



LONDON BOROUGH OF LAMBETH

Planning, Transport and Development

Sustainable Growth and Opportunity

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PROOF OF EVIDENCE

of Mr Jeffrey Holt BRTP

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

Appeal by: Anthology Kennington Stage

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

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

LB Lambeth Reference: 19/02696/FUL

16 October 2020

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1.0 QUALIFICATIONS AND EXPERIENCE

1.1 This Proof of Evidence has been prepared by Jeffrey Holt. I hold a Bachelor of Regional and Town Planning (Hons) from the University of Queensland.

1.2 I have over 13 years of experience in development management in London local authorities. I worked previously at the London Borough of Enfield and the London Borough of Haringey. In September 2014 I joined the London Borough of Lambeth as a Principal Planning Officer within the Development Management East Area Team then within the Strategic Applications Team.

1.3 I have visited the application site.

2.0 INTRODUCTION

2.1 This appeal is against the non-determination by the London Borough of Lambeth as Local Planning Authority (“LPA”) of an application for full planning permission, dated 24 July 2019 (LPA ref: 19/02696/FUL, referred to in this proof as “the Appeal Scheme”), at the site of the former Woodlands Nursing Home in Dugard Way, London SE11 4TH.

2.2 The planning application proposed the following development:

Redevelopment of the former Woodlands and Master’s House site retaining the Master’s House and associated ancillary buildings; demolition of the former care home; the erection of 29 storeys building and peripheral lower development of 3/4 storeys, to provide 258 residential units, together with servicing, disabled parking, cycle parking, landscaping, new public realm, a new vehicular and pedestrian access, and associated works.

2.3 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 LPA 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.

2.4 In this proof I set out the LPA’s case in being minded to refuse the application had it still been able to determine the application. The LPA’s Statement of Case set out 13 reasons for refusal. Following discussions with the appellant and the submission of additional information, some of these reasons have now been resolved. The LPA’s case is now based on eight of these indicative reasons for refusal.

3.0 SITE DESCRIPTION

3.1 A description of the Appeal Site (also referred to in this proof of evidence as the Site) and

surrounding context is set out in the SoCG at sections 3 and 4.

4.0 PLANNING HISTORY

4.1 The relevant planning history is provided in the SoCG at section 5.

5.0 DESCRIPTION OF APPEAL SCHEME

5.1 A description of the Appeal Scheme is provided in the SoCG at Section 2. A summary of the development is as follows:

- Demolition of the former Woodlands nursing home building;
- Erection of a part 24 and part 29 storeys point building and peripheral lower development of three and four storeys to provide 258 residential units in total, of which 50 per cent (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';
- Retention of Cinema Museum;
- Servicing, disabled car parking, cycle parking, landscaping and new public realm and new vehicular and pedestrian access road off Dante Road.

6.0 RELEVANT PLANNING POLICY

6.1 An agreed list of relevant planning policies and an explanation of the status of emerging policy is provided in the SoCG at Section 6.

7.0 CORRECTIONS TO STATEMENT OF CASE AND OFFICER DELEGATED REPORT

7.1 Paragraph 10.5.15 of the Officer Delegated Report states that "the separation distance between facing habitable rooms between Blocks A and B would approximately measure 10 and 11 metres". This distance is between the two closest vertical planes of each block however the closest distance between facing windows is approximately 13.8m, with the second closest distance being 15.5m.

7.2 Paragraph 10.5.26 of the Officer Delegated Report underestimated the child playspace requirement. Using the latest version of the GLA Population Yield Calculator, the development would yield approximately 50 children and would require the following minimum provision for playspace:

- Doorstep (under 5) 233sqm
- Neighbourhood (5-11) 168sqm
- Youth (12+) 98sqm
- Total dedicated playspace 498sqm

8.0 AMPLIFICATION OF REASONS FOR REFUSAL

8.1 The LPA's case is based on eight outstanding indicative reasons for refusal ("RfR") set out below:

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).

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).

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).

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).

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).

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).

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).

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).

- 8.2 This proof will discuss RfR2, RfR6, RfR7 and RfR12 in detail and then discuss the overall planning balance with reference to matters raised by all eight reasons for refusal.
- 8.3 Evidence for RfR3 is provided by Dominique Barnett, Principal Planning Policy Officer, Lambeth.
- 8.4 Evidence for RfR4, RfR5 and RfR8 is provided by Doug Black, Team Leader, Conservation & Urban Design, Lambeth.
- 8.5 Further evidence on RfR6 and RfR7 is provided by Ian Dias, Schroeders Begg.

8.6 **Indicative Reason for Refusal 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 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).

- 8.7 The appeal site is in a mostly residential area and there are residential properties very close to the site. To the north are two-storey terrace houses on Castlebrook Close; to the north-east are two storey houses and a three-storey block of flats on Brook Drive; to the east are two and three-storey houses on George Mathers Road and Dante Road; to the south are three and four

storey blocks of flats also on George Mathers Road; and to the west are three-storey houses on Renfrew Road.

