

Our Ref: 20168 LPA1 GC

Development Management,
Planning and Place,
Royal Borough of Kensington and Chelsea.

Via email to: Alison.Long@rbkc.gov.uk

F.A.O Alison Long MRTPI, Principal Planning Officer, South Area

14th April 2021

Dear Ms, Long,

PP/21/01425 Demolition of existing building and redevelopment for new building up to five storeys (Use Class E); basement excavation works; creation of a courtyard area at ground and lower ground levels; roof terraces; landscaping works; installation of plant; and associated works. (MAJOR APPLICATION) at 81-103 (odd) King's Road, LONDON, SW3 4NX

I write to **OBJECT** to the above planning application, on behalf of the Directors of the Board of Charles II Place Management (1991) Limited ("the Board of CIIP"), in relation to this neighbouring redevelopment. The Board of CIIP also own no. 51 Charles II Place. It is requested that the strong objections raised with regard to the impact of the proposal on the residents of Charles II Place (CIIP) are taken fully into consideration prior to determination of the application.

In summary, the Board of CIIP object to the planning application on the following grounds:

- **Adverse impact on daylight to a number of the CIIP houses.** 17 Charles II Place properties will fall below the suggested the BRE guidelines, with 7 of these properties experiencing a significant reduction in light that exceeds even the alternative target values considered appropriate. The reduction in light will be noticeable and leave these properties with unacceptable levels of light in the post development condition. This is contrary to the requirement to ensure that good standards of daylight are achieved in existing properties affected by new development; and where they are already substandard there should be no material worsening of conditions.
- **Overbearing and dominating adverse impact due to the height, scale and massing of the proposed building.** The proposal is out of character and will

visually dominate and have an unacceptable overbearing impact on the neighbouring CIIP houses, harmfully increasing the sense of enclosure to these existing houses and their gardens.

- **Loss of privacy from overlooking of CIIP houses.** The position, and the potential for opening, of the proposed windows in the new development will create the potential for overlooking and the perception being overlooked in the neighbouring houses, counter to the requirement to ensure the reasonable visual privacy of the residents. This will adversely impact on the standards of amenity that residential occupiers should reasonably be expected to enjoy.
- **Noise and disturbance to residents.** The proposed layout of the site, bringing the building and associated activity closer to CIIP and the introduction of potentially a wide range of uses and occupiers, has the potential to harm the reasonable enjoyment of the adjacent CIIP residents through increases in servicing, parking, noise, disturbance, potentially odours and vibration.
- **Impact on access to CIIP.** The CIIP Estate has rights of way across the application site and any scheme will clearly have a huge impact on the 51 houses comprising the Estate; this applies obviously not only to the owners of the houses but also in respect of services, deliveries, and of course emergency services. The free use of those rights is critical to the enjoyment and use of the CIIP houses. It is unclear from the submission how rights of access to CIIP will be impacted upon by the proposal. Any impact on CIIP's existing accesses would mean that the development proposals would be incapable of lawful implementation.

It is submitted that on the basis of the above grounds, the proposal is contrary to the development plan. Our considered assessment of the proposal has concluded that there are no material considerations to outweigh a decision other than in accordance with the development plan.

1. Background to the objection

- 1.1 Charles II Place (CIIP) is a private residential estate, which directly abuts the application site to the south and east. It is a development of 51 houses built in 1989 and forms a quiet enclave behind the King's Road. It was designed to take account of, and to complement, the development of the adjacent M&S store, which was under construction at that time. In fact, vehicular and pedestrian access from CIIP is achieved across the M&S site/ the western part of the current application site. Due to the layout of CIIP, it is considered nearly half of the houses and their residents will be directly affected by the current proposals in terms of the adverse impact on daylight, outlook, sense of enclosure, overlooking, noise and disturbance from proposed uses and activities at the site. All residents will be affected by the potential impediment of the egress from the estate, by noise and vibration during the construction, and disturbance

from the use of the finished development. Many of these houses sit at a lower ground level than the M&S site and, therefore, with the proposed scheme showing a materially taller and bulkier building and increased footprint closer to the CIIP properties, it is strongly submitted that this dilutes the synergy from when the overall development was built in 1989 and creates a squeezed and unacceptably dominating/unneighbourly relationship to the detriment of the CIIP properties and the occupiers' rights to enjoy their homes.

- 1.2 I can confirm the Directors of the Board of CIIP on 3rd September 2020 and again on 6th January 21 were invited to presentations on the scheme by Cascade Communications. I attended the latter meeting. During both meetings concerns were raised over the proposed scheme, which disappointingly have not been addressed in the submission. Indeed, despite concerns raised by CIIP and others, the submitted scheme in terms of its footprint, scale, bulk and massing, particularly in relation to the residential neighbours whose houses sit very close to the site boundary and some of which are set below the level of the site boundary, have not been addressed.
- 1.3 Following on from the 6th January 2021 presentation, I sent a letter to Cascade Communications setting out the concerns of the Board of CIIP; a copy of that letter is included at **Appendix 1** to this objection. It is a notable omission that this pre-submission letter of representation it is not referenced in the 'Key feedback' section of the submitted Statement of Community Involvement (SCI). It is clear that these issues have been forefront of many neighbours' minds from the start of the community consultation, e.g. in response to the first survey the SCI at pg. 18 reports that in response to the question 'What is most important to you when thinking about the design of the proposals?' 51% of respondents cited 'Relationship with surrounding properties'; with comments made including 'Importance of being sensitive to surrounding properties'. This initial response was only exceeded by 54% of respondents saying that 'Appearance of the King's Road frontage' was the most important to them when thinking about the design of the proposal.
- 1.4 In relation to the question asked in the second survey 'Overall, do you like the proposed design of the building?', 59% of respondents said no and 22% were unsure (pg. 23). The 'Height/ scale/ massing of the proposed building' was the highest frequency response given by respondents to this question. There is no specific mention of how the scheme has changed to accommodate those concerns, and in particular the concerns from nearby residential occupiers. Indeed, in respect of consideration of 'Neighbouring Amenity' pg. 32 of the SCI references the meetings with the Board of CIIP and only states: 'The layout of the scheme has been designed to respect neighbouring amenity. For more information, please view the Daylight and Sunlight Assessment document submitted with the planning application.'
- 1.5 The concerns raised by the Board of CIIP at that time can be summarised as the impact of the development on the CIIP properties, not only in terms of the day/light, height,

