



**LONDON BOROUGH OF LAMBETH**

**Planning, Development and Transport**

**Civic Centre, 6 Brixton Hill, London, SW8 2LL**

**STATEMENT OF CASE**

**Under Rule 6 of the**

**Town and Country Planning Appeals (Determination by Inspectors)  
(Hearing Procedure) (England) Rules 2000**

Appeal by Anthology Kennington Stage  
relating to

Woodlands Nursing Home, 1 Dugard Way, LONDON, SE11 4TH

Appeal Reference: APP/N5660/W/20/3248960

LB Lambeth Reference 19/02696/FUL

24<sup>th</sup> June 2020

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Notice: Anyone who wishes to inspect the Appeal documents will be provided a reasonable opportunity to do so. Details of the Appeal, including copies of the relevant planning application and the Appeal documentation, can be viewed on the Council's website ([www.lambeth.gov.uk/planningdatabase](http://www.lambeth.gov.uk/planningdatabase)) using the reference number 19/02696/FUL. Should anyone not have access to the internet and require alternative means of access to the Appeal documents please contact Lambeth Planning by phone on 02079261258 by letter to Lambeth Council, Civic Centre, 6 Brixton Hill, London SW8 2LL or by email ([planning@lambeth.gov.uk](mailto:planning@lambeth.gov.uk)) in order that arrangements can be made in the light of the ongoing restrictions arising from the COVID 19 pandemic.

## **1. INTRODUCTION**

- 1.1.1 This Appeal is against the non-determination by the London Borough of Lambeth ('the Council') of an application for full planning permission, dated 24 July 2019 (Council ref: 19/02696/FUL, referred to in this Statement of Case as "the Appeal Scheme"), at the site of the former Woodlands Nursing Home in Dugard Way, London SE11 4TH.
- 1.1.2 The Appeal is due to be heard at a public inquiry.
- 1.1.3 The Appellant sought planning permission for redevelopment of the former nursing home site by way of demolishing the existing buildings on the site and for the erection of a part 24 part 29 storeys building and peripheral lower development of 3/4 storeys to provide residential units, together with servicing, disabled parking, cycle parking, landscaping, new public realm, a new vehicular and pedestrian access, and associated works. A fuller description of the Appeal Scheme is provided in section 0.1 below.
- 1.1.4 The application was made valid on 16 August 2019 and the statutory expiry date for determination of the application was 15 November 2019. An extension to the expiry date was agreed by the parties until 28 February 2020 but lapsed without further agreement. The Appellant lodged an appeal against non-determination on 13 March 2020, notified by the Planning Inspectorate to the Council the same day. On 6 May 2020, the Planning Inspectorate confirmed that a valid appeal had been received and that the start of the appeal process had commenced.
- 1.1.5 The Council has set out what its reasons for refusal would have been, had it still been empowered to determine the application in the Officer Delegated Report at Appendix 1.

## **2. THE APPLICATION**

- 2.1.1 The application sought full planning permission for the following:
- Demolition of the of the former Woodlands nursing home building;
  - Erection of a tall (part twenty-four (24) and part twenty-nine (29) storeys) point building and peripheral lower development of three and four storeys to provide two hundred and fifty eight (258) residential units in total, of which 50% (by habitable room) would be assigned for a range of affordable needs;

- Retention of Master's House including the locally listed North Lodge and 'Reception Buildings'; and
- Servicing, disabled car parking, cycle parking, landscaping and new public realm and new vehicular and pedestrian access road off Dante Road.

### 3. THE SITE AND ITS SURROUNDINGS

3.1.1 The Appeal site comprises 0.7 hectares to the east and north of Renfrew Road and Dugard Way and is located in Kennington, falling within Princes Ward. It occupies a backland site bounded by buildings fronting Renfrew Road (west), Castlebrook Close / Brook Drive (north), Dante Road (east) and Kennington Lane (south). Currently the site comprises the remaining part of the former Lambeth Hospital site and includes Woodlands, a former nursing home, (Use Class C2) which ceased use in 2013 and Master's House, a Grade II listed building (Figure 1 below). Master's House is currently occupied by the Cinema Museum (Use Class D2).



**Figure 1: Application site as existing**

- 3.1.2 Woodlands Nursing Home was purpose built in the mid-1990s as a 30-bed nursing home for people over the age of 65 with mental health problems. The building comprises a two / three storey brick, block and render structure with steel roof with associated parking and comprises the northern part of the application site. The nursing home ceased operating permanently in 2013 and has since been unoccupied.
- 3.1.3 Master's House (Grade II listed) comprises the southern part of the application site and is located within the Renfrew Road Conservation Area (CA41). At one time it functioned as the administrative block and chapel to Lambeth Workhouse, later becoming part of Lambeth Hospital and now occupied by the Cinema Museum. The building is a two storey brick built structure with slate tiled roof
- 3.1.4 There are also two locally listed lodges, which frame the entrance gates into the site from Dugard Way. Only the North Lodge and adjoining Reception Building are included within the application site.
- 3.1.5 The majority of trees are located to the north of the site around the former nursing home building. None of these are protected by Tree Preservation Order, although are protected by virtue of the conservation area designation.
- 3.1.6 The site provided approximately 22 car parking spaces and were mainly allocated to the former nursing home use. The site is also located within Flood Zone 3 (although benefits from the River Thames tidal flood defences) and within an area of increased potential for elevated groundwater.
- 3.1.7 The site can be accessed by vehicular traffic from Renfrew Road (east) leading onto Dugard Way. To the west, pedestrian only access to the site is provided through a series of pathways including George Mathers Road which also (in part) provides vehicle access to the Bellway homes development and water tower. The PTAL of the site ranges from 6a to 6b, both of which are classified as being excellent. The nearest bus stops to the site are located along the A3, approximately 250m to the south providing for both northbound and southbound services. National Rail and underground interchange services (Northern Line) are provided at Elephant Castle and Kennington and are respectively located approximately 750m -800m to the north-east and south of the site.
- 3.1.8 Photographs of the key buildings (as described above) are provided within section 3 of the Officer Delegated Report (Appendix 1). The Council will provide further

contextual information of the location and its surroundings to the extent necessary as part of its proofs of evidence.