8.8 The proposed development is for two buildings: one up to four storeys high, the other up to 29 storeys high. These buildings, the taller one in particular, would have an impact on the daylight and sunlight received by neighbouring properties. Such impacts are an important planning consideration and are covered by London and local planning policy.

8.9 Policy 7.6(B)(D) of the London Plan (2016) states the following:

Buildings and structures should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate. This is particularly important for tall buildings.

8.10 The Mayor's Housing SPG (2016) provides guidance on this policy as follows:

1.3.45 Policy 7.6Bd requires new development to avoid causing 'unacceptable harm' to the amenity of surrounding land and buildings, particularly in relation to privacy and overshadowing and where tall buildings are proposed. An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.

1.3.46 The degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.

8.11 In his evidence, Mr Dias explains how he has considered the above guidance in his assessment of harm.

8.12 Policy 7.7(D)(a) of the London Plan (2016) states the following:

Tall buildings should not affect their surroundings adversely in terms of microclimate, wind turbulence, *overshadowing*, noise, reflected glare, aviation, navigation and telecommunication interference [emphasis added].

8.13 This is carried forward in the Intend to Publish London Plan (December 2019) under Policy D9 (C)(3)(a):

Wind, *daylight, sunlight penetration* and temperature conditions around the building(s) and neighbourhood must be carefully considered and not compromise comfort and the enjoyment of open spaces, including water spaces, around the building [emphasis added].

8.14 The above policies relate specifically to 'tall buildings'. Paragraph 7.35 of the London Plan tall buildings are those that "are substantially taller than their surroundings, cause a significant change to the skyline or are larger than the threshold sizes set for the referral of planning applications to the Mayor". The Local Plan describes tall buildings in the same way in paragraph 10.113. Block B is 29 storeys, which is substantially taller than the mostly two to four storey surrounding development. It would also cause a significant change to the skyline and exceed the 30m height threshold for referral to the Mayor.

8.15 In the draft London Plan, Policy D9A states that 'tall buildings' should be defined in Development Plans based on local context and that the height that defines a tall building will vary between different parts of London. Accordingly, paragraph 10.147 of the draft Local Plan states that a 'tall building' in the middle or north of the Borough must be taller than 45m. Block B is taller than 45m and therefore is a 'tall building'.

8.16 Lambeth Local Plan (2015) Policy Q2(iv) states that development will be supported if "it would not have an unacceptable impact on levels of daylight and sunlight on the host building and adjoining property". This is continued in the Draft Revised Lambeth Local Plan (Submission Version January 2020) under Policy Q2(iv) which states that development will be supported if "it would not have an unacceptable impact on levels of daylight and sunlight on the host building or adjoining property including their gardens or outdoor spaces".

8.17 The following paragraphs of the supporting text to Policy Q2 of the Local Plan are relevant:

10.2 Sustainable development should protect the amenity of existing/future occupants, neighbours and the visual amenity of the community as a whole. Most new development in Lambeth results in an intensification of uses. It is therefore essential that amenity considerations are at the fore when designing at higher residential densities for a growing population.

10.5 The council will use established industry standards when assessing schemes, including 'Site Layout Planning for Daylight and Sunlight' (BRE Trust, 2011) and any other relevant documents.

8.18 The draft Local Plan has the same supporting text as that under paragraph 10.2 but for paragraph 10.5 it adds further text (underlined):

10.5 The council will use established industry standards when assessing schemes, including 'Site Layout Planning for Daylight and Sunlight' (BRE Trust, 2011) having regard to context and other material considerations, 'Professional Practice Guidance on Planning & Noise, (2017)'; and any other relevant documents. Where supporting information about amenity impacts submitted

with planning applications requires independent technical assessment, the applicant will be required to pay for this assessment.

8.19 Local Plan Policy Q26 applies to tall buildings and as discussed earlier, the Appeal Scheme includes a tall building as defined by the Local Plan. Part (a)(vi) of Q26 states the following:

(a) Proposals for tall buildings will be supported where:

(vi) it does not have an unacceptably harmful impact on its surroundings including microclimate, wind turbulence, noise, reflected glare, aviation, navigation and telecommunication or broadcast interference

8.20 Policy Q26 is carried forward in the draft Local Plan in a modified form:

(a) Having particular regard to the international obligation to preserve the OUV of the Westminster World Heritage Site and taking into account the desirability of preserving the settings of heritage assets, proposals for tall buildings will be supported where they are in locations identified as appropriate for tall buildings in Annex 11 and where:

(v) The proposal adequately addresses the criteria in London Plan policy D9C in terms of acceptable visual, environmental and functional impacts including microclimate, wind turbulence, noise, daylight and sunlight, reflective glare, aviation

vi) it can be shown that the site can accommodate the uses and quantum of development proposed in terms of meeting acceptable standards of amenity, access, accessibility and servicing.