size, scale, bulk and proximity of the new building to their properties, but also the continued lack of clarity in relation to maintaining their existing accesses. In addition, comparative plans between the existing and proposed development were requested – but again it is disappointing to note that these are not provided in the submission, other than as ‘standalone’ plans and sample sections. Similarly, there has been no attempt to relocate the car and cycle parking and electricity substation away from the party boundary as requested. On behalf of the Board of CIIP I also requested that there be continued dialogue on the proposal with the developers before the formal submission; this has not taken place. It is disappointing that on reviewing the submitted application, I am not able to recommend the scheme favourably to the Board of CIIP as it remains largely unaltered, and the strong objections still stand, as set out in the main body of this letter.

2. Objections to the submitted proposal under PP/21/01425.

- 2.1 In this case the development plan consists of the recently adopted London Plan (2021) and the adopted Royal Borough of Kensington and Chelsea Local Plan, September 2019.
- 2.2 London Plan at Policy SD7 ‘Town centres: development principles and Development Plan Documents’ confirms at D4) that development proposals should support efficient delivery and servicing in town centres including the provision of collection points for business deliveries in a way that minimises negative impacts on the environment, public realm, the safety of all road users, and the amenity of neighbouring residents. Policy D3 ‘Optimising site capacity through the design-led approach confirms at D7) that development proposals should deliver appropriate outlook, privacy and amenity.’
- 2.3 The Royal Borough of Kensington and Chelsea Local Plan (LP) requires proposals to respond to the local context (Policy CL1) and resist buildings which are significantly taller than the existing townscape, other than in exceptionally rare circumstances, where the development has a wholly positive impact on the character and quality of the townscape (policy CL12). Policy CL5 ‘Living Conditions’ states that the Council requires all development to ensure good living conditions for occupants of existing and neighbouring buildings. Applicants should take into account the prevailing characteristics of the area. In respect of daylight and sunlight, the policy requires that good standards are achieved in existing properties and where they are already substandard, that there should be no material worsening of the conditions. The policy also requires that there is reasonable visual privacy for occupants of affected existing properties; that there is no harmful increase in the sense of enclosure to existing buildings and spaces; and that the reasonable enjoyment of the use of buildings, gardens and other spaces should not be harmed due to increases in, inter alia, servicing, parking, noise, disturbance, odours, or vibration. Policy CE6 ‘Noise and Vibration’ confirms that the Council will carefully control the impact of noise and vibration generating sources which affect amenity both during the construction and

operational phases of development. The Council will require new noise and vibration sensitive developments to mitigate and protect occupiers against existing sources of noise and vibration.

2.4 It is submitted that the proposal does not accord with the provisions of the development plan.

2.5 Impact on daylight to the CIIP properties

2.5.1 **Appendix 2** to this letter contains photographs showing the physically very close relationship of many of the CIIP properties to the development site.

2.5.2 The proposed development will increase the proximity and bulk of the building to the CIIP properties, with the developer's own Daylight & Sunlight Assessment, prepared by GIA Surveyors, confirming that there will be a material worsening of standards to properties on CIIP contrary to policy, with mention of impacts to some properties being 'unavoidable' (ref. e.g., pg. 16 and 19 of the GIA Assessment). It is considered that impacts are only unavoidable if they are necessary and the overall benefits of approving the development outweigh such adverse impacts. This is not the case in the context of the proposed scheme.

2.5.3 It is noted that the submitted Planning Statement, prepared by DP9 at paragraph 7.12 incorrectly references National Planning Policy in relation to the proposed development. The Planning Statement quotes Paragraph 123(c) of the National Planning Policy Framework (NPPF) which states that authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site, subject to the resulting scheme providing acceptable living standards. This is an incorrect application of national planning policy, as the applicant's Planning Statement fails to reference the preceding part of the relevant sentence of the NPPF which confirms that the policy is set only in the context of applications for residential development where there is an existing or anticipated shortage of land for meeting identified housing needs. Paragraph 123(C) in fact states: 'In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight...' (Underlining my emphasis).

2.5.4 Of particular note are the properties at 1-3 CIIP, which are essentially single aspect dwellings that rely on their western outlook. The development to the front of these properties proposes a change from the existing 2-storey development - where the existing ground floor of the M&S is set 1m closer to the houses, but the existing 1st floor is set a further 5m back – changing to a mainly 4 storey development set back by only 1m behind the existing ground floor building line. Nos. 1-3 CIIP will effectively have their daylight blocked by a 4-storey development between 11-13m from the

windows of their habitable rooms, which will not be compensated for in anyway by the extra 1m setback at ground floor level. In practice, this part of the proposal will materially and significantly worsen the residential amenity of the occupiers of these properties, in terms of daylight and also in terms of creating a harmful increase in sense of enclosure and significant loss of outlook, which will be all the more marked as these are essentially single aspect dwellings that rely on this outlook.