### **3.2 Surrounding context**

3.2.1 The immediate built context is mainly characterised by residential development with three storey houses/flats to the north, west and east. Much of the former Lambeth Hospital site to the east and south was redeveloped in c. 2008 for 3-5 storey flat blocks. Part of the redevelopment also involved the retention, conversion and extension for residential use of the Grade II listed water tower, which stands prominently at 9 storeys high. Further to the southwest, a trio of tall residential towers comprise the Cotton Garden Estate.

3.2.2 There are a number of conservation areas located within an approximate 500-metre radius of the application site falling within both Lambeth and Southwark boroughs. These include as follows:

- Lambeth: Walcot (CA9) and Lambeth Walk and China Walk (CA50) to the north and northwest; Kennington (CA8) to the southwest;
- Southwark: West Square, Elliot's Row and St George's Circus located north approximately 200-500 metres away; Walworth located 500m to the east; Pullens Estate approximately 300 metres to the southeast and Kennington Park Road approximately 220 metres to the southwest.

3.2.3 Listed buildings (all Grade II) nearest to the site (all of which fall within the Lambeth Renfrew Road Conservation Area) are as follows:

- Former Fire Station (East side of Renfrew Road);
- Former Lambeth Magistrates' Court (East Side of Renfrew Road);
- K2 Telephone Kiosk (outside former Magistrates' Court (as above); and
- Water Tower (former Lambeth Workhouse and later hospital).

3.2.4 A further number of Grade II listed buildings are clustered within Walcot, West Square and Kennington conservation areas.

3.2.5 In terms of locally listed buildings adjacent/nearest the site (all of which fall within the Renfrew Road Conservation Area), these are as follows:

- South Lodge and Reception Buildings;

- Former Gate Piers to Former Lambeth Hospital site; and
- Former Court Tavern PH (Renfrew Road).

3.2.6 A comprehensive list of all heritage assets including a map identifying them are provided in the Officer Delegated Report in Appendix 5 (see Appendix 1).

3.2.7 An Archaeological Priority Area is designated on the west side along part of Kennington Road, south of the site. There are no Historic Parks or Gardens, Registered Battlefields, or Scheduled Ancient Monuments adjacent to or in the immediate vicinity of the site.

3.2.8 The established built character surrounding the application site is predominantly finer in urban grain made up of intimate/traditional street patterns with low scale buildings (no more than 5 storeys) of varying age. This character provides an immediate buffer to the emerging tall building cluster in the Elephant and Castle Opportunity Area (E&COA) to the east, which is located within the administrative boundary of London Borough of Southwark. There are tall buildings in the E&COA (such as Highpoint, One the Elephant and the Strata SE1), which have typically open settings and are located on large main roads or at the confluence of key junctions.

## 4 RELEVANT PLANNING HISTORY

### 4.1.1 Application site

4.1.2 In 1998, planning permission was granted (Ref 97/01751/FUL) for the '*Conversion and change of use from hospital to a cinema museum, with ancillary car parking*' at Master's House. This was a conditional permission which restricted the use to that as a cinema museum and for no other use, notwithstanding the terms of the Use Classes Order or any subsequent orders.

4.1.3 In 2019, the Council provided a screening opinion (Ref 18/04018/EIASCOR) in respect of an Environmental Impact Assessment concerning '*proposals for approximately 320 residential units at Woodlands and the Master's House comprised within a single tall building of up to 35 storeys and peripheral lower development. The proposals also include the retention of the existing cinema museum use at Master's House and provides a new access point.*' The Council found this would not be EIA development.

#### 4.1.4 **Immediate adjacent sites**

- 4.1.5 In 2008, the Council granted full planning permission (Ref 08/00427/FUL) for the *'Redevelopment of the site involving the construction of 7 residential blocks ranging from 2 - 5 storeys in height to provide 112 residential units an extension of the existing water tower to provide a 4 bed house and 22 car-parking spaces with access onto George Mathers Road'*. These buildings stand immediately adjacent to Master's House and in proximity to the eastern extents of the application site.
- 4.1.6 In 2010, the Council granted listed building consent and planning permission (Ref 09/03934/LB) for the *'Change of use and works to the existing listed 'Old Water Tower' building within the site together with a three storey extension and lift shaft structure to provide a five bedroom residential dwelling and one car parking space, with associated landscaping and access'* at the Water Tower which forms part of the former Lambeth Hospital site.
- 4.1.7 A relevant site planning history is provided in the Officer Delegated Report in section 6 (Appendix 1). The planning history of the site will be addressed further as necessary in the relevant proof of evidence on behalf of the Council.

### 5. **RELEVANT PLANNING POLICY AND GUIDANCE**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The currently adopted development plan in Lambeth relevant to the application site is the London Plan (2016, consolidated with alterations since 2011) and the Lambeth Local Plan (September 2015).
- 5.1.2 In December 2019 the London Plan (Intend to Publish version) was published by the Mayor of London. This followed the Examination in Public on the Draft London Plan (published in December 2017), which was held between January and May 2019. On 21 October 2019 the Panel of Inspectors appointed by the Secretary of State issued their report and recommendations. Many of these recommendations (although not all) were incorporated into the Intend to Publish version. The draft London Plan is given a significant amount of weight in planning decisions. It will not be given full weight until the final version of the London Plan is published.
- 5.1.3 On 13 March 2020 the Secretary of State formally directed the Mayor to make a number of detailed modifications to the wording of various policies in the Intend to



Publish version released in December 2019. Under the Greater London Authority Act 1999, whilst such a direction remains in force, the Mayor must not proceed to publish the London Plan (in its final form) without modifying the Intend to Publish version so as to comply with the direction. From the Mayor's reply to the Secretary of State on 24 April 2020 as published on the GLA website, it appears that there may be further dialogue between the Mayor and the Secretary of State about the modifications although the outcome of this process is not known at present.