(b) Outside of Annex 11 locations there is no presumption in favour of tall building development. Should tall buildings be proposed outside the locations identified in Annex 11, the applicant will be required to provide a clear and convincing justification and demonstrate the appropriateness of the site for a tall building having regard to the impact on heritage assets, the form, proportion, composition, scale and character of the immediate buildings and the character of the local area (including urban grain and public realm / landscape features etc.) and ensure points (a) (i)-(vi) are met. In addition:

(i) proposals for tall buildings will only be considered acceptable in established low rise residential neighbourhoods where they are part of a comprehensive scheme which integrates well with the locality.

...

8.21 Paragraph 10.150 of the supporting text states:

From time to time windfall sites may provide the opportunity for tall building development in locations that have not been anticipated through the plan-led process. Part (b) of this policy is intended to deal with these situations. It should be recognised that outside the Annex 11 locations there is not a presumption in support of tall development and therefore, in these instances, the onus will be upon the applicant to fully meet all of the policy tests.

8.22 Paragraph 123 of the NPPF states:

Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

- (c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

8.23 However, in this instance it is not considered that there is an existing or anticipated shortage of land for meeting identified housing need. The Council's latest Annual Position Statement published in October 2020 indicates that housing delivery in the borough has performed strongly against the current London Plan minimum target of 1,559. The statement confirms that the council is expected to exceed both its five and ten year housing supply target (see paragraph 8.1 of this proof for more detail). Therefore, the flexibility on daylight guidance afforded by paragraph 123 of the NPPF does not apply in this instance.

8.24 Ian Dias MRICS of Schrodgers Begg has provided separate evidence on daylight and sunlight matters. His report provides an independent review of the Daylight and Sunlight Assessment Report prepared by Point 2 Surveyors in support of the Appeal Scheme. Mr Dias confirms that the methodology used by Point 2 for their assessment is reasonable and based on their findings concludes that there would be adverse impacts on sunlight to neighbouring gardens and on daylight to nearby habitable rooms. Below I summarise these impacts and explain how they make the Appeal Scheme unacceptable in terms of planning policy.

Sunlight impact

8.25 Mr Dias' review of Point 2 Surveyors' daylight and sunlight report finds that 10 nearby external amenity areas would have significant reductions and fail to meet the relevant target criteria set by the Building Research Establishment's (BRE) "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' for both sunlight and daylight", which is an established industry document setting standards for such matters. The BRE guidance states that for a garden or

amenity area to appear adequately sunlit throughout the year, no more than half of the area should be prevented by buildings from receiving two hours of sunlight on the 21st of March.

8.26 The 10 areas that would experience a significant reduction and do not achieve this target are the gardens of the following properties:

- 2 Castlebrook Close
- 3 Castlebrook Close
- 4 Castlebrook Close
- 130A Brook Drive
- 136A Brook Drive
- 138 Brook Drive
- 144 Brook Drive (two amenity areas)
- 7 George Mathers Road
- 8 George Mathers Road

8.27 Mr Dias considers the impacts to 2, 3 and 4 Castlebrook Close; 136A and 144 Brook Drive; and 7 and 8 George Mathers Road to be 'major adverse' (although 7 and 8 George Mathers Road have limited provision to begin with). The impacts to 130A and 144 Brook Drive are considered to be 'moderate adverse'. Consequently, these gardens would not be adequately sunlit throughout the year thereby causing harm to the residential amenity of the affected properties.

8.28 This harm would be unacceptable impact on levels of sunlight contrary to Policy Q2 of the both current Local Plan and draft Local Plan; an unacceptable impact on sunlight contrary to Policy Q26 of both the current and draft Local Plan; an unacceptable impact on the amenity of surrounding land and buildings contrary to Policy 7.6 of the London Plan; an adverse effect to its surroundings contrary Policy 7.7 of the London Plan; and impact on sunlight that would compromise comfort and the enjoyment of open spaces around the building contrary to Policy D9 of the draft London Plan.

Daylight Impact

8.29 Mr Dias' evidence explains that a number of neighbouring properties would experience a harmful loss of daylight. This is due to significant reductions in 'Vertical Sky Component' (VSC) values to below 20 per cent VSC. These impacts were found even when a more lenient threshold of acceptability was applied to account for the particular character of the site and the immediately surrounding area. This is explained in more detail in his evidence.

8.30 The following properties were found to experience a harmful impact:

- 1 Castlebrook Close (room type unknown)
- 134-138 and 144 Brook Drive (kitchen/diners and bedrooms)
- 1 and 3 Dante Road (kitchens and living rooms)
- 5 (Wilmot House) George Mathers Road (living/kitchen/diners and bedrooms)
- 9 (Bolton House) George Mathers Road (living/kitchen/diners and bedrooms)

- 10 (Freeman House) George Mathers Road (living/kitchen/diners)
- 25-29 Renfrew Road (Kitchen/diners, living/kitchen/diners and conservatory)

8.31 Mr Dias' evidence states that 136A and 138 Brook Drive and 25 and 27 Renfrew Road would experience major adverse impacts. Wilmot House, Bolton House and Freeman House would experience a mix of moderate and major adverse impacts. 1 Castlebrook Close, 1 and 3 Dante Road, 144 Brook Drive and 28 and 29 Renfrew Road would all experience moderate adverse impacts.