- 2.5.5 In addition, to the rear of 36-46 CIIP, the proposed ground floor of the new building will be 1m closer to these properties. The existing arrangement, where the first floor is setback some 15m from the site boundary, will be replaced by 2 storeys, with the second storey set further forward by some 9m and therefore bringing the proposed first floor between 11-12.5m from the rear building line of these CIIP houses.
- 2.5.6 This objection is accompanied by a letter from Delva Patman Redler LLP (**Appendix 3**) that confirms the following in response to a desk-top assessment of the proposed development and the accompanying Daylight and Sunlight report by GIA Surveyors submitted in support of the planning application.
- 2.5.7 The Delva Patman Redler letter confirms that, based on the location, whilst the GIA report suggests that VSC values in the mid-teens have been found acceptable in major developments across London, in the case of CIIP, 7 of the properties have retained levels of light that are much lower than the suggested alternative levels. Even when considering the urban location these properties, will be left with poor levels of light in the post development condition. The NSL results in the GIA report also show that that the CIIP properties directly adjacent to the development site will be left with low levels of retained light.
- 2.5.8 Delva Patman Redler confirm that they do not agree with GIA's conclusions that the proposed development massing is contextually appropriate with only isolated instances where alterations in light are unavoidable. They confirm that none of the neighbouring properties have their potential to receive light hindered by balconies or recesses and it should be possible to develop a scheme which leaves the CIIP houses with acceptable levels of daylight.
- 2.5.9 Conversely, it is submitted that the massing is wholly and contextually inappropriate, there are more than just isolated instances to unacceptable loss of light that would arise from this development, numerous neighbouring properties will suffer loss of light, and many will be left with unacceptable levels of daylight.
- 2.5.10 In reference to the consideration of the BRE guide and the relevant planning policy, which suggests a flexible approach should be adopted when considering the daylight and sunlight implication of developing in a city centre location, the objection confirms that similarly development should ensure that acceptable living standards are maintained to neighbouring properties.

2.5.11 In closing their objection, Delva Patman Redler conclude that:

'The proposed development significantly reduces daylight levels to several of the Charles II Place properties and the reduction in light will be noticeable and leave these properties with unacceptable levels of light in the post development condition... we believe that the proposed massing is not of an acceptable scale for the immediate surrounding area and does have the potential to detrimentally reduce the light to the neighbouring residential properties.'

2.5.12 Notwithstanding the above clear technical breach of daylight standards to some of the CIIP properties, it is also noted that the submitted Daylight & Sunlight Assessment prepared by GIA Surveyors rather concerningly also states in its summary that 'Despite layouts within a number of properties not being known, this assessment has been based on assumed room dimensions for completeness, however, this should be taken into account when reviewing the results.' Therefore, the developer's own Daylight and Sunlight Assessment confirms it is not based on accurate information, meaning that its results and conclusions cannot be relied upon, which is a matter of great concern. It is also noted that the visuals in that document do not include the footprint of no. 51 CIIP, which sits to the front of 1 & 2 CIIP. This lack of complete information is considered to be a serious failing in the validity of the assessment relied upon to support the proposal and is a great concern, particularly as the report's overall conclusion states: 'It is our opinion therefore, that the Proposed Development is appropriate in its context and the changes in daylight and sunlight do not cause unacceptable harm to the relevant surrounding properties.' (pg. 2). This is clearly counter to the opinion of Delva Patman Redler LLP. It is noted that historical information on the layout of neighbouring properties is available on the Council's website and would have afforded a more accurate basis upon which to consider the extremely important issue of daylight/sunlight impact.

2.6 The height, scale and massing of the proposed building

2.6.1 Policy CL5 states that the Council will require applicants to take into account the prevailing characteristics of the area. The proposed building will be materially larger than most others on the King's Road. Indeed, the submitted 'Buildings Height Analysis' in the Design and Access Statement (2.10) clearly shows that taller buildings along King's Rd are the exception rather than the rule. The submitted Design & Access Statement includes examples of schemes with permission along King's Rd 'Surrounding Developments', which are not considered comparable to the current proposal in terms of siting, scale, height or in context in relation to the neighbouring residential dwellings. To use the example of the handful of other buildings along the King's Road as justification for the overdevelopment of the application site is highly questionable, when the site's immediate context would be assumed to be of greatest importance and in this case, with the potential detrimental impact on residential neighbours considered to be so marked.

- 2.6.2 It is noted that the Design and Access Statement under 'Community Involvement' confirms that the 'Height, scale and massing noted as the consistent reasons to dislike the design or not support the overall proposals' (Sept/ Oct '20) (ref. 3.2, Design & Access Statement). As the height, scale and massing of the building appears to have been maintained in the submitted scheme, one assumes that this objection remains; however, rather unhelpfully, there is no reference to later feedback beyond Sept/ Oct 2020 despite reference to further community consultation and my response to Cascade Communications, attached at **Appendix 1**.
- 2.6.3 The character of the application site and CIIP is one of a close but respectful interrelationship; CIIP has been designed to minimise the potential detrimental impact on residential amenity, e.g., the inclusion of blank elevations towards the M&S and essentially single aspect houses backing onto Smith Street. The current application imbalances this relationship, showing an overdevelopment of the site exhibited by the new building's substantial height, scale and massing and consequent adverse impact on residential amenity should the development be allowed as proposed. The position, height, scale and massing of the building will visually dominate the neighbouring CIIP houses, harmfully increasing the sense of enclosure to these existing houses and their gardens.
- 2.6.4 The Board of CIIP have already requested that the developer provide comparative plans showing the overlay of the proposed development on the existing, to be able to fully appreciate the material intensification of the built form of the proposed development on their houses. The plans that have been submitted are considered somewhat misleading and corrected plans should be requested, to assist in the assessment of the impact of the development, particularly on the sensitive boundaries with CIIP. In addition, a topographical survey picking up existing relative ground levels and building heights of the development site and adjoining buildings should be provided, and scale bars and/ or figured dimensions should be provided on the plans, e.g., the plan in the Design & Access Statement (at 5.30) is misleading as it references separation distances, taking them from the first floor of the existing development to the first floor of the proposed, ignoring the distances at ground floor level between the existing and proposed. The implication here is that there is no impact at ground floor level between the new building and the ground floor facing windows of the houses, which is clearly incorrect. This is carried through into the sample 'section' drawings in the Design & Access Statement (at 5.35) which provides measurements from the first-floor windows, whereas there are ground floor windows to habitable rooms that look out onto the development site.
- 2.6.5 Policy CL5 requires that there is no harmful increase in the sense of enclosure to existing buildings and spaces and neighbouring gardens. The justification to the policy confirms that an overbearing or over-dominant sense of

