

ANTHOLOGY KENNINGTON STAGE

SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990.

THE REDEVELOPMENT OF THE FORMER WOODLANDS AND MASTERS HOUSE SITE.

PUBLIC INQUIRY – 17-27 NOVEMBER and 7 DECEMBER 2020.

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THE CLOSING SPEECH OF THE APPELLANT.

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*“The other chronic failure of the British state decade after decade in which we have failed to build enough housing.. We will build fantastic new homes on brownfield sites... and address that intergenerational injustice and help young people get on the housing ladder in the way that their parents and grandparents could”*

*“This is a government that is wholly committed to build the homes and to ..build, build, build”*

The Prime Minister – 30 June 2020 [Mr Ireland, appendix 10]

## The structure of the Closing speech:

1. Section 1 – Key factors which are highly material to this Appeal
  - 1.1. Factor 1 – What the proposal is actually for?
  - 1.2. Factor 2 – This proposal is fully compliant with Government and local policy.
  - 1.3. Factor 3 – Planning should be a positive force of change to people.
  - 1.4. Factor 4 – This is a location which is highly deprived and needs investment
  - 1.5. Factor 5 – The Appellant has behaved impeccably throughout this matter.
  - 1.6. Factor 6 – The future of this site is truly bleak if planning permission is refused.
2. Section 2 – The matters not in dispute.
3. Section 3 - The propositions that support the grant of planning permission
  - 3.1. Proposition 1 – The site is underutilised currently and needs a beneficial use.
  - 3.2. Proposition 2 – The use of this site for housing is accepted and appropriate.
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  - 3.5. Proposition 5 – The site is PDL which is prioritised for reuse by the NPPF.
  - 3.6. Proposition 6 – There is a huge demand for new housing which is a significant benefit.
  - 3.7. Proposition 7 – There is a huge demand for affordable housing which is a significant benefit.
  - 3.8. Proposition 8 – The economic benefits are a significant benefit.
  - 3.9. Proposition 9 – The social benefits are a significant benefit
  - 3.10. Proposition 10 – The environmental benefits are a significant benefit.
  - 3.11. Proposition 11 – The overall benefits cumulatively are very significant.
  - 3.12. Proposition 12 – The harm relating to housing mix is not of substance.
  - 3.13. Proposition 13 – The harm relating to inappropriate design is not of substance.
  - 3.14. Proposition 14 - The harm relating to heritage assets is overstated and in any event outweighed by public benefits.
  - 3.15. Proposition 15 – The harm relating to daylight/sunlight is greatly overstated.
  - 3.16. Proposition 16 – The harm relating to poor amenity space is without substance.
  - 3.17. Proposition 17 – The issues raised by Stop the Blocks are not of weight.
  - 3.18. Proposition 18 – The Cinema Museum will secure its future.
  - 3.19. Proposition 19 – This is a development which accords with the development plan.
  - 3.20. Proposition 20 – The planning balances in play are in favour of the grant of permission.

## **Section 1 – Key factors which are highly material to this appeal**

1. There are seven key factors to consider about this proposal in introduction:
  - 1.1. Factor 1 – This proposal is for the provision of 258 homes and the retention and enhancement of the Cinema Museum.
  - 1.2. Factor 2 - The proposal completely complies with what the Government are seeking to have built by the planning system in 2020.
  - 1.3. Factor 3 - Planning should be about bringing about changes to the built environment that assists in making people's lives better.
  - 1.4. Factor 4 – This is a location which is significantly deprived and in need of investment.
  - 1.5. Factor 5 – The Appellant has behaved impeccably throughout this matter.
  - 1.6. Factor 6 – The future use of this site would be truly bleak if planning permission is refused.
  - 1.7. Factor 7 – The LPA's case is one of legalism, negativity and nit picking.

### **Factor 1 – What the proposal is actually for?**

2. It is worth reflecting after 2 weeks of evidence what this proposal is actually for – it will provide 258 homes that do not exist at the moment and will be occupied by real people in need of a home.
3. Additionally, it will ensure the Cinema Museum is able to benefit from the offer of a 999-year lease for the Masters House which is patently their preferred home and they can go from strength to strength having won London's Most Loved Local Culture Spot award in 2018.

### **Factor 2 – This proposal is fully compliant with Government and Local Planning Policy.**

4. The NPPF, London Plan and the Lambeth Local Plan are highly prescriptive in establishing the policy aims and aspirations of the Government currently and this proposal complies with 10 of the key elements of those policies by:
5. Complying with key policy theme 1 which is to significantly boost the supply of housing:
  - 5.1. The Government has an objective to significantly boost the supply of housing [NPPF 59].

- 5.2. Lambeth needs to achieve and exceed its minimum housing target [LP Policy 3.3].
- 5.3. This is not a ceiling but a minimum. [See LLP paragraph 3.2]
- 5.4. Indeed LPAs should seek to exceed the target [LP paragraph 3.19(i)].
- 5.5. That is reiterated in the LLP which states the LPA will seek to maximise the supply of additional homes in the borough [LLP Policy H1].
- 5.6. Housing is identified as a priority land use in Lambeth [Paragraph 5.2].
- 5.7. The current requirement is for 15,594 homes between 2015-2025.
- 5.8. That equates to 1,559 homes per annum.
- 5.9. The direction of travel in the ELP is an increase in the annual London housing need from 49,000 [See LP Policy 3.3] to at least 66,000 new homes.
- 5.10. Although the Lambeth target is reduced to 13,350 for the ten years or 1,350 per annum.
- 5.11. However, the Secretary of State has responded that delivery in London has been poor with only 37,000 homes per annum in the past 3 years [CD1/20] and that the ELP only shows how to deliver 52,000 homes per annum and not the target of 66,000.
6. Complying with key policy theme 2 which is to make proper provision for affordable housing
  - 6.1. It is important that the needs of groups with specific housing requirements are addressed [NPPF 59].
  - 6.2. London requires at least 17,000 AH per annum [LP Policy 3.11].
  - 6.3. Priority should be given to the provision of affordable family housing.
  - 6.4. The maximum reasonable amount of AH should be provided [LP Policy 3.12].
  - 6.5. The local target in Lambeth is 50% AH [LLP Policy H2].
  - 6.6. The direction of travel in the ELP is an increase from 17,000 to 43,000 AH per annum.
7. Complying with key theme 3 which is to use PDL.
  - 7.1. Strategic policies should set a clear strategy for accommodating OANs in a way that makes as much use as possible of PDL [NPPF 117].
  - 7.2. Planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes [NPPF 118 c]

