



LONDON BOROUGH OF LAMBETH

Planning, Transport and Development

Sustainable Growth and Opportunity

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REBUTTAL

Jeffrey Holt

Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Appeal by: Anthology Kennington Stage

Appeal site: Woodlands Nursing Home, 1 Dugard Way, LONDON SE11 4TH

Planning Inspectorate reference: APP/N5660/W/20/3248960

LB Lambeth Reference: 19/02696/FUL

06 November 2020

1.0 Revised plans

- 1.1 It is noted that revised plans were submitted which show alterations to the ground floor layout. These do not in any way alter my conclusions as previously stated in my proof.

2.0 Rebuttal of Proof of Evidence by Donald Considine

- 2.1 At paras 1.5, 6.10.1 (n) and 7.6.3 (b) Mr Considine misapplies para. 123 of the NPPF. Para. 123 only applies “where there is an existing or anticipated shortage of land for meeting identified housing needs”. Para. 9.7 of my evidence confirms that Lambeth is expected to exceed both its five- and ten-year housing supply target. Therefore para. 123 of the NPPF and its emphasis on site optimisation and flexibility of daylight and sunlight standards does not apply.
- 2.2 At para. 7.5.5 (e) Mr Considine queries the Council’s evidence that supports its expectations for future delivery under the draft Local Plan. Mr Considine refers to comments in the examining Inspector’s letter to the Council (“Examination of the Revised Lambeth Local Plan: The Inspector’s Initial Thoughts and Questions (16 July 2020)” (CD7/11)) where the Inspector asked for more detail on the Council’s housing projections, particularly for small sites. In response, the Council produced Topic Paper 10a: Housing provision statement in August 2020, which was then updated in October 2020 (CD5/16). The paper identifies the large sites which will contribute to housing delivery over the plan period. The Appeal Site is included but with an estimated yield of 90 units to reflect concerns that a development of a greater size might not be acceptable in planning terms. For small sites, para. 4.14 of the paper summarises the evidence for delivery, which includes: historical performance, changes in policy approach in the draft Local Plan that would support more housing on small sites, the current identified supply for small sites, the reasonable expectation of additional windfall small sites to supplement supply, Lambeth’s proactive approach to its Brownfield Land Register and the draft Design Code SPD to promote small site development at optimum capacities. The Council has factored the 400 dwellings per annum small sites target into its housing trajectory across all ten years and the Council believes it can be carried forward for years 11-15.
- 2.3 Also at para. 7.5.5 (e), Mr Considine accepts that the Council has met the Housing Delivery Test but argues that this does not lessen the benefit of providing housing on this site. The Housing Delivery Test measures the net homes delivered against the

total number of homes required, based on set housing targets. Housing targets are developed through careful analysis and independent examination. They are meaningful and the fact that housing delivery is exceeding the target does not mean that new housing is of less benefit than in the scenario that the housing target is not being met.

- 2.4 In the same paragraph and at para. 7.5.5 (g) Mr Considine argues that the requirement for housing does not stop at the borough boundary and refers to para. 4.2 of the examining Inspector's letter setting out his initial thoughts on the draft Local Plan (CD7/11). In the letter the Inspector asks how Lambeth considers the balance between the draft London Plan and the individual Borough in addressing the London-wide housing shortfall. The Council's full response is set out in "LBL01 – Council response to INS01 Initial Inspector questions and thoughts (16 July 2020)" dated 6 August 2020 (CD5/17). In summary, the Council does not consider there to be a balance between the London Plan and the Boroughs in addressing the shortfall. The responsibility does not fall to the Boroughs. In London, housing need is established through the strategic spatial strategy at London-wide level, based on evidence in the London-wide SHMA, and this process of identifying the level of housing need does not need to be repeated at borough level. This is set out at para 0.0.21 of the Draft London Plan, "the housing targets set out for each London Borough are the basis for planning for housing in London. Therefore, boroughs do not need to revisit these figures as part of their local plan development". In his letter to the Mayor dated 13 March 2020 (CD1/20) the Secretary of State accepts that there is a shortfall between the between identified need and the expected level of housing delivery under the draft London Plan but states that ultimately that shortfall will need to be addressed through a new London Plan that considers alternative approaches. The same conclusion was reached by the London Plan examination panel in their report dated 8 October 2019 (CD5/14). At para. 178 the Panel ultimately concludes that the draft London Plan housing target is justifiable and deliverable, and is higher than the current London Plan. Paragraph 599 adds commentary on London's capacity for new housing:

The position in London is that capacity for new housing development is finite. Indeed, the Plan relies on re-cycled land. The approach of sustainable intensification can only be taken so far without having an adverse impact on the environment, the social fabric of communities and their health and well-being. Therefore, in our view, there would be little to be gained from requiring

an immediate review until such time as a full review of London's Green Belt has been undertaken as recommended to assess the potential for sustainable development there and whether and how the growth of London might be accommodated.