enclosure can significantly reduce the quality of living conditions both inside and outside. The policy also confirms that the impact on the sense of enclosure is also dependent on on-site judgement. On both the southern and eastern elevations of the development the proposed new building will introduce a taller and bulkier built form than currently exists, and the bulk of the new building will be significantly closer to the site boundaries, creating a harmful increase in the sense of enclosure and an overbearing and over-dominant impact to these houses. This impact will be compounded by the fact that the height, scale and massing of the proposed building will also reduce daylight to many of the properties. It is clear that there will be a fundamental change to the outlook and sense of enclosure to these facing houses, e.g., 1 – 3 CIIP whose occupiers rely practically entirely for their outlook and daylight to the west. A set-back part single storey/ part two storey building to the front of these houses will be replaced by a 3 – 4 storey wall at a distance of between 12-13.2m; and somewhat closer to 1 CIIP which is angled closer towards the application site and is already hemmed in by the rear of Atlantic Court and facing onto 51 CIIP. The significant enclosure of the front windows of 1 CIIP will be marked; this is acknowledged in the submitted Daylight and Sunlight Assessment.

- 2.6.6 In addition, the current largely open outlook to the rear of 36, 37 & 38 CIIP is proposed to be replaced by a 2-storey building, at a minimum distance of some 6-8m. The occupiers of these properties will experience a material change to their outlook and a significant increase in enclosure to the rear of their property and garden, as at present they have a relatively open outlook.
- 2.6.7 Photos of the existing buildings and enclosures to the CIIP properties are shown in **Appendix 2**. The impact of this harmful increase in the sense of enclosure is of course manifested in the impact of the proposal on the daylight received by these properties. The proposal is considered to be clearly contrary to Policy CL5 of the Local Plan and Policy D3 of the London Plan.

2.7 Potential for overlooking of neighbouring residential properties.

- 2.7.1 The unacceptable impact of the development on the neighbouring houses is further clearly demonstrated by the requirement for the proposed contrived design in relation to window treatments. Development Plan Policy CL5 requires reasonable visual privacy for occupants of existing properties affected by new development. The proposed new development will be only some 11m from the closest houses at 1-3 CIIP. These houses are essentially single aspect and residents rely entirely on their western outlook. The proposal to the west of these houses shows 4 storeys of development, containing a bank of windows serving the office spaces therein. This compares most unfavourably to the existing arrangement of 2 storeys, with the top storey set back, and no facing windows.

- 2.7.2 Of concern, the submission contains conflicting information in respect of the

proposed windows in the development, e.g. the Design and Access Statement (at 5.34) states that all windows overlooking neighbouring properties will be 'fitted with privacy (opaque) glass, preventing any tenants from looking into neighbouring properties whilst not compromising on natural lighting to the office.' However, notwithstanding the obscure glazing of these windows, they appear to be opening - the Design and Access Statement (at 12.8) confirms the proposed windows from first floor upwards have been designed as inward opening tilt & turn and 'The proposed office space will also benefit from good floor to ceiling heights, openable windows and external spaces (including the balconies within the Garden Box).' (Planning Statement at 3.8).

- 2.7.3 The presence of a bank of windows close to the boundary with residential properties, which themselves essentially have all their facing windows to habitable rooms on that elevation (with the exception of the rear bedrooms which each have a small side facing windows) will create the sense of being overlooked for those residential occupiers. The indication that the windows in the new building will be opening, with the ambiguity in the submission, could also lead to actual overlooking of their properties.
- 2.7.4 It could be considered that the fact that 4 storeys of windows, amounting to some 26 windows, have to be obscurely glazed to prevent direct overlooking of neighbouring residential properties suggests that the design has had to be somewhat contrived in an attempt to be policy compliant.
- 2.7.5 Clarification of the extent of the opening of the proposed windows, with the positions of these windows clearly marked on the plans, should be provided. Opening windows renders their obscure glazing rather meaningless and in clear breach of Policy CL5 of the Local Plan and Policy D3 of the London Plan, which require that there is reasonable visual privacy for occupants of existing properties affected by new development. Notwithstanding that, the residents of 1 - 3 ClIP will be faced with a bank of windows, a short distance away, which will also give them the perception of being overlooked.