- 7.3. Development on PDL should especially be promoted in particular for new housing [NPPF paragraph 118d].
8. Complying with key policy theme 4 which is bringing about regeneration.
- 8.1. The guiding spatial approach in LLP includes support for tall buildings in appropriate locations to deliver regeneration and economic objectives [paragraph 3.8].
- 8.2. Policy D1 seeks to ensure that regeneration opportunities are fully explored [LLP page 38].
9. Complying with key policy theme 5 which is to develop in sustainable locations
- 9.1. There is a presumption in favour of sustainable development [NPPF 11].
- 9.2. That is incorporated in the development plan by way of Policy D2 of the LLP.
10. Complying with key policy theme 6 which is bringing about the optimisation of urban land
- 10.1. The national guidance and development plan seek optimisation. That is beyond debate.
- 10.2. The NPPF seeks the optimisation and efficient use of urban land. [NPPF 122]
- 10.3. LP Policy 3.4 seeks to optimise housing output for different types of location and development proposals that compromise this policy should be resisted.
- 10.4. LLP paragraph 2.105 identifies that high-density development will continue to be an essential element of meeting Lambeth's many needs over the next 15 years.
- 10.5. Additionally, Lambeth will expect schemes to optimise the housing potential of suitable under-used or vacant sites consistent with a high-quality environment for all [paragraph 5.2]
- 10.6. Policy D1 of the LLP seeks that sustainable development maximises the use of PDL.
11. Complying with key policy theme 7 which is bring forward schemes with Good Design.
- 11.1. Architecture should make a positive contribution [LP Policy 7.6]
- 11.2. High quality design is fundamental to what planning process should achieve [NPPF 124]
- 11.3. Permission should be refused for development of poor quality [NPPF 130]
12. Complying with key policy theme 8 which is to bring about Economic benefits

- 12.1. The Planning system should help to build a strong, responsive and competitive economy. [NPPF 8a]
- 12.2. LPAs should work proactively to bring about developments that will improve the economic conditions of the area [NPPF 38].
13. Complying with key policy theme 9 which is to bring about social benefits
  - 13.1. The Planning system should ..ensure a sufficient number and range of homes to meet the needs of present and future generations [NPPF 8b]
  - 13.2. LPAs should work proactively to bring about developments that will improve the social conditions of the area [NPPF 38].
14. Complying with key policy theme 10 which is the promotion of underutilised land
  - 14.1. NPPF 118[e] seeks to promote and support the development of underutilised land and buildings.
15. It is therefore the contention of the Appellant that this proposal complies with 10 fundamental and key policy aspirations of the NPPF, the London Plan and the Lambeth Local Plan.

**Factor 3 - Planning should be a positive force for change.**

16. There is the most serious and grave problem in this country that housing has become the preserve of the lucky, the rich or the old. The most basic right to a home is one which is incredibly difficult to attain because of the lack of supply of new housing.
17. It is a national crisis recognised repeatedly by Government who seek 300,000 houses per annum and now 66,000 houses per annum in London.
18. Of course that is not mentioned in either closing.
19. Indeed Lambeth themselves accept there is a housing crisis in London and accept the Housing crisis **is apparent** in Lambeth and the demand for housing **continues to increase**. [ELLP 2.76].
20. That is reflected by 23,000 households identified in the emerging plan as being on the waiting list for affordable housing [ELLP 2.77, CD 1.4]
21. London is a key and critical component of providing enough housing as it effectively is asked to provide 20% of the national requirement.

22. Lambeth cannot meet their affordable housing needs, and there are 12,237 people who have made applications for housing in Lambeth in the past 12 months [Mr Ireland Appendix 3].
23. This problem is not an intellectual one but a real one that affects millions of people currently who as a result of the shortage of housing are priced out of acquiring and having their own home.
24. The solution to these grave problems is to grant planning permission for sustainable housing development such as this proposal.
25. The essence of this proposal is that it will provide on a site which contributes currently not one home, 258 modern, state of the art homes for individuals, couples and families which will transform and enhance lives.
26. You Sir have immense transformational power and we ask you to use it by granting planning permission for the reasons set in this closing.
27. We have been accused of using hyperbole by MLF. It is unfortunate to use such terms. We happily accept that we have sought to put our case emotionally because the shortage of housing is a national disgrace and we proudly speak for those who do not have a voice and are currently homeless.
28. They demand and require a voice and we happily give it to them.

**Factor 4 – This is an area of significant deprivation and in need of economic investment.**

29. That voice is even more required in areas of extreme deprivation which Lambeth is.
30. Lambeth has a population of 303,100 people which is the same size as Newcastle Upon Tyne [296,000].
31. Lambeth is highly deprived – on the LPA’s own admission it is in the **lowest 10% of economic deprivation** in the Country and is the **22<sup>nd</sup>** most deprived area in the whole country and yet unlike other areas it lies closest to the richest parts of this Country just across the Thames.
32. It is also noteworthy that it was ranked 19<sup>th</sup> most deprived in 2007. [ELLP paragraph 2.12]
33. Therefore in 13 years there has been no real material improvement in a comparative sense.
34. It is a shocking indictment of economic inequality and lack of investment.
35. That reveals significant deprivation and economic hardship to real people.

36. In order to improve that position only one thing matters – investment in homes and jobs and the environment to bring it up properly and benefit all.
37. The Appellant is looking to invest £100 million in this scheme which would amount to a huge investment in the borough, its residents and the local community.
38. In contrast what has the LPA revealed at this inquiry is their strategy to address this? Across the 52 pages of closing how does MLF indicate a strategy to use this site, to encourage investment and seek development on this site. Absolutely nothing.

**Factor 5 – The Appellant has acted impeccably throughout this matter.**

39. We will simply not subscribe to the narrative articulated by Stop the Blocks that the Appellant has in any way acted inappropriately in this matter.
40. It has actually undertaken the most comprehensive consultation possible to envisage with 9 meetings with the LPA and 5 with the GLA. It has held public consultation events, visited objectors' homes and sought to amend and refine the scheme at all times.
41. The truth is that they consulted, discussed and refined throughout.

**Factor 6 – The future use of this site is truly bleak if planning permission is refused.**

42. One must also consider the effects of refusal which in our view would be dire for the site.
43. There can be no confidence in the LPA grabbing this site by the horns and coming up with any viable or beneficial solution. They are brilliant at objection and rejection.
44. Completely hopeless at constructive, productive engagement in encouraging investment and development.
45. Why would the future be any different to the past where the LPA have produced not one solution in 7 years or used any of their vast planning powers through the development plan, the emerging development plan or any SPD or update to the Conservation Area Statement to progress a meaningful and long-term solution to this site.