8.32 These properties would experience a moderate or major reduction in daylight level and be left with a VSC value of less than 20. Mr Dias concludes that this degree of change and level of retained daylight would be unreasonable given the surrounding low rise context and therefore the appeal proposal would cause harm.

8.33 This harm would be unacceptable impact on daylight levels contrary to Policy Q2 of the both current Local Plan and draft Local Plan; an unacceptable impact on daylight contrary to Policy Q26 of both the current and draft Local Plan; an unacceptable impact on the amenity of surrounding land and buildings contrary to Policy 7.6 of the London Plan; an adverse effect to its surroundings contrary Policy 7.7 of the London Plan; and impact on daylight that would compromise comfort contrary to Policy D9 of the draft London Plan.

Conclusion

8.34 Mr Dias' evidence shows that the development would cause harmful impacts on sunlight to neighbouring gardens and on daylight to neighbouring habitable rooms.

8.35 As discussed earlier, paragraph 123 of the NPPF advises that a flexible approach should be taken when applying policies or guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards). However, this only applies where there is an existing or anticipated shortage of land for meeting identified housing needs. This does not apply in this case (see paragraph 8.11). Therefore a flexible approach is not required. Nevertheless, Mr Dias did apply a flexible approach by lowering the threshold of an acceptable VSC value from 27 to 20. Even with a flexible approach, the scheme would still not provide acceptable living standards; nor has the Appellant shown that efficient use could not be made of the Site while simultaneously achieving a better outcome in daylight and sunlight terms.

8.36 It is clear that the Appeal Scheme would cause undue harm to residential amenity contrary to Policy 7.7(D) (a) of the London Plan (2016), Policy 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).

8.37 Indicative Reason for Refusal 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 Revised Lambeth Local Plan (Submission Version January 2020)

- 8.38 The proposed development is for the demolition of a former care home to provide new residential accommodation within two new buildings. Policy Q2 of the Lambeth Local Plan (2015) states:

Development will be supported if:

- (ii) acceptable standards of privacy are provided without a diminution of the design quality
- (iii) adequate outlooks are provided avoiding wherever possible any undue sense of enclosure or unacceptable levels of overlooking (or perceived overlooking)
- (iv) it would not have an unacceptable impact on levels of daylight and sunlight on the host building and adjoining property

- 8.39 This policy aim is continued in the new Policy Q2 in the Draft Review Lambeth Local Plan (Submission Version January 2020) using the same wording except for part (iv) where it adds the following text (underlined):

- (iv) it would not have an unacceptable impact on levels of daylight and sunlight on the host building or adjoining property including their gardens or outdoor spaces:

- 8.40 The impact on gardens and outdoor spaces is already a consideration under current policy Q2. The additional text in the draft policy Q2 only seeks to highlight the importance of considering the impact on such spaces.

- 8.41 Paragraph 10.2 of the supporting text for both the adopted and draft local plans is the same. It anticipates that “most new development in Lambeth results in an intensification of uses” and “it is therefore essential that amenity considerations are at the fore when designing at higher residential densities for a growing population”. This consideration is applicable to the Appeal Scheme as it involves the redevelopment of a site at a higher density than the existing and adjacent development.

- 8.42 In addition to local planning policies, the London Plan (2016) Policy 3.5 states:

Housing developments should be of the highest quality internally externally and in relation to their context and to the wider environment, taking account of strategic policies in this Plan to protect and enhance London’s residential environment and

attractiveness as a place to live.

8.43 The Mayor's Housing SPG (2016) provides guidance on the implementation of this policy. Standard 28 of the SPG states that "Design Proposals should demonstrate how habitable rooms within each dwelling are provided with an acceptable level of privacy in relation to neighbouring property, the street and other public spaces".

8.44 Standard 32 of the SPG seeks that "all homes should provide for direct sunlight to enter at least one habitable room for part of the day. Living areas and kitchen dining spaces should preferably receive direct sunlight". The SPG accepts that it may not always be possible to achieve this so it requires at the very least that "developers demonstrate how the daylight standard proposed within a scheme and individual units will achieve good amenity for residents" (paragraph 2.3.46).

8.45 Daylight and sunlight amenity for new developments is covered in the Intend to Publish London Plan (December 2019) under Policy D6:

The design of design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.

8.46 The policy is supported by Table 3.2 which identifies the qualitative design aspects to be addressed in housing developments. One of these aspects is that "the site layout, orientation and design of individual dwellings and, where applicable, common spaces should: provide privacy and adequate daylight for residents".

8.47 Finally, Policy D3 of the Intend to Publish London Plan (December 2019) seeks to optimise site capacity through the design-led approach.

The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity, and that best deliver requirements set out in Part B".

8.48 Part B sets out a number of design objectives. Two of these are to "deliver appropriate outlook, privacy and amenity" and "achieve indoor and outdoor environments that are comfortable and inviting for people to use".

