
 - c. Flat for the pastor - £545,000 (Braemar Avenue FVA Report – Redacted, ¶9.2)
 - d. Total: £1,541,656.
10. The costs of the development, reduced by that £1,541,656, indicates that on-site affordable housing is viable.
11. *Available flats*: The applicant responded to BNP Paribas to say that one of the flats will be for the pastor. In response, BNP Paribas reduced the realisation by the value of one 3-bed flat (from 15 available flats to 14) however, the developer’s websites advertise that the development will have 16 apartments (see Appendix 1). Therefore, the realisation cannot be reduced by one flat or there are significant concerns between what is being presented as the proposed build to the committee and what is intended by the applicant. Even if Appendix 1 is incorrect, the provision of a flat is a wholly private benefit for the applicant, especially as a manse has not formed part of the applicant’s site prior, and the realisation should include the value of the manse.
12. *Infrastructure levy*: the applicant in its response of 12 April 2023 states that “we have amended the planning obligation payment, on the basis of excluding the church extension, which is in use and therefore does not fall under any Haringey CIL payment obligations.” However, the reduction it contends for amounts to not paying Haringey’s community infrastructure levy for 242.73 sqm:
 - a. In the original financial viability assessment - £261,697 based on £229.21 per sqm: $£261,697 / 229.21 = 1,141.73$ sqm
 - b. In the applicant’s response to BNP Paribas - £220,335.91 based on £245.09 per sqm: $£220,335.91 / 245.09 = 899$ sqm
 - c. $1,141.73$ less $899 =$ 242.73 sqm.

13. As can be seen from figure 4.2 in the heritage statement, it is risible to suggest that the 1950's extension in use is 242.73 sqm in size.



14. The applicant's approach to the community infrastructure levy demonstrate that the applicant is avoiding any public benefit to Haringey, and is inflating its deficit to avoid meeting the planning requirements for affordable housing.
15. The financial viability assessment, contending that affordable housing is not viable, is not robust.

The Planning Officer's report ("Report")

16. There are mischaracterisations and material omissions from the Report. In doing so, the planning officer has not complied with her legal duty to take into account consultation responses properly.
17. The extent of the mischaracterisations in the Planning Officer's summary of the community's responses is so great that it would not be proportionate to set them out here in full. I urge the committee to consider the actual community's responses to understand the nuance thereof, including the repeated areas where the application does not comply with national, London, and Haringey planning law and policy. The Report fails to address the areas of non-compliance with planning policies which have not been complied with in her report.
18. In respect of the community responses, the most significant omission by the Report is the failure to engage with the response concern that this is an "Enabling Development", which was unclear in the application, but has been made explicit by the Report thereby rendering the absence of engagement by the Planning Officer a serious omission.
19. The "Braemar Avenue FVA Report – Redacted" at p.9, ¶9.2, of– refers to "enabling costs" and an "enabling agreement", but the Planning Statement and Heritage Statement make no reference to the development being an Enabling Development within the scope of Historic England's guidance "Enabling Development and Heritage Assets". BNP Paribas makes explicit that it understands that "[t]his [the applicant's viability assessment] is not strictly an 'enabling development' assessment", p.15, ¶5.1. However, the Report, at p.13, ¶2.6(1), indicates that this is in its substantive nature an enabling development, because the mitigation for not complying with planning policies is the repair of a designated heritage asset (though it also includes the provision of a free flat for a pastor, which is strictly a private benefit on any view). This is the first explicit statement that the proposed development is, in reality, an enabling development.

20. DM9, section J, states:

“The Council will approve proposals for enabling development where it is demonstrated that:

a It is the only viable means of securing the long term future of the asset affected; and

b It is the optimum viable use, supported by an appropriate options appraisal; and

c The proposals address relevant policies (A-I) above.”

21. The applicant has not provided any enabling development assessment that addresses these requirements at all or any justification as to why this development is not an enabling development. These matters impact on the financial viability assessment.

22. This is entirely inconsistent with Historic England’s guidance “Enabling Development and Heritage Assets: Historic Environment Good Practice Advice in Planning Note 4. Historic England do not appear to have been properly consulted on the demolition of a non-designated heritage asset, namely the tin tabernacle, and that this is a potential enabling development.

23. These are fatal failures to the planning application.

24. What follows is a table setting out the mischaracterisations and omissions in the Report.

Thank you for your consideration.