**Factor 7 – The LPA's case is one of legalism, negativity and nit picking.**

46. MLF closing encapsulates why LPA's are so completely out of touch with the requirements of the NPPF to deliver sustainable development and for housing.

47. It is tempting to send this speech to the Secretary of State and Prime Minister so they understand why housing delivery is so difficult when faced by this kind of institutional negativism and destruction.
48. What you have been subjected to is a detailed exposition of tiny, nit picking legalistic points spread out in enormous detail with the blowing of an enormous amount of fog over the proposal.
49. What is heart-breaking is they are tasked with bringing about positive change
50. It is partisan in the extreme:
  - 50.1. The LPA's very own Conservation Area Statement acknowledges that the area is dominated by tall buildings. Their document and yet MLF can closing by contesting the proposal would be jarring and dominant against the low-rise residential context in which it was situated [Paragraph 44]
  - 50.2. The benefits are dealt with in the most dilatory and pre-determined manner. This is encapsulated by dealing with the benefits of housing and affordable housing in one paragraph out of 202 total paragraphs – less than 0.5% of the closing deals with the provision of 258 houses, including over 113 affordable units.
  - 50.3. Paragraph 192 is simply wrong. Mr Holt accepted all the contents of the benefits. I asked him that he agreed all were benefits and the dispute related to weight. He agreed.
  - 50.4. To seek to rely on the GLA is strange – they support the proposal at Stage I subject to a few minor tweaks as is clear from their response.
  - 50.5. Overall there is a test of perfection required by MLF which is completely wrong. The test is actually acceptability and compliance overall with the development plan which is completely different and utterly appropriate. You get an insight into why Lambeth is deprived and Westminster, the City and Southwark are booming because the latter embrace change, investment and development and Lambeth endorse the nit picking legalism of MLF.

## **Section 2 – The matters not in dispute between the LPA and the Appellant**

51. The evidence at this inquiry has shown that there is a huge amount of common ground between the Appellant and the LPA, and that the LPA's objections have become further and further narrowed, showing that there is no convincing case to justify refusal.
52. The following matters are agreed between the two main parties and therefore not in dispute as a result of the Statement of Common Ground and Mr Holt's cross-examination:
  - 52.1. Lambeth suffers from significant deprivation.
  - 52.2. This site needs a solution.
  - 52.3. The site is properly considered a PDL site in NPPF terms.
  - 52.4. This site is in a highly sustainable location with a PTAL of 6A or 6B.
  - 52.5. The solution to the site must be redevelopment, not re-use. [CD5/2 – 10.1.9 – where there is acceptance that no realistic reuse of nursing home]
  - 52.6. This site is currently underutilised. [CD5/2, 10.1.11] and [Holt 9.7 first bullet point]
  - 52.7. This site is an important resource at 0.7 hectares.
  - 52.8. Lambeth are looking to allocate the site for development [CD 5/16, page 35] by a site allocation.
  - 52.9. It is thus identified currently as a key site [emerging Lambeth local plan paragraph 5.6, page 73]
  - 52.10. The use of this site is residential is acceptable. [CD 5/2. 1.1.11]
  - 52.11. Housing is identified as a priority use in Lambeth [para 5.2 of LLP]
  - 52.12. As its use is for residential in a sustainable location that optimisation should be the aim for any redevelopment.
  - 52.13. There is no prescriptive policy that says what should come forward on this site.
  - 52.14. Lambeth have not come forward with any policy in 7 years to bring this site forward.
  - 52.15. The opportunity area of the E & C is touching the red line of the appeal site.
  - 52.16. The E & C OA is subject to significant change currently.
  - 52.17. The E & C OA will continue to be subject to significant change in the future.
  - 52.18. This site is characterised by Lambeth as inner London in the local distinctiveness study.
  - 52.19. The amount of affordable housing component is policy compliant.
  - 52.20. The development is effectively car free and that is aspired to by policy
  - 52.21. The provision of cycle parking is policy compliant.

- 52.22. The position on flooding and drainage is acceptable.
- 52.23. The LPA is supportive of attempts to retain the cinema museum [CD5/2, 10.1.20]
- 52.24. The servicing arrangements fully agreed between the LPA and the Appellant.
- 52.25. Every unit proposed meets relevant minimum internal space standards.
- 52.26. All proposed homes meet accessible and adaptable standard and 10% meet wheelchair user standard.
- 52.27. There are no strategic views impacted or affected.
- 52.28. Lambeth's emerging policy supports tall buildings [Emerging local plan page 51, paragraph 3.9]
- 52.29. The quantum of amenity space is acceptable.
- 52.30. An acceptable s.106 obligation, including on the matter of income caps, has been provided.

### **Section 3 – The propositions that support the grant of planning permission**

#### **Proposition 1 – This site is underutilised currently and needs a beneficial use**

53. This site is currently over half a hectare of land minutes from the heart of London and is currently not used beneficially.
54. The site is currently under-utilised and it provides a valuable opportunity to meet local and strategic housing needs. This is a matter of agreement with the LPA (CD5/2, paragraph 10.1.11 and Holt XX) and the GLA are also strongly supportive of the redevelopment of the site.
55. It is also common ground with the LPA that the loss of the nursing home is acceptable and is no longer needed to be retained or required and there is no realistic prospect of the care home remaining on site [CD5/2 paragraph 10.1.9]. That is also the consistent position of the NHS and the GLA.
56. The status quo cannot and should not be continued here. Therefore, the question is not whether there should be redevelopment, rather the question is what that redevelopment should be. This is a very important starting point for determining this appeal.

#### **Proposition 2 – The use of this site for housing is accepted and appropriate**

57. There is also clear agreement with the LPA that this site is appropriate and suitable for C3 residential use (CD5/2 paragraph 10.1.11) and that this is a priority use in the Lambeth Local Plan.
58. Indeed, the emerging Lambeth policy expressly identifies this site for 90 homes and Mr Holt accepted that the site provides a significant resource to be used to provide housing.
59. Again, this common ground is a very important starting point.

#### **Proposition 3 – This site is highly sustainable**

60. The site is highly sustainable and again this is a matter of common ground. The PTAL of the site ranges from 6a to 6b, both of which are classified as being excellent. Bus stops, national rail and underground stations are all located extremely close to the site.
61. This central London site lies on the boundary of the CAZ, the E & C opportunity area and the E & C Major Town Centre. In truth, the site could not be more sustainable.
62. Mr Considine explained that the sustainability credentials of the site are clearly a benefit of the development, particularly given the scarcity of the availability of such sites. Focussing

development in such highly sustainable locations is undoubtedly a fundamental aim of both national and local policy, reducing the reliance on the private car and reducing emissions in line with the climate change agenda (see para 103 of the NPPF).