8.49 Below I demonstrate how the proposed development would fail to provide an acceptable standard of privacy and acceptable levels of daylight for the new dwellings.

Overlooking and privacy

8.50 The development consists of two roughly rectangular residential blocks. Block A is part three, part four storeys and Block B is part 24 part 29 storeys. They would be placed parallel to each other approximately 13.8m apart at the narrowest point. This arrangement would result in a number of windows serving habitable rooms being this distance apart and others being 15.5m

apart.

- 8.51 Neither the Lambeth Local Plan 2015 or the London Plan 2016 prescribe minimum separation distance to avoid overlooking however the Mayor’s Housing SPG (2016) states that a distance of “18-21m” between habitable rooms can be a useful yardstick for maintaining visual privacy. Although the SPG goes on to state that “adhering rigidly to these measures can limit the variety of urban spaces and housing types in the city and can sometimes unnecessarily restrict density”, it is considered appropriate to apply this yardstick to the appeal case for two reasons.
- 8.52 First, the majority of development immediately surrounding the site has separation distances of at least 18m or is arranged so that its windows do not directly face another window serving a habitable room. The exceptions are 3, 4, 5 and 7 George Mathers Road, which are blocks of flats arranged around narrow access streets which result in separation distances of less than 18m. However, most adjoining development is free from intrusive overlooking.
- 8.53 Second, the appeal site is large and its developable area is regularly shaped. It therefore benefits from a degree of flexibility in how new development is arranged. For example, it is not a gap in an existing terrace where it would be expected that the terrace pattern is continued. This means that it is not necessary that the Blocks A and B be so closely spaced in order to develop the site in an efficient way.
- 8.54 It is therefore considered that a yardstick of 18-21m can be reasonably applied to this site.
- 8.55 The proposed development would result in the separation distances set out in Table 1 below.

Table 1 – Closest separation distances between Block A and Block B

	Block A unit and room	Block B unit and room	Distance between facing windows
First Floor	Flat 03 Living Room	Flat 08 Bedrooms	13.8m
	Flat 03 Bedrooms	Flat 01 Bedrooms	15.5m
	Flat 04 Living room	Flat 08 Bedroom and Living room	13.8m
	Flat 02 Bedroom	Flat 01 Bedroom and Living room	13.8m
	Flat 05 Bedroom	Flat 07 Living Room	15.5m
Second Floor	Flat 02 Bedroom	Flat 01 Bedroom and Living room	13.8m
	Flat 03 Bedrooms	Flat 09 Bedroom	15.5m
	Flat 03 Living room	Flat 09 Bedrooms	13.8m
	Flat 04 Living room	Flat 08 Bedroom and	13.8m

		Living room	
	Flat 05 Bedrooms	Flat 07 Living Room	15.5m
Third Floor	Flat 01 Bedrooms	Flat 01 Bedroom and Living Room	13.8m
	Flat 02 Bedrooms	Flat 09 Living Room	15.5m
	Flat 02 Living room	Flat 08 Bedroom	13.8m
	Flat 03 Living Room	Flat 08 Living Room and Bedroom	13.8m
	Flat 04 Living Room Bedrooms	Flat 07 Living Room	15.5m

8.56 These distances of 13.8m or 15.5m between living rooms and bedrooms would result in intrusive overlooking and therefore not provide an acceptable standard of privacy. For a number of dwellings, all of their windows would suffer from this close proximity as they would not have the relief provided by an alternative aspect. These are:

- Block A, First Floor Flat 03
- Block A, Second Floor Flat 03
- Block A, Third Floor Flat 02
- Block B Second Floor Flat 09
- Block B Third Floor Flat 09

8.57 Screening, fins or other measures to block views are unlikely to completely mitigate the overlooking and any gains in privacy would be counteracted by losses in outlook. There would be no net improvement to residential amenity. Therefore, these instances of overlooking can only be addressed by increasing the separation distance. As discussed above, the site is not considered to be so constrained such that separation distances greater than 18-21m are unachievable. It is likely that a development with an alternative arrangement could achieve acceptable separation distances while not limiting the variety of urban spaces and housing types or unnecessarily restricting density.

Daylight: Proposed Units

8.58 A Proof of Evidence is provided as an expert report by Ian Dias MRICS in respect of daylight and sunlight matters. Mr Dias' proof provides an independent review of the Daylight and Sunlight Assessment Report prepared by Point 2 Surveyors in support of the Appeal Scheme. Mr Dias confirms that the methodology used by Point 2 for their assessment is reasonable but identifies a number of instances where rooms in Block A will receive poor daylight.

8.59 Section 7 of Mr Dias' proof states that of the 90 rooms assessed for daylight in Block A, 34 do

not meet the target value for Average Daylight Factor (ADF), which means that they would have a poor level of daylight.