- 5.14 Although the Secretary of State's modifications affect certain emerging policies in the Intend to Publish version that are relevant to this appeal, the Council does not consider that the effect of those changes is to introduce materially new emerging policy considerations to the assessment of the Appeal Scheme. This is because the modification relating to Draft London Plan policy H10 on dwelling mix (and the emphasis on the need for family housing) does not materially alter the Council's assessment of the Appeal Scheme. The Council will address the position regarding the Draft London Plan further as part of its evidence to the inquiry, by which date it may be the case that the revised London Plan has been published.
- 5.1.5 The Lambeth Local Plan is currently under partial review to ensure it complies with amendments to the NPPF and the London Plan. The Draft Revised Lambeth Local Plan (DRLLP) underwent public consultation from October to December 2018 under Regulation 18 of the Town and Country Planning (Local Plans) (England) Regulations 2012. Pre-submission publication (Regulation 19) of the Draft Revised Lambeth Local Plan Proposed Submission Version occurred between 31 January and 13 March. The Proposed Submission Version was submitted for examination on 22 May 2020.
- 5.1.6 In terms of the weight to be given to the policies in the emerging DRLLP, paragraph 48 of the NPPF requires the local planning authority to have regard to: the stage of its preparation; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The Council's statement under Regulation 22(1)(c) of the Town and Country Planning (Local Planning) (England) Regulations 2012 submitted with the draft plan identifies the extent and nature of unresolved objections to the emerging policies. Given this position, it is considered that limited weight can be attached to the relevant policies. The Council will address further the degree of weight to be attached to emerging local plan policies as part of its evidence in due course.

- 5.1.7 The latest National Planning Policy Framework was published in 2018 and updated in 2019. This document sets out the Government's planning policies for England including the presumption in favour of sustainable development and is a material consideration in the determination of all applications.
- 5.1.8 The Appeal proposals have been considered against all relevant national, regional and local planning policies as well as any relevant guidance. A full list of relevant policies including supplementary guidance has been attached in Appendix 2 of this statement.

## **6. CASE FOR THE COUNCIL**

- 6.1.1 The Council's case will be based on the thirteen indicative reasons for refusal which are set out in the Officer Delegated Report (Appendix 1).
- 6.1.2 A draft Statement of Common Ground is submitted separately to this statement. The Council will seek to agree the factual issues relating to the site and its surroundings, the details of the application for planning permission, relevant planning policy and guidance, emerging policy and any other relevant matters in due course.
- 6.1.3 The Council's case in respect of the issues in dispute are set out below including reference to where they are considered in the Officer Delegated Report (Appendix 1).
- 6.1.4 **Indicative Refusal Reason No.1: Inadequate Affordable Housing**

### **Tenure Mix**

*The proposed affordable housing split at 31%/69% (by habitable room) and 21%/79% (by unit) in favour of intermediate tenure does not comply with council's policy which requires a 70:30 split in favour of social and affordable rented tenure in order to meet the housing needs of the borough. The applicant's supporting viability information does not adequately justify the development's inability to support the maximum reasonable amount of affordable housing in respect to a policy compliant tenure mix. As such the proposal would not be in accordance with the National Planning Policy Framework (NPPF) (2019) Chapter 5, and development plan policies including London Plan Policy 3.11 (MALP 2016); Policy H5(C) and H6(A2) of the Intend to Publish London Plan (December 2019); Lambeth Local Plan Policy H2(a)(iii) (2015) and Draft Revised Lambeth Local Plan Policy H2(v) (Submission Version January 2020).*

(This issue is addressed in the Officer Delegated Report at section 10.2 (Appendix 1).

- 6.1.5 The Appeal Scheme seeks to provide a target headline rate of 50% affordable housing (291 rooms on a habitable room basis) of which it proposes that 31% (90 habitable rooms) will be London Affordable Rent and 69% (201 habitable rooms) as intermediate London Shared Ownership. The Council considers that the Appeal Scheme's proposed affordable tenure mix does not adequately provide for local housing needs where the demand is highest for social rented housing. Therefore the Council will contend that the proposals are contrary to Lambeth Local Plan Policy H2(a)(iii) (2015) and Draft Revised Lambeth Local Plan Policy H2(v) (Submission Version January 2020).
- 6.1.6 The Appellant's financial viability information that has been prepared to justify its proposed affordable housing mix has been reviewed by the Council's appointed development viability experts Avison Young. The Council will address the detail of that review in evidence; in summary, the Council contends that the Appellant has failed to demonstrate that the maximum reasonable amount of affordable housing has been proposed and in particular that the proposed development would be able to support a higher proportion of affordable and social rented housing as compared with intermediate housing. This issue is addressed further in the Officer Delegated Report at section 10.2 (Appendix 1).
- 6.1.7 To support the arguments made in respect of the first indicative reason for refusal, the Council intends to rely in addition to the planning policy documents identified in Appendix 2 on viability review evidence including but not limited to the following:

**Avison Young Financial Viability Review (August 2019)**

**Avison Young Viability Cost Review (November 2019)**

**Avison Young Addendum Update Note (7th January 2020)**

**Avison Young Addendum Update Note (15<sup>th</sup> April 2020)**

**Financial viability in planning (RICS guidance note 1st edition, August 2012)**

**6.1.8 Indicative Refusal Reason No.2: Affordability of Intermediate Shared Ownership**

***The proposed development has failed to demonstrate that the provision of intermediate shared ownership in this location would be genuinely affordable to future tenant occupiers in accordance with the income thresholds in Lambeth's Tenancy Strategy (2020). Accordingly, it would be contrary to Policy 3.10 of the London Plan (MALP 2016); Policies H4 and H6 of the Intend to Publish London Plan (December 2019); Policy H2 of the Lambeth Local Plan (2015) and Draft Revised Lambeth Local Plan Policy H2 (Submission Version January 2020).***

**(This issue is addressed in the Officer Delegated Report at section 10.2 (Appendix 1).**

6.1.9 The Appeal Scheme proposes that all 89 intermediate tenure units will be provided as London Shared Ownership. The Council contends that London Shared Ownership units will not be genuinely affordable in this location even if future households/tenants meet the Mayor's eligibility criteria in terms of household income, given the open market values of housing in this part of the borough.