63. The proposed development is fully in accordance with this.
64. Mr Holt's approach of saying that weight to benefits such as this should be diminished because they comply with policy was novel and plainly not correct.
65. Any benefit flowing from the grant of permission for the scheme must be placed in the planning balance and we have simply never seen any precedent for saying weight is reduced because it is policy compliant. That would completely dis-incentivise policy compliant schemes if the benefit was consequentially reduced which would be a wholly perverse outcome.

**Proposition 4 – This site should provide a development which optimises the use of the site**

66. This site is a huge resource for Lambeth and London, where high density development is not only appropriate, but rather is required.
67. The NPPF states that the use of such sites should be optimised to provide as much housing as possible.
68. A development which did not do this would be clearly contrary to policy and remember the clearest injunction in the NPPF at 123 that LPAs should refuse proposals which do not make proper use of such land.
69. The proposed development obviously does optimise the use of the site.

**Proposition 5 – This site is previously developed land and is given priority by Government**

70. Another matter of agreement is that the site is previously developed land. The Government want to see such land given priority in development schemes, and it must be right to encourage the recycling and reuse of highly sustainable sites prior to utilising green field sites.
71. The NPPF (paragraph 118(c)) provides that substantial weight should be given to the value of using such PDL for homes, and thus substantial weight should be given to the proposed

scheme's development of PDL. The more housing that is contributed here, the less will be required to be provided in less sustainable and even greenfield sites across the country.

**Proposition 6 – There is a huge housing demand which needs to be met and the contribution of the proposed development is a significant benefit**

72. The UK needs to deliver 300,000 net additional homes per year (Planning for new Homes – February 2019), and London is not immune to that housing need in delivering 49,000 a year currently and at least 66,000 a year with the adoption of the ELP.
73. Currently London is only building 37,000 a year; even last year the number built was 42,460 (CD7/17). So in the past 3 years a cumulative shortfall of 36,000 homes which should have been provided has not.
74. Additionally London has underprovided in every year for the past 10 years (Ireland Figure 3.1). Indeed as recently as 2012-13 only 21,000 houses were provided and in 2017-18 only 31,000 houses. A truly remarkable shortfall.
75. That is a need which should have been met and this has significant consequences for Londoners.
76. This London need is compounded by the Secretary of State's response to the Mayor as to the emerging London Plan, where it was set out that the Plan as proposed delivered 14,000 homes less than that which is needed (CD 1/20).
77. Land for this remaining housing in London still needs to be found.
78. Mr Holt's approach of ignoring the wider London need was unsound.
79. His approach is directly contrary to the decision of the Secretary of State of September this year in the Brentford decision, following his Inspector who found that the London-wide need for housing cannot be ignored and that it would be wrong to argue that the London-wide need could be met elsewhere (CD 7/12, para 15.59).
80. The need for more housing is also present in Lambeth.
81. Policy H1 requires housing growth to be maximised and the housing requirement is clearly a floor not a ceiling. Indeed, policy H1 encourages development on windfall sites, which is precisely what the appeal scheme is.

82. Further, as explained by Mr Ireland, the poor affordability situation in Lambeth points to a particularly acute supply/demand imbalance in the provision of market housing in Lambeth and thus a strong need to increase market housing delivery.
83. Mr Holt's initial contention that only limited weight should be given to the benefit of the provision of market housing was again not a credible approach and it disclosed the lack of objectivity in his evidence.
84. Again, it was an approach directly contrary to another decision of the Secretary of State, this time in Lambeth itself – the Vauxhall Bus Station decision of April this year (CD 7.8) – where the Secretary of State gave significant weight to the delivery of market and affordable housing. Remarkably, Mr Holt was the LPA's witness at that inquiry.
85. Nothing relevant has changed between then and now.
86. Mr Holt eventually conceded that significant weight should be given to provision of market in this appeal, which tallies absolutely with Mr Considine's judgment.

**Proposition 7 – There is a huge affordable housing need and the contribution of the proposed development is a significant benefit**

87. There is a huge unmet need for affordable housing in England, London and Lambeth. Of English regions, London has the most severe affordability issues with the average home costing 12 times earnings.
88. The affordability position is even more severe in Lambeth, with the median housing price-to-earnings ratio of 14.5 (see Mr Ireland Proof, para 3.4 and 3.5) which was not challenged.
89. That statistic requires contemplation because it is so stark – to buy a property in Lambeth you need to have available or be lent 14.5 times an average salary which is the clearest manifestation of how difficult it is to buy a property now in Lambeth.
90. Mr Ireland and Ms Barnett were also both in agreement that it is not possible for Lambeth to meet all their affordable housing needs.
91. It is common ground that the appeal scheme delivers policy-compliant 50% affordable housing equating to 113 homes in absolute terms.
92. This is clearly a significant benefit.
93. The significance of this benefit is exemplified by Mr Ireland's evidence showing that this is a level which is significantly higher than the LPA achieves on most development schemes,

with the average of all housing completions in the borough delivering only an average of 24% affordable housing since 2011 (Mr Ireland Proof, para 3.20).

94. Mr Holt's initial approach of only attributing limited weight to the benefit of affordable housing yet again displayed his lack of objectivity when applying his mind to this appeal. In cross examination he rightly conceded, in agreement with Mr Considine, that the provision of affordable housing is another benefit of significant weight.

**Proposition 8 – The economic benefits of development are significant**

95. The development will provide significant economic benefits. During the construction phase many will be employed to build it, and during occupation the residents will live and contribute to the community financially and through their presence in this location. The capital spend of the development will be in excess of £100 million.

96. The economic benefits of the scheme and the regeneration cannot be underestimated or undervalued. The NPPF provides that significant weight should be placed on the need to support economic growth and productivity (see para 80 NPPF). This is especially so in an area like Lambeth which falls within the 10% of most deprived local authorities in the country.

97. Mr Holt's approach of reducing this weight because any development could contribute such economic benefits is another novel and wrong approach. All benefits which flow from the development must be weighed in the planning balance. If permission is not granted, then these huge economic benefits will simply not come forward.

**Proposition 9 – The social benefits of development are significant**

98. The provision of housing which range in sizes and tenures, meets a significant need and is a huge social benefit, as explained in detail by Mr Ireland and Mr Considine.

**Proposition 10 – The environmental benefits will be significant**

99. The provision of the development will provide a beneficial and bright location with a high-quality architectural solution providing legible routes, green space and improved occupation and safety, as explained by Mr Graham, Mr Farrer and Mr Considine. This is a huge benefit to Lambeth, particularly when compared to the unwelcoming current nature of the site, which has a low quality of public environment and poorly lit access to the redundant care home.