Kind regards,



Planning Officer's Characterisation/Material Omissions [mischaracterisations in yellow; omissions in red]	Correction	Reference
<u>Re: the Application and Report</u>		
“The applicant has confirmed that there would also be the opportunity for the new church hall to be used by the local community.” (p.27, ¶6.2.19, Report)	The applicant is very clear that the new church hall is not for the local community; it is being provided for a very specific religious denomination. The applicant itself states: “The church hall will serve the church and its congregation in the first instance. The initial brief of the project is to re-provide the church hall for the Sunday school and associated church activities. The church has been at the site for many years and will continue to serve that need. ... <i>Where there is further capacity to accommodate other uses</i> in the church hall, the church will very much welcome discussions with the community about that use.” (Emphasis added.) The application has no intention for the local community to use the new church hall; the height of the community benefit is they will have discussions with the local community. This does not satisfy paragraphs 92(a) and 93(a), (b) and (e) of the National Planning Policy Framework (“Framework”).²	Doc: “Statement of community involvement
“The new church hall may also be hired for other appropriate events, which can be a vital small income stream for the	This is not specified in the applicant’s planning statement or statement of community involvement or any of the other narrative documents submitted by the applicant. There is no source for the Planning Officer’s conclusion.	

² As updated in September 2023.

church.” (p.27, ¶6.2.19, and p.160, Report)		
“The Conservation Officer advises that the tin tabernacle is ‘curtilage listed’” (p.33, ¶6.4.13, Report)	(1) This appears to refer to the comments of Elisabetta Tonazzi; Principal Conservation Officer posted on 13/10/23. Ms Tonazzi does not describe in that representation that the tin tabernacle is ‘curtilage listed’. (2) Historic England’s website, being responsible for maintaining the register of listed buildings, makes no reference to the concept of “curtilage listed”. It says: “<i>Unless the List entry states otherwise, it includes both the structure itself and any object or structure fixed to it (whether inside or outside) as well as any object or structure within the curtilage of the building.</i>” (3) It is a material omission that there is no assessment of the tin tabernacle as a non-designated heritage asset in line with paragraph 196, and 199 to 208 of the Framework.	
Inadequate assessment of heritage assets		
“Historic England – no objection” (p. 20, Report)	(1) Historic England’s responses were “...<i>we are not offering advice. This should not be interpreted as comment on the merits of the application.</i>” (2) Historic England do not appear to have been informed that this was potentially an enabling development. Statutory consultation is therefore wholly inadequate.	“Comments from Historic England”, letter dated 13/2/23. (p.157-158, Report)
“3 bed...3 units... Officers consider the scheme provides a good mix of units which would deliver a range of unit sizes and includes 3 family sized units to meet local housing requirements.” (p.30, ¶6.3.12, Report)	There are only two 3-bed units available to meet local housing requirements. One of the 3-bed units has been reserved for the applicant’s pastor which is clear from p.9, ¶9.2, of the Braemar Avenue FVA Report – Redacted, which refers to the unit reserved as unit 1.2, read with p.23 (unpaginated in pdf), the <i>Residential Accommodation Schedule Option 1</i> table, which notes unit 1.2 is a 3-bed unit.	Braemar Avenue FVA Report – Redacted.

The development's "overall height will remain below the ridge height of the main church roof." (p.46, ¶6.5.11, Report)	(1) I can see no measurements of proposed total height of the development in the construction logistics plan, structural engineering report, Design and Access statement, and no measurements have been provided of the ridgeline of the church. (2) The design documents appear to show that the height of the fourth story will exceed the height of the ridge of the church.	Example: "045-1802_GA_040_Braemar Ave. Proposed Elevation A"
No enabling development assessment	See letter.	
No loss of amenity assessment	The Report states neighbouring properties will not be materially impacted by the loss of amenity (p.54-56, ¶6.7). There is no evidential basis for that conclusion. The applicant has provided no assessment of the loss of amenity and steps to avoid loss of privacy (DM1 Haringey's DPD) and noise. <u>Privacy</u> In <i>Fearn and others v Board of Trustees of the Tate Gallery</i> [2023] UKSC 4, the Supreme Court concluded that the Tate Modern's viewing platform caused a substantial interference with the peaceful enjoyment of the residents' property because it was an exceptional use of the Tate's property. It is an exceptional use of the church's land, which was not residential, to build residential flats that exceed the height of other residences opposite and have balconies where no other house on the street has a balcony on the front of the building. The lack of assessment of loss of amenity means the applicant and planning officer have not taken into account these issues. <u>Noise</u> There is no assessment of noise nuisance caused by the build. There is no noise assessment addressing repairs to the church, which is the object of a number of noise complaints that have been made to Haringey, due to the lack of sound insulation of the main church building.	

APPENDIX 1



Braemar Avenue Baptist Church, a Grade II listed building, previously sat alongside an unused and dilapidated tin tabernacle. So the church approached us to see how they could use the site better for the benefit of the whole community.

We've designed a new four storey building to sit on the site of the old tin tabernacle, including a new community space on the ground floor for both the church and the wider community – helping to bring everyone together. Above the community space sits 16 new apartments, including 1, 2 and 3 beds, providing much needed new housing for the area. One of these apartments will be gifted to the pastor.

The new development tapers back from the street building line so as not to dominate the Grade II listed church building. The material palette is representative of the local vernacular, whilst also giving homage to the 'tin-tabernacle' – a derelict structure previously occupying the site