6.1.10 The Mayor's Affordable Housing and Viability SPG (2017) states that (generally) shared ownership as an intermediate affordable product is not appropriate where unrestricted market values of a home would exceed £600,000 (paragraph 2.49). This is because in order to ensure mortgage costs assumptions are reasonable, it should be assumed that buyers have access to repayment mortgages over 25 year terms and a loan to value ratio of 90%. Where the unrestricted open market value of the home exceeds £600,000 shared ownership is generally not appropriate, because mortgage costs would need to exceed these assumptions. The Draft Review Lambeth Local Plan Submission Version proposes that where this is the case, London Living Rent should (instead) be the intermediate product provided (paragraph 5.30).

6.1.11 The Council will address in its evidence average market prices of homes in Prince's Ward. Currently these exceed £600,000. It will also demonstrate that as a result of these high market values, London Shared Ownership in this location would be unaffordable to a significant majority of those in need of intermediate affordable housing. This is contrary to the Mayor's Affordable Housing and Viability SPG that requires intermediate housing provision provides for households within the full range of incomes below the maximum income limit (paragraph 2.50).

6.1.12 The Council will contend that the Appellant has not properly justified that intermediate shared ownership units in this location would be genuinely affordable.

6.1.13 To support the arguments made in respect of the second reason for refusal, the council will rely in addition to the planning policy documents identified in Appendix 2 on a range of documentary evidence related to housing need including but not limited to the following:

**Homes for Londoners: Affordable Homes Programme 2016-21 Funding Guidance (2016)**

**The 2017 London Strategic Housing Market Assessment (November 2017)**

**Lambeth Housing Needs Assessment (2012)**

**Lambeth's Tenancy Strategy (2020)**

**Strategic Housing Market Assessment (SHMA, 2017)**

**London Average House Prices By Borough Ward (Land Registry 01/01/1995 – 31/12/2017)**

6.1.14 **Indicative Refusal Reason No.3: Inadequate Residential Unit Size Mix**

*The proposed development would provide a private market residential unit mix that disproportionately overprovides for smaller households with no family-sized accommodation. In addition, the lack of one bed sized units in the social rented element does not provide for the full range of affordable housing needs in the borough. This is inadequately justified and therefore does not comply with the objectives of ensuring mixed and balanced communities through a range of dwelling sizes to meet housing need, including family sized housing. The proposals would therefore be contrary to Chapter 2 of the National Planning Policy Framework (NPPF) (2019); Policy 3.8 of the London Plan (MALP 2016); Policy H10 of the Intend to Publish London Plan (December 2019); Policy H4 of the Lambeth Local Plan (2015) and Draft Revised Lambeth Local Plan Policy H4 (Submission Version January 2020).*

**(This issue is addressed in the Officer Delegated Report at section 10.3 (Appendix 1).**

6.1.15 The Appeal Scheme proposes a unit size mix of housing that purports to meet a range of housing needs across both affordable and market tenures (including family sized homes) in accordance with the borough's evidenced local housing needs. The Council contends that the proposed unit size mix disproportionately provides for smaller households will therefore not contribute to the objective of achieving mixed and balanced communities. It is not considered that the Appellant has provided adequate justification for the proposed size mix.

- 6.1.16 The Development Plan seeks to ensure that mixed and balanced communities through providing a range of dwelling sizes including family sized housing from all new developments. Family-sized accommodation is defined as having three or more bedrooms.
- 6.1.17 The Council will demonstrate in its proof of evidence that the Appeal Scheme fails to provide a balanced unit size mix (across social rented, intermediate rented and market housing tenures) by demonstrating that it:
- a) Overprovides for smaller households in 1 and 2 bed units size type in the private/market led element of the scheme; and
  - b) Does not provide for the full range of unit size types in the social rented led element.
- 6.1.18 The Council will demonstrate in its proof of evidence that the Appellant's proposed residential unit size mix is not properly justified and therefore would not secure the objectives of achieving a mixed and balanced community as advocated in the Development Plan.
- 6.1.19 To support the arguments made in respect of the third indicative reason for refusal, the Council will rely in addition to the planning policy documents listed in Appendix 2 on a range of documentary evidence relating to housing need including but not limited to the following:

**The 2017 London Strategic Housing Market Assessment (November 2017)**  
**Strategic Housing Market Assessment (SHMA) (2017)**  
**Lambeth Housing Needs Assessment (2012)**  
**Lambeth Housing Strategy 2012-2016**

6.1.20 **Indicative Refusal Reason No.4: Inappropriate Design and Unacceptable Impact on Townscape**

***The proposed layout, height and massing relate poorly to the site itself and are also considered out of keeping with the site, its context and townscape and is symptomatic of over-development. The scheme does not successfully integrate the proposed uses on site or with the surrounding area, creates illegible pedestrian routes and forms an overbearing relationship to adjacent sites which in turn would cause harm to amenity. The scheme fails to achieve a high quality of architectural design in terms of its form, materials, and finished appearance and therefore does not make an overall positive contribution to area. The proposal is therefore considered not to be of the highest quality and would be contrary to NPPF (2019) Chapters 12 and 16 and development plan policies including London Plan (MALP 2016) Policies 3.4, 3.5, 7.4, 7.5, 7.6 and 7.7; Policies D3, D4, D6, D8, D9 of the Intend to Publish London Plan (December 2019);***

***Policies Q1, Q2, Q3, Q5, Q6, Q7, Q14, and Q26 of the Lambeth Local Plan (2015) and Draft Revised Lambeth Local Plan Policies Q1, Q2, Q3, Q5, Q6, Q7 and Q26 (Submission Version January 2020).***

**(This issue is addressed in the Officer Delegated Report at section 10.4.17 (Appendix 1).**

6.1.21 The Appeal Scheme proposes two independent buildings that comprise a part 3 and part 4 storey block and part 24 and part 29 storey tall building. The issue of contention for the Council relates in particular to the adverse impact of the proposed 29-storey tall building (by reason of its scale, bulk and mass) on the established character, form and function of the immediate and wider townscape. The Council will contend that the Appeal Scheme does not make a positive contribution to the area but will instead detract from it and is therefore unacceptable.