**Proposition 11 - The overall benefits cumulatively are very significant and will be delivered**

100. Cumulatively, the benefits of the proposed scheme should be given very significant weight in the planning balance, if not compelling weight when one considers the overall package of benefits.
101. Now it is necessary to consider whether the concerns of the LPA and the Rule 6 party outweigh those very substantial benefits.

**Proposition 12 – The harm relating to housing mix is not of substance**

102. The evidence at the inquiry from Ms Barnett and Mr Ireland showed that the scope of the Council's concerns here, under reason for refusal 3, were actually extremely narrow.
103. In relation to affordable rented homes, the Council's concern was a lack of 1-beds. However, both Ms Barnett and Mr Ireland were in full agreement that because it is not possible to deliver all the affordable housing need in Lambeth, choices need to be made about priorities in affordable housing; and in relation to social/affordable rented housing, the priority is family homes.
104. The relative priority is supported by the evidence from the Council's own Social Housing Liaison Officer that the need on the ground for higher priority applicants is mainly for 2-beds and larger (see Appendix 3 of Mr Ireland's Proof). It is also supported by the fact that at the pre-application stage, the Council requested more 2 and 3-bed affordable homes.
105. By the proposed scheme only delivering 2 and 3-bed affordable rented homes, the scheme is meeting the priority needs.
106. Mr Ireland explained that the lack of 1-bed affordable rented homes would not cause any harm to mixed and balanced communities.
107. In relation to market homes, Ms Barnett accepted, in relation to policy H4 of the Lambeth Local Plan that:
- 107.1. there was flexibility in the policy, and it is not intended to apply rigidly;
  - 107.2. in principle, it may be appropriate for a development to have a housing mix different from the borough-wide requirements in H4 (see supporting paragraph 5.21);
  - 107.3. assessment of individual site circumstances is necessary, including the location of the site and the viability of the scheme; and

- 107.4. the reason the policy is not prescriptive in relation to market housing so as to not negatively impact on housing delivery.
108. However, despite agreeing all this in principle, Ms Barnett failed to apply any of this to her judgments in her evidence. In effect, she rigidly applied the policy requirements and failed to take into account the particular location of the site. Her approach cannot be endorsed.
109. In relation to location, both the adopted and emerging London Plan recognise that in locations such as the appeal site, which are highly accessible locations, it is more appropriate to have high density development with smaller homes, rather than family housing (see page 100, para 3.29 of the adopted London Plan, and policy H10(6) of the emerging London Plan).
110. In addition to this, Mr Ireland explained, by reference to comprehensive evidence, that the market demand in this particular part of the Borough is for smaller homes, not family sized homes where demand is towards other parts of the Borough.
111. Ms Barnett eventually conceded in cross-examination that these factors were relevant and that the particular location of the site did justify less family homes than policy requirements. To this extent her concerns clearly narrowed. Mr Ireland explained that taking this into account there was limited harm caused to mixed and balanced communities by the lack of 3-bed market housing in the appeal scheme.
112. Mr Ireland further explained that including 3-bed market housing in the scheme would make the scheme unviable, because on a like-for-like comparison larger homes would result in less profit. This negative effect on viability is plainly relevant to take into account in assessing the appropriate housing mix in line with policy. Mr Holt's 'solution' to this was to suggest that 3-beds could be provided as premium homes on the upper floor. However, Mr Ireland rightly stated that the evidence showed that such premium homes would very likely not be occupied by families in any event.
113. Finally, as to shared ownership housing, Ms Barnett's criticisms of a lack of family sized homes failed to take into account the Council's updated position on RfR1, whereby the Council has subsequently agreed that the split of more shared ownership affordable housing is appropriate having regard to viability.
114. Mr Ireland demonstrated that the demand or need for shared ownership housing is overwhelmingly for smaller homes, not for family-sized homes; and he explained that there was an obvious relationship between the tenure mix in policy H2 and the unit sizes in policy

H4. Once presented with this, the Council's position was shown to be very weak. Ms Barnett fairly explained that she did not know that the demand for 3-bed shared ownership housing was rare and notably Mr Ireland was not cross-examined at all by the Council on these issues. Mr Ireland position that there is no harm here in respect of shared ownership homes is the correct approach to take.

115. Overall, the unit size mix objections from the Council in no way justify refusal of the scheme.

116. As rightly pointed out by Mr Ireland, policy 3.9 of the London Plan on mixed and balanced communities shows that the key concern is a mix of tenures and not creating mono-tenure estates (policy 3.9 London Plan, paras 3.58-3.59), which is certainly not what is being created by the mixed-tenure proposal here.

**Proposition 13 – The harm relating to inappropriate design is not of substance**

117. Only one party has comprehensively and systematically evaluated the context of the site, its surroundings and the wider locality and that is the Appellant.

118. The evidence of Mr Graham and Dr Miele, both leading experts in their field, comprehensively demonstrated that the design of development, including the tall building, are entirely appropriate in this location. Significant weight should be given to the views of an outstanding architect and one of the leading heritage and design experts operating currently in the field of planning.

119. A critical first consideration relates to the character of the area.

120. It is common ground that the development plan is silent on this particular site.

121. There is no Borough-wide analysis on the location of tall buildings.

122. Indeed, although the Borough has selected certain areas as inappropriate for tall buildings, this area is not one of them.

123. It is clear that on the detailed analysis that has taken place in the evidence at this inquiry, this area is highly urban and that a tower is the most suitable solution for the redevelopment of the site:

123.1. The site lies right on the boundary of the E + C opportunity area and CAZ, and in practical terms the sustainability credentials of the site are similar to land within the opportunity area. This proximity is highly relevant, and it was telling that in cross-

examination Mr Black was unable to say how far away the site is from the opportunity area.

123.2. The site is also located in the north of the borough, which the Lambeth Local Distinctiveness Study (CD 1/13) identifies as city centre/urban in character and where the Lambeth Tall Buildings Study (CD 1/53, para 3.18) identifies existing tall buildings are commonly located.

123.3. It is clear, as explained by Mr Graham and Dr Miele, that someone coming to this site is highly aware of the influence and presence of tall buildings across the area, both in the Elephant and Castle and on towards Kennington.

123.4. The emerging local context is also extremely pertinent, including the grants of planning permission for a number of tall buildings and the identification of further development opportunities. This was exemplified by Mr Graham in his evidence, including the CGI's and virtual reality tour. Taking these into account is not mere speculation, but rather highly relevant in planning terms.

123.5. In particular, the Renfrew Road Conservation Area Statement (CD 1/10) explains that views within the conservation area are dominated to the south, east and west by residential tower blocks which stand outside the conservation area. Again, this is highly germane to the character of the area and suitability of the site for a tall building. It was remarkable that Mr Black, although candidly disclosing that he was involved in the production of this CA Statement, failed to refer to this in his evidence.