8.60 Almost all of the rooms that do not meet the ADF target face east towards Block B. Some of these rooms are in the dwellings that would also suffer from intrusive overlooking as discussed earlier. These dwellings are:

- First Floor Flats 03 and 04
- Second Floor Flats 03 and 04
- Third Floor Flats 02 and 03

8.61 In First Floor Flats 03 and 04 and Second Floor Flats 03 and 04, all rooms would fail to meet ADF targets and be subject to overlooking. Four of these rooms would be bedrooms with an ADF of 0.2 per cent and two would be bedrooms with 0 per cent ADF.

8.62 For Third Floor Flats 02 and 03, where all rooms would be subject to overlooking, four bedrooms would fail to meet ADF targets, two of which would have ADF values of 0.3 to 0.4 per cent.

8.63 Mr Dias' evidence states there is limited obstruction from surrounding properties due to the low rise nature of surrounding development and therefore there is an opportunity for good daylight levels on this site. His evidence states that the presence of Block B does place some limitation to the provision of daylight within Block A however he considers the issue more to be resulting from the presence of window positions placed within recessed balcony positions resulting in self-limiting daylight. Therefore removing the balconies would improve daylight conditions however it is a policy requirement to provide external amenity space. Removing balconies to improve daylight would not be supported. Nor is an alternative balcony design likely to address the problem as the balconies will need to meet the Mayor's design standards (1.5m in depth and width and at least 5sqm in area) in order to be acceptable. Therefore, it is the physical relationship between Block A and B that must be reconsidered in order to address the Appeal Scheme's poor daylight levels.

Conclusion

8.64 My evidence has shown that the Appeal Scheme would result in conditions of intrusive overlooking between dwellings in Blocks A and B. The evidence of Mr Dias shows that a number of dwellings in Block A would suffer from low daylight levels, and in some cases, very low or even no daylight. Some dwellings would experience both of these deficiencies

8.65 The Appeal Scheme would fail to maintain acceptable standards of privacy, fail to avoid unacceptable overlooking (or perceived overlooking) and fail to have an acceptable impact on levels of daylight. It is contrary to Policy Q2 of the Lambeth Local Plan (2015), Policy Q2 of the Draft Revised Lambeth Local Plan (Submission Version January 2020), Policy 3.5 of the London Plan (2016) and Policies D3 and D6 of the Intend to Publish London Plan (December 2019).

8.66 Indicative Reason for Refusal 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).

8.67 The Appellant has submitted a draft s106 unilateral undertaking for review at 16:32 on the 15th of October 2020. The draft will be reviewed in due course.

8.68 The Appellant has indicated in the Statement of Common Ground that the undertaking will include the following Heads of Terms:

- On site affordable housing;
- Carbon Offset Contribution (current estimate £231,678);
- Connection to future energy network;
- Employment and Skills Plan;
- Employment and Skills Contribution (£162,700);
- Parking Permit free;
- Car Club Membership for three years;
- Travel Plan and monitoring over five years (£5,300);
- Low Traffic Neighbourhood contribution (£50,000)
- Legible London Signage (£15,000); and
- Monitoring costs

8.69 The Appellant has also proposed to include the offer of a lease to the occupiers of the Cinema Museum as Head of Term. The LPA does not consider such an obligation to meet the relevant tests. This is discussed in paragraphs 8.10 and 8.11 of this proof.

8.70 In the s106 undertaking the LPA will seek obligations to ensure the shared ownership units would be genuinely affordable to people on a range of incomes. Without such obligations, the Appellant would fail to address indicative reason for refusal 12, insofar as it relates to affordable housing, and indicative reason for refusal 2. This is explained below.

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).

8.71 The Mayor's Affordable Housing and Viability SPG 2017 states that genuinely affordable homes are "homes for households whose needs are not met by the market and are demonstrably affordable to Londoners with reference to the eligibility for the Mayor's preferred affordable housing tenures". Paragraph 4.6.9 of the draft London Plan states:

For dwellings to be considered affordable, annual housing costs, including mortgage (assuming reasonable interest rates and deposit requirements), rent and service charge, should be no greater than 40 per cent of net household income, based on the household income limits [that apply to intermediate housing products]. Boroughs should seek to ensure that intermediate provision provides for households with a range of incomes below the upper limit.

8.72 According to the Financial Viability Review August 2019 prepared by Avison Young on behalf of the Local Planning Authority, the unrestricted market value of many units in this scheme is close to or exceeds £600,000. Paragraph 2.49 of the Mayor's Affordable Housing and Viability SPG 2017 states that shared ownership is generally not appropriate where unrestricted market values exceed £600,000. This is because the income required to pay mortgage, rent and service charge payments is likely to be close to or exceed £90,000, which is the upper household income limit for shared ownership units. This is based on calculations set out in the GLA's Affordable Housing Capital Funding Guide and used in their Housing Research Note 5. The assumptions are:

- The minimum equity share of 25% is purchased;
- The minimum deposit of 10% of equity value is put down;
- A mortgage is acquired at an interest rate of 4.5% over 25 years;
- Rent on the unowned equity is charged at the maximum rate of 2.75%; and
- The service charge is £1,680 per annum.