2.8 Potential for noise and disturbance

- 2.8.1 Policy CL5 confirms that the Council will require that all development ensures good living conditions for occupants of, inter alia, existing and neighbouring buildings; with the Council requiring that the reasonable enjoyment of the use of the buildings, gardens and other spaces is not harmed due to servicing, parking, noise and disturbance. Policy CE6 similarly confirms that the Council will carefully control the impact of noise and vibration generating sources which affect amenity both during the construction and operational phases of development and Policy SD7 of the London Plan requires that development proposals in town centres should minimise the negative impacts on, inter alia, the amenity of neighbouring residents.

- 2.8.2 It is considered the proposal will have a detrimental impact on residential amenity though increased noise and activity close to the habitable rooms of the CIIP dwellings, contrary to Local Plan Policies CL5 and CE6 and London Plan policy SD7. It is noted that the scheme proposes the creation of an 'access and visitor journey' along the vehicular and pedestrian access to CIIP, which will become a key part of the circulation space to the development, in particular for servicing, as well as for pedestrians, cyclists, Click and Collect customers, disabled parking and 'managed bays' (ref. Design and Access Statement, 5.3). The Planning Statement refers to 'The public realm along the access road to the west of the Site' (para. 4.14). The egress for CIIP will become part of this circulation space – at present, there is separation to the rear of the CIIP houses to the south of the site, created by the ramp to the underground car park, whereas in the new scheme ground floor activity (and buildings) will be brought closer to the residential neighbours as this shared access becomes an active part of the development. This increased activity (and buildings) closer to the CIIP houses and along the egress will inevitably create additional noise and disturbance and/ or could necessitate the provision of tall boundary features to mitigate against this impact, to prevent users of the development accessing the boundary with CIIP, all contributing to the further unacceptable enclosure of these properties and the negative impact on their outlook.
- 2.8.3 Presently most of the activity connected with the existing development, including external servicing, and the pedestrian access to the M&S building is concentrated closer towards the King's Road part of the site, with further separation to the CIIP residential neighbours from the delivery and servicing activity on the site provided by the car park ramp. Under the submitted Delivery and Servicing Management Plan, this activity will move closer to the residential properties to the rear, being relocated towards the middle and rear of the site. Compared to the current situation with one main occupier, there could potentially be a large number of individual units, in a variety of uses, with differing servicing needs, and multiple deliveries arriving at the same time. It is considered that the Delivery & Servicing Plan is aspirational rather than being an adequate reflection of reality; the suggested operation of delivery and servicing is not considered to be practical or enforceable as, unless very closely managed, it could result in delivery vehicles and 'Click and Collect' vehicles arriving at the same time with consequent noise and potential obstruction of the egress to CIIP and to the nearby residential occupiers. The proposed hours of operation of the building and its uses are unknown, although it is suggested that the site will be shut 'no later than midnight'. The Planning Statement advises that '...it is anticipated the courtyard will be closed and secured no later than midnight.' (3.27). This late-night opening has the potential to introduce night-time disturbance, noise, light pollution and general disturbance around comings and goings, to the nearby residents which they do not currently suffer.
- 2.8.4 Four car parking spaces are proposed in the south of the site, (in addition to an

electricity substation) very close to the back gardens and rear windows of the CIIP houses. According to the submission, these spaces '...would be managed by either an online booking system or being included within the food retailers 'Click-&-Collect' provision'. It is therefore likely that there will be customers or staff waiting near these cars to deliver/ collect, with car doors opening and closing, talking etc. Whilst apparently physically contained by a wall to the south (although it is not clear how drivers will exit their vehicle with a wall to the side of their driver door) cars will be manoeuvring into these spaces at the point of the exit to CIIP, radios could be on, there will be activity at the rear as boots are opened, car doors shutting/slamming etc. The presence of these spaces at ground floor level also encourages the public to drive or walk to this part of the site, unlike the current arrangement where the ramp down to the underground car park prevents the public accessing this sensitive boundary. In addition, there is an electricity substation proposed on this boundary, which is considered will detract from current standards of amenity. Presently there is an open railing fence here which will need to be replaced with something sufficiently robust and tall to prevent noise, disturbance and overlooking. This will further impact on the residential amenity of the CIIP occupiers and is a clear demonstration of the proposed overdevelopment of the site, clearly contrary to Policy SD7 of the London Plan.

- 2.8.5 Of further concern is that the uses proposed in the building are all new Use Class E, which covers 'Commercial, Business and Service'; this could include shops, restaurants, offices, indoor sport, day nurseries, light industry. These uses are proposed in units of flexible size (the internal layout plans are shown as 'indicative', meaning that if approved there could be no control over the nature of the business of the particular occupiers or the size of their units) and as a variety of uses can be carried out within Use Class E, thereby not necessitating the need for permission from the Council, there would be no control over changes between, e.g. shops to offices, or offices to day nurseries. With effect from 1 August 2021, there is also a new permitted development right to change to residential use which will apply to buildings that have been in a Class E use for two years. The potential for a wide variety of uses to take place in the building should be considered, with the assumption that, e.g., the upper floors of this building will be solely used for offices which will be empty outside of working hours being misguided.
- 2.8.6 An 'accessible terrace' is also proposed to the south elevation of the building on the roof of the second floor. The Design and Access Statement confirms that 'Outdoor terraces provide space for relaxation and socialising for office workers... the terraces [will have] a special charm and a light and breezy ambience for gathering. Integrated lighting provides an inviting ambience day or night.' It is considered that a combination of flexible Class E uses, the proximity of the terrace to the rear part of the site, its open nature, and the potential opening of the building until midnight, has the potential to cause significant nuisance to CIIP residents. As other large areas of flat roof are provided in the scheme, it is also considered there could be future

potential for use of these spaces as additional external amenity space/ terraces, despite being ruled out in the current submission.