123.6. The character of the area and the site is plainly not back land or suburban, as alleged by Mr Black.

124. In approaching what solution is best for the optimisation and redevelopment of the site, Mr Graham explained that he was not constrained in any way by his brief and that he and his team took a design-led approach. Mr Graham explained that following an extensive and comprehensive options analysis, he came to the informed conclusion that a central taller building and a lower perimeter building was the right solution, which would be in keeping with the site and its context. Notably the GLA were consistently supportive of the principle of a tall building on site.

125. The LPA has wholly failed to put forward any credible case as to why the principle of a tall building in this location is unacceptable.

126. The evidence has shown the high quality and strength of the design and how it will be one of enhancement and make a positive contribution to the area. The buildings contribute meaningfully to the skyline by stepping down from the taller buildings in the Elephant and Castle and forming an attractive silhouette. The massing of the buildings is appropriate, and the well-detailed architectural treatment, influenced by the cinematic history of the site, reflects the surrounding context. The design will also create a legible and easily discernible route through the site.

127. This development will continue the success story of the regeneration of the surrounding area; this will not harm but rather will represent change for the better.

**Proposition 14 – The harm relating to heritage assets is greatly overstated, and is obviously outweighed by public benefits.**

128. It is common ground that the proposed development would not have a direct effect on any heritage assets, rather the effect would be to the setting of heritage assets.

129. As to setting the key issue is the degree to which setting contributes to the significance of the assets, and the proposed development's effect on this significance.

130. It is also common ground, between the Appellant and the LPA, that the harm caused is less than substantial (although there is disagreement as to the assets which are harmed). At the outset, it is clear that Mr Maher's allegations of substantial harm, based only on change to the setting of these assets, are plainly not credible in this case.

131. Dr Miele explained that the correct approach is to look at the whole of a designated asset's significance, and all physical characteristics and associations that contribute to significance.

132. One should then look at what aspects of significance are reduced or taken away.

133. It is the degree of loss measured against the whole that sets the scale in the less than substantial spectrum.

134. Notably, this consideration of significance was entirely lacking in the delegated report when the indicative reasons for refusal were formed. It is a remarkably poor report when one considers that the NPPF gives the clearest steer on the correct approach involving the key question of significance and the report fails to consider that question until the final knockings of the heritage section.

135. It provides no policy compliant assessment of harm.

136. Dr Miele fairly and objectively agreed with Mr Black that the development would cause less than substantial harm to the Renfrew Road Conservation Area (and the Masters House within it; he cogently explained his reasons for a finding of no harm to the listed, former Water Tower, which has been extended significantly to form a single house).
137. Dr Miele explained that the scale of this less than substantial harm is at the low end because the greater part of the significance of the assets, and the appreciation of that significance, is not affected by the proposed development. Importantly, as explained by Dr Miele in response to questioning by the Council, his judgment is that harm is at the low end of less than substantial *even before* taking into account any heritage benefits.
138. The detailed high-quality design of the development reduces the heritage harm caused.
139. In addition, the character of the area being highly urban with tall buildings, as already discussed above, is very relevant here. This is not a case of past harm being used to justify more harm. The operation of the development plan over nearly two decades has materially changed the way that the affected assets considered at this appeal are experienced, and it is relevant that the local planning authority did not object to the applications for the towers which are so plainly part of the setting of the CA and the listed buildings within it.
140. In particular, the Renfrew Road CA Statement (CD 1/10) states that views within the conservation area are dominated to the south, east and west by residential tower blocks which stand outside the conservation area.
141. Further, the proposals remove the existing nursing home development which detracts from the character and appearance of the area and the CA; replacing it with a high-quality landscape and buildings. Again, the Renfrew Road CA Statement is of assistance here – it states that the nursing home makes a negative (not neutral) contribution. For a second time, Mr Black did not refer to this in his evidence and sought to disagree with this Council position, despite being part of the Council team putting together the CA statement. Mr Black’s evidence here clearly lacked objectivity, and is not corroborated by the Council’s own evidence base.
142. The removal of the nursing home is a public benefit to be weighed in the balance. This point is obvious.
143. As to the remaining conservation areas and listed buildings which Mr Black alleged less than substantial harm to, Dr Miele explained that no sound allegation of harm could be made out.

144. In relation to Walcott Square CA and West Square CA, which include a number of listed buildings, the significance of these are experienced while moving into and through them. The views out from these spaces include large buildings which are demonstrative of being in central London, and this setting is not harmful currently. This variance and contrast is characteristic of London and contrast of old and new is inevitable and not harmful; and the proposed development's addition to this would not result in any harm to significance.
145. Mr Black's concerns here were extremely narrow, coming down to a few views. Dr Miele explained why his own view should be preferred; and it is notable that Historic England, while identifying West Square, did not identify any harm to Walcott Square.
146. In relation to Lambeth Palace, Dr Miele again found no harm to significance, given that the setting of the Palace is emphatically the river, the distance of the proposed development and that taller buildings at the Elephant and Castle are already visible in the background. Dr Miele also explained that Mr Black's approach as to the protected silhouette in policy was wholly wrong. Historic England did not identify any harm at all to Lambeth Palace, even though they have a particular remit in relation to assets of this nature; and Mr Black was the lone voice of dissent on harm to Lambeth Palace.
147. If this view were to be treated as some kind of protected silhouette (which appeared to be the Borough's position in evidence), then that would conflict with the delivery of the strategic planning objectives for the E&C which OA lies in the backdrop of the palace as appreciated from Victoria Tower Gardens.
148. At any rate, overall the heritage harm alleged Mr Black, for development of a tall building within central London, is relatively minor. He described his allegations of less than substantial harm to the Water Tower and the Masters House as more towards the middle of the less than substantial spectrum, and the remaining assets as at the low end of less than substantial harm.<sup>1</sup> Under NPPF paragraph 196 these levels of less than substantial harm would be easily outweighed by the huge public benefits of the development, as explained by Mr Considine.
149. Accordingly, the level of heritage harm identified by Dr Miele plainly does not justify refusal of the scheme.

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<sup>1</sup> See Mr Black's table at page 72 of his Proof.

150. Even the level of harm identified by Mr Black would be comfortably outweighed by the public benefits, and also would not come close to justifying refusal.

**Proposition 15 – The harm relating to daylight and sunlight is greatly overstated.**

151. The policy imperative in the NPPF (para 123) is that where there is there an existing or anticipated shortage of land for meeting identified housing needs, a flexible approach is required in applying policies or guidance relating to daylight and sunlight.