8.73 Assuming a household has the maximum income of £90,000, for a shared ownership property to remain affordable with a 25 per cent initial equity share, the market value cannot exceed £674,600. For a shared ownership property to remain affordable with a 35 per cent initial equity share, the market value cannot exceed £617,300.

8.74 In the absence of any income caps, the income required to access the proposed shared ownership units is likely to be towards the upper end of the £90,000 income limit. Lambeth's Strategic Housing Market Assessment 2017 (SHMA) found that 61.8 per cent of households have an annual income of less than £40,000. The median income was £33,280 and the mean

income was £39,986. Only 4.2 per cent of households had an income of £80,000 to £100,000. Therefore few households in Lambeth are likely to be able to access the proposed shared ownership units.

- 8.75 The SHMA also found that the income required to access the lower quartile of private rented housing was £35,750 for a 1-bed unit and £43,420 for a 2-bed unit (assuming 40 per cent of net income is spent on housing). This is significantly lower than the income that is likely to be required to access the proposed shared ownership units. Therefore, these units would only be accessible to those who could access private market housing. They would not be accessible to those whose needs are not met by the private market and therefore would not be genuinely affordable.
- 8.76 The proposed development therefore fails to address indicative reason for refusal 2 contrary to Policy 3.10 of the London Plan (2016), Policies H4 and H6 of draft London Plan (December 2019); and Policy H2 of both the Lambeth Local Plan (2015) and Draft Revised Lambeth Local Plan (January 2020).and indicative reason for refusal 12, insofar as it relates to affordable housing, contrary to Policy D4 of the Lambeth Local Plan (2015).

9.0 PLANNING BALANCE AND CONCLUSION

- 9.1 In my evidence I have discussed in detail four reasons for refusal but for my concluding remarks on the overall planning balance for the Appeal Scheme I will additionally refer to the key points made by the LPA's other witnesses in their evidence.

Summary of planning harm

- 9.2 The evidence of the LPA's witnesses shows that the Appeal Scheme would have a number of harmful impacts and deficiencies that conflict with planning policy
- 9.3 Ms Barnett's evidence has shown that the mix of units in terms of dwelling size would not meet housing need across the Borough. The Council's policy on housing mix is based on robust evidence of Borough-wide need and the Appeal Scheme would not make an adequate contribution to addressing this need. My evidence has also shown that the Appellant has not demonstrated that the proposed shared ownership units would be genuinely affordable to Lambeth residents on a range of incomes and therefore would not meet affordable housing need.
- 9.4 Mr Black's evidence has shown that the Appeal Scheme would be out of keeping with the site, its local context and the townscape. The development would be oppressively tall and alien in its immediate context and distracting in key medium distance views. This is due to its significant bulk, scale and mass, which would not be mitigated by its architectural form, materials or finished appearance. His evidence has also shown that the proposed public route through the site is unnecessary and potentially unsafe and should not be considered a benefit of the Appeal Scheme. He has also shown that the communal amenity space for residents and child playspace

would be inadequate. This is largely due to the design, layout and treatment of the space being dictated by the desire to create a public route through the site. The space would not serve the amenity or play needs of residents and their children.

9.5 Mr Black has explained that the Appeal Scheme would have a negative effect on the setting of a wide range of heritage assets. The cumulative harm would be 'less than substantial' but the harm to the settings of the Grade II listed Master's House and Grade II listed Water Tower would be the highest level of 'less than substantial' harm.

9.6 Mr Dias' evidence shows that the development would cause harm to neighbouring daylight and sunlight conditions and that some dwellings within the development would suffer from low levels of daylight. My evidence has discussed further the impact on neighbouring amenity and also shows that poor amenity of some of the new units due to poor daylight would be compounded by poor privacy.

Summary of public benefits

9.7 The material considerations that weigh in favour of the Appeal Scheme are as follows

- Housing: The development would redevelop an under-utilised site to provide new market and affordable housing. However, the benefit would be limited as the housing delivery in Lambeth is exceeding its targets. The Council's latest Annual Position Statement published in September 2019 indicates that housing delivery in the borough has performed strongly against the current London Plan minimum target of 1,559. The statement confirms that the council is expected to exceed both its five and ten year housing supply target. This is illustrated in the updated housing trajectory and remains true even with the inclusion of a 5 per cent buffer or 10 per cent buffer (for five year supply)¹. Over the ten-year period 2015/16-2024/25, the cumulative housing target (including the 5 per cent buffer) is likely to be exceeded by 1,774 dwellings. For the period 2020/21- 2024/25, housing delivery is expected to exceed the housing target plus a 10 per cent buffer by 771 units. For affordable housing, the statement records that in the years 2009/10 to 2012/13, affordable units as a percentage of new builds was between 54 and 58 per cent. In the years 2013/14 to 2018/19 there was greater fluctuation as the percentage varied from 16 per cent to 43 per cent. Paragraph 6.5 of the statement states that the "overall the record on both approvals and completions since 2008 is strong, particularly for new build completions, although in recent years there have been marked fluctuations". Overall housing delivery is strong in Lambeth and the statements projections do not rely on the appeal site to deliver any housing. Therefore, the housing delivered by the Appeal Scheme would be of limited public benefit.
- Re-use of brown-field site: The redevelopment of a brownfield site, the provision of new landscaping and some ecological habitat are of some benefit however such benefits