6.1.22 The Development Plan seeks to secure a high quality built environment and wishes to secure excellent modern architecture and design which is inspired by and reinforces Lambeth's unique local distinctiveness (Lambeth Local Plan Policy Q7). This includes the contribution made by the historic environment and Lambeth's diverse community identities. New buildings should be visually interesting, preserve or enhance their localities and improve the quality of people's every day architectural experiences (Lambeth Local Plan Policy Q7).

6.1.23 The Council will address in its evidence the ways in which the design of the scheme fails to accord with applicable planning policy, including the following points:

- The Appeal Scheme does not integrate successfully with the predominantly low-rise residential character that makes up the immediate site context ;
- The Appeal Scheme does not demonstrate distinctiveness in its architectural design, form, use of materials and finished appearance;
- The Appeal Scheme creates an illegible pedestrian routes through the site; and
- The Appeal Scheme does not provide adequate dedicated/formal play space for children and residential communal spaces for its future residents.

**6.1.24 Indicative Refusal Reason No.5: Unjustified harmful impacts on the setting of heritage assets and insufficient public benefits**

*The proposed bulk, scale and massing of development would cause less than substantial harm to adjacent heritage assets which has not been justified and is not outweighed by the public benefits of the scheme. In particular, the 29-storey element by reason of its size, architectural design and choice of materials creates a dominant building form that amplifies its incongruousness with designated heritage assets. The heritage issues that arise as a result of the unsuitable development design are symptomatic of over-development. As such the proposals would be contrary to London Plan Policies 7.7 and 7.8; Policies D9, HC1 and HC3 of the Intend to Publish London Plan (December 2019); Policies Q5 (b), Q7 (ii), Q20 (ii), Q21(ii) Q22 (ii), Q25 and Q26 (iv) of the Lambeth Local Plan (2015) and Draft Revised Lambeth Local Plan Policies Q5 (b), Q7 (ii), Q20 (ii), Q21(ii) Q22 (ii), Q25 and Q26 (iv) (Submission Version January 2020).*

**(This issue is addressed in the Officer Delegated Report at section 10.4.36 (Appendix 1).**

6.1.25 The proposed bulk, scale and massing of the Appeal Scheme are considered by the Council to cause less than substantial harm to the setting of listed buildings and conservation areas and for which no clear and convincing justification has been provided. The Council will contend that the purported public benefits offered by the Appeal Scheme are not sufficient to outweigh the extent of the harm identified.

6.1.26 Paragraphs 8 and 9 of the NPPF 2019 state that overarching economic, social and environmental objectives need to be pursued in mutually supportive ways and in ways which contribute to protecting and enhancing the built, natural and historic environment. Paragraph 193 of the NPPF advises that “when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”. Paragraph 194 further advises that “any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”.

6.1.27 If the justification is clear and convincing and the harm deemed to be less than substantial, paragraph 196 of the NPPF allows the harm to be weighed against the public benefits of the proposals.,.



6.1.28 The heritage assets that will be addressed in evidence are as follows (these are noted in more detail in sections 10.4.4 and 10.4.36 of the Officer Delegated Report:

- Renfrew Road Conservation Area
- West Square Conservation Area
- West Square Conservation Area
- Walcot Conservation Area
- Lambeth Palace Conservation Area
- Grade II listed Water Tower
- Grade II listed Master's House
- Grade II listed K6 Kiosk
- Grade II listed Former Magistrates Court
- Grade II listed nos. 20-45 West Square (consecutive)
- Grade II listed nos. 14 – 56 Walcot Square (evens)
- Grade II listed nos. 27 – 81 Walcot Square (odds)
- Grade II listed 18 – 28 St Mary's Gardens (evens)
- Grade I listed Lambeth Palace
- Grade II listed Former St Mary's Church

6.1.29 The Appellant's proposals in respect of the future occupation of Master's House by the Cinema Museum are set out in section 10.1.16-10.1.23 of the Officer Delegated Report. In summary, the Council has not been able to identify a sufficient nexus in land use planning terms between the proposals in respect of the future occupation by the Cinema Museum and the development for which planning permission has been applied for. If the Inspector were to disagree with the Council in that respect, the Council contends that the Appellant's proposals in respect of the continued occupation of Master's House by the Cinema Museum, as those proposals are currently understood, can only be given limited weight in planning terms. The Council will address these matters in its evidence in due course.