2.9 Impact on access to CIIP

2.9.1 CIIP is a development of 51 houses which enjoy rights of access across the application site, including a pedestrian and vehicular access to the Estate. These accesses are not only used by residents and the owners of the houses but also of course by others in respect of services, deliveries and emergency services. The free use of these rights is critical to the enjoyment and use of the CIIP houses.

2.9.2 It is noted that there is a 'Draft Construction Traffic Management Plan'. It is considered imperative that there is a 'final' Plan, due to the interrelationship with CIIP. Any impact on CIIP's existing access would mean that the development proposals would be incapable of lawful implementation, so it is important this issue is fully addressed prior to the determination of the application. At present, e.g., a site hoarding is shown to be located along the site access.

2.9.3 Furthermore, the proposed 'access and visitor journey' along the vehicular and pedestrian access to CIIP has the potential to block and impede the lawful use of this access. It is considered for the reasons set out above that the potential exists for the access to be blocked by delivery vehicles, Click and Collect customers etc. The free use of the rights of access to CIIP is critical to the enjoyment and use of the houses in the Estate and clear realistic details of how the development will operate in practice should be provided and agreed.

3. Conclusions

3.1 To conclude, on behalf of the Board of CIIP, it is considered that this substantial redevelopment proposal will cause significant adverse impact on the CIIP occupiers' residential amenity due to its height, scale, massing, bulk, over-development and proximity to their properties, resulting in loss of privacy, overshadowing, loss of daylight and an overbearing/over-dominant detrimental impact on current standards of amenity. Buildings, servicing and general activity will be introduced close to the boundary with their houses, with potential for unacceptable nuisance and noise disturbance. Furthermore, the proposed 4 storey element of the proposal facing onto 1-3 CIIP and next to no. 51 CIIP, with windows on the top 3/4 floors, will create a dominating and overbearing impact, which will also create a sense of being overlooked. In my opinion, the proposal is contrary to the development plan. It is our firm submission that there are no apparent material considerations that outweigh the determination of the application other than in accordance with the development plan, with the conclusion that, as presently proposed, it is contrary to the provisions of the development plan and should be refused consent. There are related concerns in respect of the yet

undetermined impact of the proposal on the rights of access to the CIIP properties.

3.2 The Board of CIIP would like to invite the Planning Committee to make a Committee Site Visit, as it is particularly helpful on site to appreciate the significant impact the proposal will have on the residential amenity of the close neighbours in CIIP.

I look forward to hearing from you. I have copied this correspondence to the Amanda Reid, Director of Planning & Place, Lisa Cheung Head of Development Management, Ward Councillors Emma Will and Cem Kemahli, the Chair of the Planning Committee at the Chelsea Society, and the Chair of the Chelsea Residents Associations, in order that they are aware of the Board of CIIP's concerns.

Yours sincerely,



Gail Collins BSC(Hons) DipTP MRTPI DMS

Director

g.collins@tyler-parkes.co.uk

Encl.

Appendix 1 Letter to Cascade Communications dated 3rd February 2021.

Appendix 2 Photographs of the CIIP site and environs.

Appendix 3 Letter of objection from Delva Patman Redler LLP dated 6th April 2021.

Copied to:

Amanda Reid, RKBC,

Lisa Cheung, RKBC,

Councillor Emma Will, RKBC

Councillor Cem Kemahli, RKBC

Sir Paul Lever, The Chelsea Society,

Julian Turner, The Chelsea Society

Paul Thompson, Chelsea Residents Associations

Our Ref: 20168 DV1 GC

Reece Pugh
Cascade Communications Ltd
26 Noel Street
Soho
London
W1F 8GY

Via email to: RPugh@cascadecommunications.co.uk

3rd February 2021

Dear Reece,

Proposals at 81-103 King's Road, Chelsea SW3 4NX

Thank you for sending through to Anthony Hubbard, Faraday Property Management, late last week a copy of your 6th January 2021 presentation in respect of the above. As you know from my attendance at that presentation, I am a town planning consultant who has been appointed to advise the Directors of the Board of Charles II Place Management (1991) Limited (CIIP) in relation to the redevelopment of the neighbouring 81-103 King's Road.

I was concerned to learn from your latest correspondence that the developer proposes moving forward with a full planning submission later this week or early next week? This is very disappointing as we have only just received some of the comparative details of the scheme (albeit illustrative), you have not asked for formal feedback or comment on the proposal, and no changes seem to have been made to address concerns over the proximity of the new building and service areas to CIIP. The forwarded proposals appear to confirm CIIP's concerns over the impact of the development on their properties, not only in terms of the height, size, scale, bulk and proximity of the new building to their properties, but also the continued lack of clarity in relation to maintaining their existing accesses.

As you know, the development site and the CIIP development have a very close spatial relationship. The CIIP houses with windowed elevations onto the M&S site include many

single-aspect habitable rooms, serving kitchens, lounges, bedrooms etc. Many of these houses sit at a lower ground level than the M&S site. The proposed scheme shows a materially taller and bulkier building on the site and the bringing closer the footprint of that new building to the CIIP properties: I consider the development as shown will have an unacceptable impact on the outlook from these residential properties and their gardens, creating an overbearing impact and a much greater sense of enclosure. The new proposal may also impact on the daylight and sunlight received by the existing properties. The adopted development plan, the Royal Borough of Kensington and Chelsea Local Plan, September 2019 (LP), contains Policy CL5 which, amongst other things, seeks to ensure that good standards of daylight and sunlight are achieved in existing properties affected by new development and requires that there is no harmful increase in the sense of enclosure to existing buildings. The LP also requires proposals to respond to the local context (Policy CL1) and resist buildings which are significantly taller than the existing townscape other than in exceptionally rare circumstances, where the development has a wholly positive impact on the character and quality of the townscape (policy CL12).