152. Mr Holt, Ms Barnett, Mr Ireland and Mr Considine were all in agreement that Lambeth are not able to meet their affordable housing needs, and that there is a shortfall in affordable housing provision.

153. There is clearly also a relevant shortage of housing in London.

154. Therefore, without a doubt, there is an existing or anticipated shortage of land for meeting identified housing needs and para 123 NPPF applies.

155. As rightly explained by Mr Considine in response to questioning by the Council, the BRE guidelines are required to be applied flexibly within the BRE framework itself, however para 123 NPPF requires *even more* flexibility where there is a shortage of land for housing.

156. The starting point is that this site is hugely underutilised currently when one considers its context. It is important to step back and understand that primarily any development which tries to comply with aspirations of optimisation and maximisation of housing in this highly sustainable location will cause an impact on the neighbours. As explained by Mr Lane, the context of the site is also important here – the site being an urban location in inner London, with multiple tall buildings in place and more on the way. Tellingly, Mr Lane demonstrated that a building of half the height of that proposed would have similar effects.

157. In terms of impacts on neighbours, these relate to the gardens and some of the properties.

158. As to gardens, Mr Dias confirmed that only 11 gardens (out of 68) are relevantly of concern to him. However, it was clear that Mr Dias adopted an extremely narrow assessment, focussing solely on the situation on 21 March assessment date. As explained by Mr Lane (see his table 5.2 and Appendix 7), within a very short period after this date the majority of gardens meet the criteria of 2 hours sunlight and every garden would receive significant sun in June.

159. The result is that the impact on gardens is marginal.

160. Mr Lane's approach of looking at the whole picture and also taking into account that gardens will be used more in the summer months should be far preferred to Mr Dias's academic approach of looking at only one day and ignoring everything else.
161. In addition, the impact on gardens was clearly not a relevant concern for Mr Dias when he undertook his independent review in November 2019 (CD 5/13).
162. Indeed, Mr Dias's departure from his objective opinion in November 2019 was a pattern throughout his evidence and revealed that he had materially changed his judgments and approach for the purpose of appearing at this planning appeal.
163. As to existing properties and the mode of assessment, it was agreed in the SoCG that both vertical sky line component and no sky line are valid, and Mr Dias confirmed in cross-examination that both were of equal importance.
164. However, despite this Mr Dias barely placed any weight on the NSL assessment, which shows a 96% compliance rate (500 windows out of 522), which is a remarkable level of compliance considering the scale of this development probably yet again because it did not help his case in any way. His proof almost completely ignored the NSL assessment leaving him only addressing results which assisted his evidence which again is not an objective or fair approach.
165. Additionally, the properties identified will not have substantial losses.
166. If one uses an alternative target value of 15% VSC guideline then almost all the properties are satisfactory. Such an alternative target value is completely reasonable in the context of London. Mr Lane comprehensively justified why 15% is an acceptable alternative target level here.
167. Moreover, it was incredibly revealing that in November 2019 Mr Dias clearly accepted that 15% would be reasonable and raised no objection at that stage. However, his position conspicuously changed in his Proof of Evidence for this inquiry. Mr Dias had no convincing explanation for his change of position, and in cross-examination he did accept that 15% in London can be acceptable.
168. Finally, a concern is raised about the future residents of Block A in relation to daylight.
169. Considering the development as a whole there is a 95% compliance for ADF out of the 581 habitable rooms.

170. Of the rooms that do not comply, half are bedrooms, which Mr Dias accepted are less important.
171. This leaves the actual rooms of concern at a very low number, and those affected will nonetheless have good outlook on the amenity space.
172. Assessing the development as a whole, which must be the right approach, there is an extraordinarily high level of compliance for a development such as this in London.
173. This LPA have allowed and consented other developments where the level of compliance is far less.
174. Overall, in the context of the site the harm caused is completely expected and consequential on any redevelopment of this site. It is simply par for the course when you change a site from barely being developed to one that respects and reflects the aspirations of Government on a site such as this.
175. It should be given some weight in the planning balance, but with the considerations of government policy towards this site, namely the level of flexibility that is required, and a practical realisation that the level of harm identified is not out of the ordinary for a site of this nature.

**Proposition 16 – The harm relating to poor amenity space is not of substance**

176. There is complete agreement that the amenity space provided meets quantitative requirements in terms of the amount proposed. The only issue of contention is in relation to quality.
177. Mr Farrer's evidence should be given very significant weight as a former president of the Landscape Institute and an existing member of many design review panels.
178. Mr Farrer showed that the amenity and play space would be of a high quality that is legible, safe and useable.
179. The play space is in the heart of the scheme, providing convenient and close by access. The play spaces are also vehicle-free, and dedicated play zones allow overlooking and safe places to play. The scheme would also provide a new route through the site, made highly legible by surface treatment and the positioning of trees.
180. Mr Black confirmed that the crux of his concerns with the amenity space was the public pedestrian route through the site.

181. However, these concerns are fundamentally misconceived.

182. As explained by Mr Farrer, the combination of play space and public realm is a positive aspect, which improves and encourages surveillance, permeability and activity; it also discourages anti-social behaviour. Additionally, the multifunctional play space in the scheme, unenclosed by fencing, better reflects the reality of how children play. Mr Farrer made the simple point that Mr Black's concerns could be met by erecting fencing around the proposed play spaces, but that such fencing would be unnecessary and undesirable.

183. Unquestionably, there is no harm caused in relation to the amenity and play space provision. Rather, the development will provide amenity and play space which is legible, safe and useable, and which will be of real enhancement to those residents of the development.

**Proposition 17 – The concerns of the Stop the Blocks do not raise issues which are weighty in the planning balance.**

184. The position of StB is utterly out with the driving aspirations of the NPPF.

185. That is betrayed by just 2 mentions of the NPPF in the closing and only in relation to NPPF 195. It reveals a case which is completely out of step with the policy framework that exists.

186. Only points which raise credible and weighty planning considerations need to be considered.

187. There were few of those that met that test as shown in the clearest terms in their closing.

188. There is a very apt saying at the bar that bad points contaminate the whole case. This is exactly what has happened here to their case.

189. They make some really poor points.

190. For example the site is not central apparently... although completely disagreed by the LPA and the Appellant.

191. For example to allege the only benefits of the scheme relate to housing and that should be given moderate weight is simply the barriest submission possible in the light of the housing position in London.

192. Giving only moderate weight to the needs of 12,000 people on the housing register epitomises an approach is to seek to utilise the planning system completely for those who have, rather than have not.