6.1.30 **Indicative Refusal Reason No.6: Adverse Impact on Existing Residential Amenities (Daylight Effects to Habitable Rooms and Sunlight Amenity Effects to Gardens)**

***The proposed development, by reason of its scale and massing and proximity to neighbouring residential properties would have a detrimental impact on the residential amenity of the occupiers in terms of loss of sunlight amenity to gardens specifically at Castlebrook Close, Brooks Drive and George Mathers***

***Road and loss of daylight amenity to habitable rooms especially at (Wilmot House) & (Bolton House) George Mathers Road, Castlebrook Close, Brooks Drive and Dante Road. As such, the proposal would be contrary to and Policy 7.7(D) (a) of the London Plan (2016), D9 (3) (a) of the Intend to Publish London Plan (December 2019); Policies Q2 (iv) and Q26 (vi) of the Lambeth Local Plan (2015) and Policies Q2 (iv) and Q26 (vi) of the Draft Revised Lambeth Local Plan (Submission Version January 2020).***

**(This issue is addressed in the Officer Delegated Report at section 10.6 (Appendix 1)).**

- 6.1.31 The issue for the Council here relates to the impacts on residential amenity comprising a loss of sunlight to amenity spaces from overshadowing and loss of daylight to habitable rooms as a result of the scale, massing and proximity of the Appeal Scheme.
- 6.1.32 The Development Plan requires that for development to be sustainable it should protect the amenity of existing/future occupants, neighbours and the visual amenity of the community as a whole.
- 6.1.33 With regard to the first issue, the council's daylight and sunlight expert will demonstrate via its proof of evidence that the Appeal Scheme will cause a detrimental loss of sunlight amenity to some gardens from overshadowing. In instances where existing levels or where the Appeal Scheme results in neighbouring gardens having less than half of the amenity area able to receive 2 hours, some of the reductions are likely to be noticeable and as such detrimental to the amenities of those neighbouring properties.
- 6.1.34 With regard to the second issue, the council's daylight and sunlight expert will demonstrate via its proof of evidence that the Appeal Scheme will cause a detrimental loss of daylight amenity in terms of reductions to the Vertical Sky Component and / or the Daylight Distribution to some neighbouring habitable rooms which will ordinarily be noticeable to the occupiers.
- 6.1.35 The Council's position is that the above impacts are a specific result of the proposed scale, massing and proximity of the proposed 29 storey building.
- 6.1.36 To support the arguments made in respect of the sixth indicative reason for refusal, the Council will rely in addition to the planning policy materials contained in Appendix 2 on a range of material including but not limited to the following:

**Independent Review on Daylight and Sunlight and Overshadowing Report (November 2019) rev02 – draft (Schroeders Begg); and Building Research Establishment’s (BRE) ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ for both sunlight and daylight.**

**6.1.37 Indicative Refusal Reason No.7: Inadequate Residential Amenity For Future Occupiers Of Development**

***The proposed development, by reason of its density, scale, massing and resulting proximity would result in inadequate levels of residential amenity for future occupiers of Blocks A and B with specific regard to increased overlooking and loss of privacy including poor levels of daylight within habitable rooms of Block A. As such, the proposal would be contrary to Policy Q2 of the Lambeth Local Plan (2015) and Policy Q2 of the Draft Review Lambeth Local Plan (Submission Version January 2020).***

**(This issue is addressed in the Officer Delegated Report at section 10.5 (Appendix 1).**

6.1.38 This indicative reason for refusal relates to the inadequate level of future residential amenity from increased overlooking and loss of privacy between Blocks A and B and the poor levels of daylight within habitable rooms of Block A. This is considered not to be acceptable, particularly in new development proposals which are expected to achieve the highest standards of design from the outset.

6.1.39 With regard to the part of the indicative reason for refusal relating to overlooking and loss of privacy, the Council will demonstrate via its evidence that overlooking and loss of privacy will be increased as a consequence of the unsuitable separation distance between habitable rooms at Blocks A and B. Policy Q2(iii) of the Lambeth Local Plan requires that development should provide adequate outlook and avoid wherever possible any undue sense of enclosure or unacceptable levels of overlooking (or perceived overlooking).

6.1.40 With regard to the second part of the main issue, the council’s daylight and sunlight expert will demonstrate via its proof of evidence that the levels of daylight in some habitable rooms within Block A will not meet minimum target BRE guidance (as originally incorporated from BS 8206-2) in terms of Average Daylight Factor (ADF). Policy Q2(iv) requires that development should not have an unacceptable impact on levels of daylight and sunlight on the host building.....’.

6.1.41 To support the arguments made in respect of the seventh indicative reason for refusal, the Council will rely (in addition to the planning policies identified in Appendix 2) on a range of material including but not limited to the following:

**Independent Review on Daylight and Sunlight and Overshadowing Report (November 2019) rev02 – draft (Schroeders Begg and Building Research Establishment’s (BRE) ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ for both sunlight and daylight.**

6.1.42 **Indicative Refusal Reason No.8: Poor Quality Communal and Playspace Amenity**

*The proposed layout and design of communal amenity and playspace is inadequate in terms of its quality, safety and usability which in turn would result in a poor quality residential environment for future occupiers of the development. As such the proposals would be contrary to NPPF (2019) Chapters 2 and 12; London Plan Policies 3.5, 3.6; Intend to Publish London Plan (December 2019) Policies D4 and D6; Mayor’s Play and Informal Recreation SPG; Lambeth Local Plan (2015) Policies H5 and Q1 and Draft Revised Lambeth Local Plan Policies H5 and Q1 (Submission Version January 2020).*

**(This issue is addressed in the Officer Delegated Report at section 10.5.23-10.5.31 (Appendix 1).**

6.1.43 This indicative reason for refusal concerns the inadequate design and layout of communal amenity and playspace provision and the resulting poor residential environment for future occupiers of the development.

6.1.44 The Council’s position is that the approach to the layout and design of the open areas around the buildings will create one multi-functional space that has to attempt to cater for a wide range of demands, including disabled car parking, providing access and manoeuvring spaces for service and delivery vehicles and a through route for pedestrians and cyclists. The consequence of the proposed approach is that the amenity areas are not considered to be safe and usable and therefore results in a poor quality environment for residential occupiers..

6.1.45 Policy H5 and Q1(b) of the Lambeth Local Plan including the design principles set out in the Mayor’s Play and Informal Recreation SPG advocate that the design of development should promote play areas that are easily accessible, overlooked and enclosed either through fencing, railings or other safety features.

6.1.46 The Council will also demonstrate that that the lack of legible and safe amenity provision derives directly from the quantity of built development proposed by the Appeal Scheme.