- 2.5 So, although there is a London-wide shortfall between identified need and projected housing delivery under the draft London Plan, it has been accepted that an increase in capacity will require different a strategic approach to housing delivery. It is therefore not the role of this site to seek to address this London-wide shortfall through further intensification, which the examination warns can have adverse impacts. The Council's evidence shows that the proposed development would be an *unsustainable* intensification and does have adverse impacts and therefore is not an appropriate development to address housing shortfall.
- 2.6 At para. 7.5.11(b) Mr Considine states incorrectly that the proposed development would create a permanent home for the Cinema Museum. The Appellant is proposing to offer a long lease which may or may not be agreed. The offer of a long lease is not a material planning consideration as explained in paras. 9.8 to 9.12 of my proof.
- 2.7 At para. 7.5.15(c) Mr Considine suggests that the planning permission for the Cinema Museum is in effect a 'personal consent' as the consent is not a general consent for D2 use and is limited to a 'cinema museum'. To clarify, the permission is not a personal consent as it could be occupied by another cinema museum. Also, the fact that the existing permission is limited to a 'cinema museum' does not necessarily mean that a change of use to another type of museum or cultural use would be resisted by planning policy.
- 2.8 At para. 7.5.15(d) Mr Considine argues that "it would have been entirely possible to include Master's House in the application as part of the overall approach to residential provision on the Site and be consistent with the planning position". If Mr Considine is saying that a change of use from a Cinema Museum to residential would be accepted, that is incorrect. Such a change of use is likely to be resisted under LLP Policy ED11(b) which states:

Change of use or loss of existing visitor attractions, leisure, arts and culture uses will not be supported. Redevelopment for mixed use will only be supported where the existing use is re-provided on site, or a replacement facility is provided elsewhere in the locality. In exceptional

circumstances, commuted payments may be accepted for replacement leisure, arts or culture uses elsewhere in the borough.

2.9 At para. 7.6.3 (j) Mr Considine considers that the Council are using daylight and sunlight as a “secondary, cumulative, indicator of ‘overdevelopment’”. This is incorrect. The Council consider the daylight and sunlight impacts to be equally important to the other indicators of overdevelopment.

2.10 At para. 7.7.12 Mr Considine provides a table setting his assessment of the scheme benefit and alleged impacts. Below I set out my view on the weight of the impacts and benefits identified in his table.

<u>Impact</u>	<u>Weight</u>	<u>Alleged Benefit</u>	<u>Weight</u>
Height, design, layout, access	Substantial	Development in a Highly Sustainable Location	Limited
Harm to heritage assets	Great weight to 'less than substantial harm' and not outweighed by public benefits	Use of Previously Developed Land	Limited
Daylight and sunlight	Substantial	Optimisation of the Use of the land	None.
Housing Mix	Substantial	Provision of market housing	Limited
Quality of amenity space	Substantial	The Provision of affordable housing	Limited
Amenity of future occupiers	Substantial	Car free development	Limited
		Economic benefits	Limited
		Social benefits	Limited
		Environmental benefits	Limited
		Regeneration	Limited
		Heritage	None. This is a disbenefit
		High Quality Design	None. This is a disbenefit

		Provision of open space and improved accessibility	None. This is a disbenefit
		Securing the Future of the Cinema Museum	None

2.11 Below I provide a brief response to each of the alleged benefits set out in the table.

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- Development in a Highly Sustainable Location

This benefits arises from the characteristics of the site and not the proposed development. The benefit is limited.

- Use of Previously Developed Land

This benefits arises from the characteristics of the site and not the proposed development. The benefit is limited.

- Optimisation of the Use of the land

The site would not be optimised as the development is not of good design and results in planning harm. This is not a benefit.

- Provision of market housing

This is addressed in my proof. The benefit is limited.

- The Provision of affordable housing

This is addressed in my proof. The benefit is limited.

- Car free development

This is a matter of policy compliance and any development on this site would be expected to be car-free. The benefit is limited.

- Economic benefits

There would be some benefit arising from employment and skills training but this is required by planning policy and is not specific to this development.

- Social benefits

What have been identified as social benefits in Mr Considine's evidence overlaps with the other alleged benefits. Therefore, this benefit is also limited.

- Environmental benefits

Mr Considine refers to improvements to the local townscape, public realm and settings of heritage assets. I consider these to be disbenefits having considered the evidence of Mr Black. Mr Considine also refers to urban greening and new planting. This would be of limited benefit.

- Regeneration

What Mr Considine identified as regeneration benefits overlaps with the other alleged benefits. Therefore, this benefit is also limited.

- Heritage

Mr Black's evidence shows that the development would result in heritage harm. This is a disbenefit.