The proximity of the new building and service areas to CIIP also leads to concerns about associated noise and disturbance to the residents, both during construction and thereafter. In addition, there could be land stability issues with the significant basement area proposed. There may also be heritage issues as the site sits between conservation areas and near listed buildings. Clearly the development plan also contains relevant policies in this regard, and in relation to nearby heritage assets there will be an additional need to satisfy the statutory requirement.

CIIP are also extremely concerned about ensuring their access is maintained and that satisfactory arrangements are put in place to ensure the works of construction will not impede upon that access, even temporarily, or compromise the residents' continued enjoyment of their properties. Any impact on CIIP's existing access would mean that the development proposals would be incapable of lawful implementation, so it is important this issue is fully addressed, although at present, no comfort has been provided to CIIP that these issues have been addressed.

I respectfully request the developer continues liaison with CIIP on the proposal before the submission of the formal planning application. CIIP has significant concerns about the impact of this redevelopment on their properties and at this stage, based on the available information, I cannot provide my client with any comfort that will not be the case. I hope you will agree it is preferable that we continue dialogue on the proposal before the submission of the formal planning application, so we can work together to arrive at a mutually acceptable scheme. I would appreciate the opportunity to have a meeting or discussion with the developer with the object of revising the proposal before submission.

I look forward to hearing from you. Please note that I have copied this correspondence to the Amanda Reid, Director of Planning & Place at RBKC, Ward Councillor Emma Will, and the Chelsea Society, in order that they are aware of CIIP's concerns.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'GC3Col'.

Gail Collins BSC(Hons) DipTP MRTPI DMS

Director

g.collins@tyler-parkes.co.uk

C/C - Amanda.Reid@rbkc.gov.uk, cllr.emma.will@rbkc.gov.uk,
secretary@chelseasociety.org.uk

Appendix 2: Photographs of the CIIP site and environs.

1. Showing entrance to CIIP (taken from within CIIP).



2. Current outlook from 1-3 CIIP onto Mansard roofs of M&S



3. Showing rear wall of CIIP units 49 to 51 in relation to side wall of M&S, with vents for basement car park in the base of wall.



4. Rear of nos. 36-45 CIIP, looking onto mansard roofs of M&S. Note relative ground levels.



5. Looking northeast towards the rear of CIIP 47-50



6. Outlook from ground floor kitchen window of no. 38 CIIP. Note the proposed development will introduce a built form on the corner of the site – at present, the M&S buildings are set away from this house



7. Outlook from FF bedroom window of no. 38 CIIP (overlooking ramp down to basement car park



8. Looking back towards CIIP pedestrian and vehicular access, with M&S to foreground



Our Ref: 21151

Thavies Inn House
3-4 Holborn Circus
London EC1N 2HA
020 7936 3668

06 April 2021

Gail Collins
Tyler Parkes
66 Stratford Road
Shirley
Solihull, B90 3LPinfo@delvapatmanredler.co.uk
www.delvapatmanredler.co.uk

Dear Gail

**Redevelopment of 81-103 King's Road (currently M&S) and Charles II Place, Chelsea:
Daylight and Sunlight**

Further to our recent correspondence, we have now completed our review of the Daylight and Sunlight report dated 8 February 2021 (the report), which has been prepared by GIA Surveyors to support the planning application. We have undertaken a desk-top review of the proposed massing and surrounding area based on the information provided to us and utilising the information available under planning ref. PP/21/01425.

We understand that the Charles II Place residents are concerned about the scale of the development at 81-103 King's Road and the impact the scheme will have on their properties in daylight and sunlight terms.

Daylight and Sunlight Methodology

The report provided by GIA surveyors identifies the Building Research Establishment Guidelines *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice* (2011). This is the appropriate document to consider when reviewing the daylight, sunlight and overshadowing implications of constructing a development adjacent to residential properties.

The BRE guide recommends that the Vertical Sky Component (VSC) and No Sky Line (NSL) methods of assessment should be used to consider daylight levels to neighbouring residential properties. Both of these methods suggest that light levels should continue to meet recommended target values or remain within 20% of the existing baseline condition, otherwise the loss of light will be considered noticeable.

The Annual Probable Sunlight Hours (APSH) method should be used to consider sunlight to neighbouring residential properties.

The report considers the appropriate methods of assessment.

Alternative Target Values

It has become commonly accepted that alternative target values may be adopted to evaluate the impact a proposed development will have on daylight and sunlight levels in dense urban locations. The alternative values that we believe could be considered appropriate for this type of location are listed below.

- VSC: retain 15% or remain within 20% of the existing condition.
- NSL: retain 50% or remain within 20% of the existing condition.
- APSH: retain 15% or remain within 20% of the existing condition.

Also at:Delva Patman Redler
The Quay
12 Princes Parade
Liverpool L3 1BGDelva Patman Redler
40 Berkeley Square
Bristol
BS8 1HP

Planning Policy and Guidance

The policies listed below have been set up in the report as the key planning guidance in relation to daylight and sunlight.

National Planning Policy Framework (2019)

Paragraph 123 of the NPPF refers to daylight and sunlight stating that: *“local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this content, when considering application for housing, authorities should take a flexible approach in applying policies for guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).”*

National Planning Policy Guidance

Paragraph 007 of the ‘Effective Use of Land’ guidance discusses the need to apply a degree of flexibility when dealing with daylight and sunlight in city centre location. Although also states that *“All developments should maintain acceptable living standards”*.

London Plan (2016)

Policy 7.6 of the London Plan required that developments do not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, including to overshadowing.