6.1.47 To support the arguments made in respect of the eighth indicative reason for refusal, the Council proposes to rely on a range of planning policy documents including those listed in Appendix 2.

6.1.48 **Indicative Refusal Reason No. 9: Flood Risk Safety**

***The applicant's submitted Flood Risk Assessment fails to demonstrate that the finished floor levels for all sleeping accommodation are set sufficiently above the relevant modelled breach flood level and does not give appropriate regard to the need for resistance and resilience measures. Accordingly, it has not been satisfactorily demonstrated that the development can be made safe for its occupiers and therefore fails to comply fully with the exceptions test for vulnerable sites/uses in accordance with paragraph 160 of the NPPF. Therefore the proposed development would be contrary to NPPF (2019) Chapter 14; London Plan (MALP 2016) Policy 5.12; Intend to Publish London Plan (December 2019) Policy SI 12; Lambeth Local Plan (2015) Policy EN5 and Draft Revised Lambeth Local Plan Policy EN5 (Submission Version January 2020).***

**(This issue is addressed in the Officer Delegated Report at section 10.6.61-10.6.65 (Appendix 1).**

6.1.49 This indicative reason for refusal concerns the failure of the Appeal Scheme to demonstrate that the design of development ensures that future residents will be safe from the risk of flooding in perpetuity.

6.1.50 The site falls within Zone 3, an area at high risk from flooding, and that the finished floor levels for sleeping accommodation in Block A will be constructed below the Environment Agency's (Year 2100) modelled breach flood level which is AOD 3.65m. The NPPF states: "Where development is necessary in ... areas [at risk of flooding], the development should be made safe for its lifetime without increasing flood risk elsewhere" (Paragraph 155).

6.1.51 The Council acknowledges that the Appellant has indicated that it would secure the implementation of a flood emergency plan and registration with a flood warning service in an attempt to protect property and residents from the risk of flooding. The Environment Agency has advised that such mitigation measures could be acceptable, but should be implemented alongside raising the proposed finished floor levels for sleeping accommodation above the modelled breach flood level.

6.1.52 In the absence of agreement between parties, and taking account of any responses provided by the Environment Agency, the Council will contend that the Appeal Scheme has not complied fully with the exceptions test for vulnerable sites/uses in accordance with paragraph 160 of the NPPF including Policy EN5 of the Lambeth Local Plan.

6.1.53 To support the arguments made in respect of the ninth indicative reason for refusal, the Council will rely on material in addition to the documents listed in Appendix 2 including but not limited to the following:

**Lambeth Strategic Flood Risk Assessment (2013)**

6.1.54 **Indicative Refusal Reason No.10: Inadequate Residential Cycle Parking Design**

*The proposed cycle parking design by reason of providing an excessive amount/number of semi-vertical racks would prejudice less able users and discourage cycling as a sustainable form of travel. Therefore the proposed development would be contrary to NPPF (2019) Chapters 2, 8, 9 and 12; London Plan Policies (MALP 2016) 6.9 and 7.2; Intend to Publish London Plan (December 2019) Policies D5 and T5; Chapter 8 of the London Cycle Design Guide (2014); Lambeth Local Plan (2015) Policies Q1, Q13 and T1; and Draft Revised Lambeth Local Plan Policies Q1, Q13 and T1 (Submission Version January 2020).*

(This issue is addressed in the Officer Delegated Report at section 10.7.12-10.7.13 (Appendix 1).

6.1.55 This indicative reason for refusal relates to the over-provision of semi-vertical type cycle racks, which are considered an unacceptable design due to the difficulty they will pose for less abled users.

6.1.56 Policies Q1 and Q13(iii) of Lambeth Local Plan and paragraph 8.1.2 of the London Cycle Design Guide requires that developments comply with current good practice principles for inclusive design. Lambeth Local Plan Policy T1 requires that sustainable travel modes are supported in all developments.

6.1.57 To support the arguments made in respect of the tenth indicative reason for refusal, the Council will rely in addition to the documents listed in Appendix 2 on a range of material including but not limited to the following:

**Lambeth Transport Strategy (2019)**  
**Mayor of London Transport Strategy (2019)**

## **London Cycle Design Guide (2014)**

### **6.1.58 Indicative Refusal Reason No.11: Failure to Maximise Renewable Energy Opportunities**

*The applicant has not satisfactorily demonstrated that it is unable to make adequate provision for solar PV within the proposed development. Therefore the development is not considered to have maximised all renewable opportunities at the Be Green stage of the London Plan Energy Hierarchy. Therefore the proposed development would be contrary to NPPF (2019) Chapters 2 and 14; London Plan Policies (MALP 2016) 5.2, 5.3 and 5.7; Intend to Publish London Plan (December 2019) Policy SI 2; Lambeth Local Plan Policy EN4 and Draft Revised Lambeth Local Plan Policy EN4 (Submission Version January 2020).*

**(This issue is addressed in the Officer Delegated Report at section 10.8.2 (Appendix 1).**

6.1.59 This indicative reason for refusal relates to the Appeal Scheme's failure to confirm/demonstrate that it has sufficiently considered maximising opportunities for renewable technologies in accordance with the London Plan Energy Hierarchy.

6.1.60 All new developments are required through their energy assessments to demonstrate how the design of development will reduce carbon dioxide emissions in accordance with the three steps of the London Plan Energy Hierarchy. The first step in the hierarchy, to reduce energy demand, should be met through adopting sustainable design principles outlined in Policy 5.3. The second step, to supply energy efficiently, should be met by prioritising decentralised energy, as outlined in Policies 5.5 and 5.6. The third step, to use renewable energy, is outlined in Policy 5.7.

6.1.61 The Council will demonstrate that the proposed heating strategy has not fully maximised all renewable energy opportunities, contrary specifically to the Be Green stage of the London Plan Hierarchy and the objectives of London Plan Policies that seek to reduce carbon dioxide emissions in all new developments.