- High Quality Design

Mr Black's evidence shows that the development is not of high-quality design. This is a disbenefit.

- Provision of open space and improved accessibility

Mr Black's evidence shows that the public realm is not of high-quality design. This is a disbenefit.

- Securing the Future of the Cinema Museum

My evidence has shown that the offer of a long lease is not a material planning consideration or a benefit.

Rebuttal of Proof of Evidence by Nick Ireland

- 3.0 At para 1.3 Mr Ireland states that “the main parties agree that 2nd RfR related to the affordability of the shared ownership housing can be addressed through the inclusion of an income cap in the S106 Agreement (CD7/1 Para 7.3)”. This is inaccurate. A single income cap would not address affordability issues. An obligation which sets individual income caps for each dwelling size would better ensure the shared ownership units are affordable to people on a range of incomes.
- 3.1 At para. 1.19 Mr Ireland states that a lack of parking in the scheme would reduce demand for larger units. While this may be accurate for a large proportion of families, one must also consider that families motivated by such factors are unlikely to consider residing within a development of this nature in this location.
- 3.2 At paras 1.20, 5.5(1) and 5.38 Mr Ireland argues that an adjustment to the unit mix in favour of 3-bed units would reduce the gross development value. This would be the case if one simply substitutes a floor area with a lower sales value for some of the existing floor area. However, this does not accurately reflect the feasibility of providing 3-bed units within a development. 3-bed units are incorporated into similar developments nearby, which suggests that the provision of such units can be achieved. 3-bed units are often placed on the upper floors of similar developments and are presented as premium apartments in order to achieve a higher capital value. Mr Ireland acknowledges this at para. 5.45 when he refers to the value of 3-bed units at Elephant Park. However, the Appellant has not sought to maximise the value of the upper floors in this way and therefore the proposal has not demonstrated that the provision of family sized units has been ‘maximised’ as sought under para. 5.21 of Local Plan or ‘considered’ as sought under para. 5.43 of the draft Local Plan.
- 3.3 If a scheme was designed from the outset to include an element of 3-bed housing, it would be designed in a way that would maximise the value of these units. It would be a different design to the Appeal Scheme with a different number of units, habitable

rooms and floor area. It would be a different scheme and therefore it is not reasonable to demonstrate the viability of providing 3-bed units within a development on this site by simply substituting floorspace with a lower capital value while keeping all other variables constant.

- 3.4 At paras. 5.45 and 5.47, Mr Ireland excludes premium 3-bed units from his sales analysis as they 'tend to be on upper floors and have a higher specification which affects their values'. This demonstrates that 3-bed units can achieve higher capital values and to exclude these units from the sales analysis results in a distorted picture of what can be achieved on this site.
- 3.5 At para. 5.39 Mr Ireland argues sales rates influence finance costs. 3-bed units provided as premium products on upper floors are only typically available once the development is close to completion. Prudent developers tend to ensure their release occurs when finance costs are normally at their lowest. It is also worth noting that the presence of 50 per cent affordable housing improves the risk profile of delivery due to payment being received over the course of the construction period. Therefore, the sales rate of 3-bed units would not have a significant effect on overall finance costs.

Rebuttal of Proof of Evidence by Charles Graham

- 4.0 At para. 3.7.5 Mr Graham states that UNCLE building is one of three key buildings "commonly recognised as the centre of the Elephant and Castle cluster on the London skyline". In my view, the UNCLE building stands apart from the more tightly bound group of tall buildings (both built and consented) to the north east and does not form part of the centre of the cluster.
- 4.0 At paras 3.8.13 to 3.8.16 Mr Graham refers to the officer delegated report which states in the conclusion under the subheading "Inappropriate Design and Unacceptable Impact on Townscape" that "the amount and scale of development is at odds with the traditionally scaled/suburban character of this backland site". He then refers to para. 10.4.2 which states,

The application site is PTAL6a and based on the physical developable area of the site, which excludes the cinema museum and its curtilage and access road, the proposed development would equate to a density of c.500 u/ha, which is in excess of the maximum upper end (405u/ha).

- 4.1 Mr Graham argues that this means the LPA defines the site to be 'Central' as 405 u/ha is upper limit for 'Central' sites. He then argues that this is a contradiction to the officer report's concluding remark that the site context is suburban. The delegated report simply states that the density of the scheme exceeds the maximum appropriate density range set out in Table 3.2 of the London Plan. It does not state that the site is defined as 'Central' but makes the point that the density is very high even when compared to densities for 'Central' areas. There is no contradiction.
- 4.2 In Figure 3.37 – Local Context Analysis Mr Graham identifies a number of 'Adjacent Opportunity Sites'. The two sites to the south within the Borough are Wooden Spoon House, 5 Dugard Way and 6-12 Kennington Lane. There have been no applications for large development or tall buildings on these sites.