193. For example it is a very good cross check to see if those remaining concerns which meet the above test are endorsed by statutory and non-statutory consultees.
194. Such concerns were simply non-existent.
195. They also have no judgment of any kind.
196. To contend you should prefer the evidence on flooding of Mr Maher to that of the EA and the LPA as Local lead flood authority who have no concerns on this basis.
197. What is the end game of the flooding concern? I don't believe Mr Maher has ever really thought about this. Every single member of the group will experience the identical effects of any flood to the proposed residents of this proposal. What should happen? The site should remain undeveloped? Really? Is that the effect of their flooding concern. We simply do not know.
198. The evidence at the inquiry has shown that the extra concerns of Stop the Blocks are not at all weighty in the planning balance.
199. Mr Maher repeatedly showed himself to be the outlier in his issues of concern. His evidence, including on matters of access and flooding, showed disagreement with the Appellant's many experts, with a number of the LPA's experts, with the NHS commissioning group, with the highway department, with Historic England, with the Environment Agency and with the GLA.
200. If a view is expressed by an objective consultee you can be sure that Mr Maher will disagree.
201. In general, as to the evidence given by other residents, these of course are well meaning.
202. However, they disclose very little by way of relevant matters of planning concern. In particular, as already set out in detail above and in the evidence of Mr Ireland, Stop the Blocks comments on affordable housing go absolutely nowhere.
203. The approach of Stop the Blocks unfortunately lacks perspective and realism as to the need for market and a range of affordable housing in Lambeth and London, and that the only way to meet this need is granting permissions for sustainable housing development such as the proposed scheme, which also brings with it a wealth of other significant benefits.
204. As to the material planning harms identified, as demonstrated above, where limited harm is caused this is comfortably outweighed in the planning balance.

**Proposition 18 – The development will enable the Cinema Museum to secure its long-term future use**

205. The Museum is a resource to be cherished and loved.
206. It was deeply disappointing that both the LPA and Stop the Blocks felt it necessary to downplay the desires and requirements of the Museum at this inquiry epitomised by Mr Maher questioning, in direct contradiction of the Chaplin family, the connection of Charlie Chaplin to Masters House. They also promoted a standpoint which is in direct contradiction to one of unequivocal support put forward formally by the LPA and the local community historically.
207. The Museum has currently only got a one year rolling lease. There is no long term or even medium-term security of tenure – Ms Ford gave detailed evidence as to the huge disadvantages to them given the current situation whilst admirably remaining neutral on the scheme proposals themselves in spite of the absence of support from the LPA.
208. The Appellant is absolutely committed to supporting the Museum and to offering a long-term lease to the Museum upon the grant of permission with the Museum clearly keen to take such a lease. This commitment alone is of huge value to the Museum and their future planning.
209. Consequently, the development will secure and bring about the long-term future use of the Museum.
210. The GLA strongly supports the Appellant’s position on the Cinema Museum and that is highly material (CD3/17 paragraphs 20-22). Moreover, the LPA has been supportive of the Museum and is keen to facilitate its retention at Masters House (CD5/2, paragraph 10.1.20).
211. This is obviously a material planning consideration.
212. The courts have held that a broad approach should rightly be taken to what constitutes a material planning consideration. The Supreme Court in *R(Wright) v Resilient Energy Severndale Ltd* [2019] UKSC 53 explained that to be material, a consideration must (a) serve a planning purpose meaning it “relates to the character of the use of land.” and (b) fairly and reasonably relate to the development permitted.
213. Maintaining the use of the Museum is fairly and reasonably related to the development – it is included within the development red line and within the description of development which was accepted by the LPA, and indeed the LPA have been aware of this issue

throughout. No development needs to be proposed – that is a artificial invention by the LPA.

The application seeks the continued use and occupation by the Museum and that is enough.

214. In addition, securing the future use of the Museum is also clearly related to the use of land.

215. It is a relevant consideration and a benefit to be weighed in the planning balance.

216. Whether the securing of the lease offer through the s.106 obligation is a separate issue, and this also satisfies the tests of regulation 122.

217. We completely reject the position of the LPA as set out in closing – the benefit which is the continued use of land for 999 years is patently related to the use of land and is a benefit of the proposal. The LPA have not and cannot contend that the offer of the lease would occur without the proposal. The only route that offers the certainty of this lease is this development.

218. It clearly meets the Wright tests.

219. The lease and its securing of the future of use of the land and historic building by the Museum is a planning benefit and thus necessary to make the development acceptable in planning terms.

220. In addition, it is directly related to the development and fairly and reasonably related in scale and kind to the development, given its inclusion within the development red line and within the description of development which was accepted by the LPA.

221. Clearly, if you find that that the lease for the Museum is not a material planning consideration and/or fails the regulation 122 test, then it should not be taken into account. However, the Appellant's clear position is that these tests are satisfied.

**Proposition 19 - This is a development which accords with the development plan**

222. As Mr Considine set out strongly in evidence, overall the proposal complies with the development plan. It remained common ground that the principle of development was acceptable and that the development plan was silent as to exactly what redevelopment should take place on this site and therefore a criteria-based approach was needed. The evidence before this inquiry has shown that the proposed development complies with the development plan when considered as a whole.

223. Notably, Mr Holt openly accepted that in his consideration of compliance with the development plan, he only focussed on policies which (on the LPA's case) were breached.

There is plainly disagreement between the Appellant and the LPA as to what limited policies are breached, however in any event this was a flawed approach by Mr Holt. Clearly, for a full and informed judgment to be made as to compliance, the development plan as a whole must be considered.

224. In this appeal, the decision in accordance with the development plan is to grant consent. In accordance with the statutory presumption in favour it is a development which should be allowed.

**Proposition 20 – The planning balance and other material considerations are firmly in favour of the grant of planning permission.**

225. Again, as set out comprehensively by Mr Considine, the benefits of the proposed scheme are significant and hugely weighty, both individually and when considered cumulatively.

226. In contrast the criticisms of the LPA, even on the LPA’s highest case, are minor.

227. In particular, Mr Holt revealed that even as these minor criticisms began to fall away, and the LPA consented to withdrawing reasons for refusal, he failed to reconsider his planning balance. This is not a fair or objective approach.

228. On a fair and objective approach, the benefits of the scheme comfortably outweigh the minor impacts, and the balance unquestionably falls in favour of the grant of consent both in terms of NPPF paragraphs 196 and 11.

229. The grant of permission for this sustainable development will bring about huge change for the better in this part of London and the opportunity this proposal provides should be grasped to change many people’s lives for the better.

230. We commend the proposal to you and respectfully ask that you grant planning permission for it.

**7 December 2020.**

**SASHA WHITE Q.C. and ANJOLI FOSTER**

**Landmark Chambers**

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