6.1.62 To support the arguments made in respect of the eleventh indicative reason for refusal, the Council will rely in addition to the documents listed in Appendix 2 on a range of documentary material including but not limited to the following:

**Lambeth Transport Strategy (2019)**  
**Mayor of London Sustainable Design and Construction SPG (April 2014)**

**6.1.63 Indicative Refusal Reason No.12: Planning Obligations**

*In the absence of agreed heads of terms and a legal agreement to secure agreed policy compliant financial and non-financial contributions that include: affordable housing, employment & skills contributions, transport and sustainable design matters the development fails to mitigate its impact on local services, amenities, infrastructure and environment. The above would be contrary to the requirements of Chapter 4 of the National Planning Policy Framework; London Plan Policy 8.2; Intend to Publish London Plan (December 2019) Policy DF1; Lambeth Local Plan Policy D4 and Policy D4 of the Draft Revised Lambeth Local Plan (Submission Version January 2020).*

**(This issue is addressed in the Officer Delegated Report at section 11 (Appendix 1)).**

6.1.64 The planning obligations that are currently set out in section 11 of the Officer Delegated Report (Appendix 1) are to be secured through a S106 Agreement if the Appeal Scheme was allowed.

6.1.65 A statement on compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 is attached as Appendix 3(1). The Council will seek to secure a draft S106 Agreement with the Appellant in the event that the Inspector is minded to allow the appeal.

6.1.66 The justification for a financial contribution relating to the upgrade to the Northern Line Ticket Hall at Elephant And Castle Underground Station will need to be considered in light of further evidence from TfL and the Council. Further information on this point can be found at section 10.7.9- 10.7.12 of the Delegated Case Officer Report (Appendix 1).

**Elephant and Castle SPD and Opportunity Area Planning Framework (March 2012).  
Southwark Core Strategy (April 2011)  
New Southwark Plan (2020)**

**6.1.67 Indicative Refusal Ground No.13: Inadequate Information**

*Insufficient information has been submitted with the application relating to the following matters: car parking design and management plan, delivery and*



***servicing management plan, and a preliminary site risk assessment/strategy in respect to contamination. As such it has been not been possible to assess adequately that the site is suitable for its proposed use. Accordingly, the proposal is contrary to London Plan Policies 5.21, 6.3, 6.13 including associated advice in Table 6.2 and 7.1; Policies GG1, D12 and T6 and T6.1 of the Intend to Publish London Plan (December 2019); Lambeth Local Plan Policies Q1T, T7 and T8 and EN4; and Draft Revised Lambeth Local Plan Policy T7, T8 and EN4 (Submission Version January 2020).***

6.1.68 The Appeal Scheme has not provided sufficient information in respect to: car parking design and management; delivery and servicing management; and a preliminary site risk assessment/strategy in order for the Council to confirm that it has no objections to the scheme.

6.1.69 In order to address these matters the Council will seek that the Appellant provides the required information for its agreement.

## **7. OTHER MATTERS**

7.1.1 In the event that the Inspector is minded to grant planning permission, the Council has proposed a working draft list of planning obligations and conditions in Appendix 3. It is envisaged that this draft list will be revised during the appeal proceedings and an updated list will be provided to the Inspector in due course. .

## **8. CONCLUSION**

8.1.1 For the reasons set out in this Statement of Case the Council invites the Inspector to refuse planning permission for the proposed development..

## **APPENDIX 1: OFFICER DELEGATED REPORT**

Attached as separate document.

## **APPENDIX 2: RELEVANT PLANNING DOCUMENTS, GUIDANCE AND SUPPORTING EVIDENCE**

1. National Planning Policy Framework and National Planning Guidance
2. London Plan (2016)
3. Intend to Publish London Plan (2019)
4. Lambeth Local Plan (2015)
5. Draft Review Lambeth Local Plan (Proposed submission version January 2020)
6. Financial viability in planning (RICS guidance note 1st edition, August 2012)
7. Lambeth Development Viability SPD (2017)
8. Lambeth Employment and Skills SPD (2018)
9. Homes for Londoners: Affordable Homes Programme 2016-21 Funding Guidance (2016)
10. The 2017 London Strategic Housing Market Assessment (November 2017)
11. Lambeth Housing Needs Assessment (2012)
12. Lambeth's Tenancy Strategy (2020)
13. (Lambeth) Strategic Housing Market Assessment (SHMA, 2017)
14. Lambeth Housing Strategy 2012-2016
15. Lambeth Strategic Flood Risk Assessment (2013)
16. Mayor of London Transport Strategy (2019)
17. Lambeth Transport Strategy (2019)
18. London Cycle Design Guide (2014)
19. Southwark Core Strategy (April 2011)
20. New Southwark Plan (2020)
21. Elephant and Castle SPD and Opportunity Area Planning Framework (March 2012).
22. Sustainable Design and Construction (April 2014)
23. Shaping Neighbourhoods: Play and Informal Recreation SPG (Sep 2012)
24. London View Management Framework (March 2012)
25. Avison Young Financial Viability Review (August 2019)
26. Avison Young Viability Cost Review (November 2019)
27. Avison Young Addendum Update Note (7th January 2020)
28. Avison Young Addendum Update Note (15<sup>th</sup> April 2020)
29. Independent Review on Daylight and Sunlight and Overshadowing Report (November 2019) rev02 – draft (Schroeders Begg and
30. Building Research Establishment's (BRE) 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' for both sunlight and daylight.
31. Conservation Area Statements (Renfrew Road, Walcot and West Square)
32. Listed Buildings Descriptions
33. London Average House Prices By Borough Ward (Land Registry 01/01/1995 – 31/12/2017).

### **APPENDIX 3: PLANNING OBLIGATIONS, CONDITIONS AND INFORMATIVES**

This appendix contains three sections containing a list of the following:

- 1) Section 106 planning obligations; and
- 2) Planning conditions and informatives.