Housing SPG (2016)

The Housing SPG also states that contextual analysis should be used when assessing acceptable levels of amenity, rather than adopting a strict application of the daylight and sunlight standards. Going on to mention that alternative target could be taken into account to optimise the development potential of a site.

Royal Borough of Kensington and Chelsea Local Plan (2019)

The local plan Policy CL5 specifically mentions the BRE guide stating *“The Council will require all development ensures good living conditions for occupants of new, existing, and neighbouring buildings.* Going on to state that the Council will:

Paragraph b. *“ensure that good standards of daylight and sunlight are achieved in new development and in existing properties affected by new development; and where they are already substandard, that there will be no material worsening of the conditions:*

Paragraph c. *require that there is reasonable visual privacy for occupants of new development and for occupants of existing properties affected by new development”*.

Development Site and Surrounding Area

The site is situated directly to the north of Charles II Place and to the south of King’s Road and is located adjacent to several residential properties. The proposals consist of demolishing the existing building and constructing a 5-storey building that steps down to the rear of the site.

Review of the Analysis

The 3D model used for the assessment has been constructed using a photogrammetric model and overlaying survey data, which is a common approach. It is noted that floor plans have not been obtained for all of the neighbouring properties and therefore there may be inaccuracies with some of the NSL results, where notional room layouts have been used.

The report shows that 17 Charles II Place properties will fall below the suggested the BRE guidelines. The report notes that the site is located in a city centre location and therefore it is appropriate for alternative target values to be adopted. Although we do not necessarily disagree with this approach, the following properties will experience a significant reduction in light that exceed even the alternative target values we would consider to be appropriate.

1 Charles II Place

The report states that all windows assessed will experience a 40% reduction in VSC with retained levels at around 10%. The NSL results indicate that the first floor living dining area will experience a 56% reduction in light with only 41% remaining in the post-development condition.

The results show that this property will experience a large reduction in light in the post-development condition and will be left with light levels below what is generally considered acceptable in a city centre location.

2 Charles II Place

The report shows that all windows assessed will experience VSC reduction of over 45% with retained levels around 11%. The NSL results show that the first floor living room will experience a 72% reduction in light with only around 12% of the room seeing sky.

The results indicate that this property will be poorly lit in the post development condition.

3 Charles II Place

Although the VSC results indicate that all windows meet the alternative target values, the first floor living room will experience a 58% reduction in light in NSL terms with only 37.5% of the room seeing sky in the post development condition.

41 Charles II Place

The report states that this property has been based on assumed layouts. The results indicate that the ground floor of this property will remain with VSC levels of 10%. The NSL results show that the first-floor rooms will experience a 48% reduction with only 43% of the rooms seeing sky.

These reductions will exceed the alternative target values and indicate that this property will be poorly lit in the post development condition.

40 Charles II Place

The report states that this property has been based on assumed layouts. The results indicate that the retained VSC levels to the ground floor of this property will be between 7.7% – 13%. The NSL results show that the ground floor kitchen will remain with 23% of its area seeing sky, with the first-floor bedrooms experiencing a 43% reduction in light with retained levels at 44%.

These reductions will exceed the alternative target values and indicate that this property will be poorly lit in the post development condition.

39 Charles II Place

The report states that this property has been based on assumed layouts. The results show that several windows will not meet the alternative target value in VSC terms with retained levels of around 10% - 13%. The NSL results indicate that ground floor kitchen will only remain with around 27% of the room seeing sky and the first-floor rooms with around 45% in the post-development condition.

The kitchen in particular will be poorly lit in the post development condition.

38 Charles II Place

The report states that this property has been based on assumed layouts. The results show that several windows will not meet the alternative target value in VSC terms with retained levels of around 11% - 12.5%. The NSL results indicate that ground floor kitchen will only remain with around 28% of the room seeing sky and the first-floor rooms seeing around 45% in the post-development condition.

The kitchen in particular will be poorly lit in the post development condition.

Summary

Delva Patman Redler LLP have undertaken a desk-top assessment of the proposed development and accompanying Daylight and Sunlight report by GIA Surveyors, which has been submitted in support of the development proposals.

Based on the location, the report suggests that VSC values in the mid-teens have been found acceptable in major developments across London. Although in this case, all of the properties listed above have retained levels of light that are much lower than the suggested alternative levels and even when considering the urban location, will be left with poor levels of light in the post development condition. The NSL results also show that that the Charles II Place properties directly adjacent to the development site will be left with low levels of retained light.

The report concludes that the development massing being proposed is contextually appropriate with only isolated instances where alterations in light are unavoidable. We do not agree with this conclusion. None of the neighbouring properties have their potential to receive light hindered by balconies or recesses and therefore it should be possible to develop a scheme which leaves the Charles II Place properties with acceptable levels of daylight.

The BRE guide and relevant planning policy suggests a flexible approach should be adopted when considering the daylight and sunlight implication of developing in a city centre location. They all state that development should ensure that acceptable living standards are maintained to neighbouring properties. The proposed development significantly reduces daylight levels to several of the Charles II Place properties and the reduction in light will be noticeable and leave these properties with unacceptable levels of light in the post development condition.

Our clients are also concerned about the impacts the proposed scheme will have on their Rights to Light and will explore all necessary options available to ensure an actionable infringement does not occur.

On the basis of the information documented above, we believe that the proposed massing is not of an acceptable scale for the immediate surrounding area and does have the potential to detrimentally reduce the light to the neighbouring residential properties.

Yours sincerely



Chris Harris BSc (Hons)

Partner

E: chris.harris@delvapatmanredler.co.uk

M: 07701 386268