¹ Lambeth is an authority where paragraph 73(b) of the NPPF applies in that it seeks to demonstrate a 10 per cent buffer to account for any fluctuations in the market during the year that housing delivery is reported through an annual position statement. Paragraph 73(c), which requires an authority to demonstrate a 20 per cent buffer due to under delivery, does not apply.

would not be unique to this particular development. Any policy compliant scheme on this site would be expected to provide such benefits. It is therefore of limited benefit.

- Employment and skills: An employment and skills plan and financial contribution would be secured with this development. Again any policy compliant scheme on this site would be expected to provide such benefits. It is therefore of limited benefit.
- Transport improvements: Legible London Signage and a contribution to a Low Traffic Neighbourhood Contribution would be secured via s106. These would be expected for any major redevelopment of this site and therefore are of limited benefit.

The Cinema Museum

- 9.8 The Appellant proposes to enable the Cinema Museum to buy itself a long lease for £1,000,000 after a four years at a peppercorn rent. The museum has occupied Master's House since 1998 on a rolling one year lease. The Appellant states that the short-term nature of the lease has prevented the Cinema Museum from obtaining proper funding to sustain itself in the longer term. The Appellant has proposed that it will seek to agree a long leasehold to enable the Cinema Museum to remain in occupation of Master's House but would only be in a position to do so if planning permission was secured. The Appellant therefore argues that this offer of a long lease is a public benefit.
- 9.9 The council is supportive of the Cinema Museum and supports in principle a scheme which retained the Cinema Museum, subject to details being acceptable. However, the offer of a long lease is not a material planning consideration. Although the Cinema Museum falls within the red line boundary no development is proposed to it – no building operations or change of use are proposed. The proposed residential blocks would be merely adjacent to the Cinema Museum and there would be no functional relationship with it. The offer of a lease does not relate to the land or the character of the use of any of the land within the site. A long lease is a commercial agreement between two entities that cannot be guaranteed or controlled by the planning system. It is not a material planning consideration.
- 9.10 The Appellant proposes to include the offer of a long lease as a planning obligation however such an obligation would fail to meet the criteria of Regulation 122 of the Community Infrastructure Levy Regulations 2010:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- 9.11 The offer of a long lease is not necessary to the make the development acceptable in planning terms. No development is proposed for the Cinema Museum or Master's House and the offer of a lease causes no planning benefit or harm. The offer is not directly related to the development as there is no connection between the offer of a lease to the Cinema Museum and the proposed residential development. As there is no connection the proposed development, it would not be

possible for the offer to be fairly or reasonably related in scale and kind to the development. Such obligation would therefore fail the above tests.

- 9.12 If it were accepted as material consideration and valid planning obligation, it would have only limited weight in the overall planning balance as it is only an offer of a long lease which may or not be accepted.

Heritage harm and public benefits

- 9.13 Mr Black's evidence has identified the harm the Appeal Scheme would cause to heritage assets. Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require the decision-maker to have special regard to (amongst other things) the desirability of preserving the settings of listed buildings. The Council's view is that because no development of the site is proposed within the Renfrew Road conservation area, the s72 duty (as distinct from the requirements of the NPPF) is not engaged in relation to that asset. The s66 statutory duty requires harm to the setting of a listed building to be given considerable importance and weight in the overall planning balance. The NPPF requires (paragraph 193) great weight to be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). This is expressly stated to be "irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance". Furthermore paragraph 194 of the NPPF requires "clear and convincing justification" for any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting). Where (as here) a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that requires the harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 196).
- 9.14 I have identified the public benefits of the Appeal Scheme above. These benefits are limited and do not outweigh the harm to heritage assets.

Overall planning balance

- 9.15 Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay. The development plan in Lambeth is up-to-date. Lambeth's Annual Position Statement (September 2019) shows that the Local Planning Authority has a five year housing land supply with a ten per cent buffer. The development plan is not out-of-date for any other reason.
- 9.16 As identified by the Council's witnesses and summarised above, the Appeal Scheme would result in a number of harms and conflicts with the development plan as a whole. In addition to the heritage harm already discussed, the Appeal Scheme would fail to adequately address housing need, be of poor design quality, provide poor communal amenity and play space, provide poor quality accommodation and cause harm to neighbouring amenity.
- 9.17 Material considerations do not indicate that planning permission should be granted

notwithstanding the Appeal Scheme's conflict with the development plan as a whole. The NPPF is material consideration and it indicates that planning permission should be refused where, as here, there is less than substantial harm to designated heritage assets and that harm is not outweighed by the public benefits of the Appeal Scheme. The public benefits of the Appeal Scheme I have identified are material considerations but they are of limited weight and would not outweigh the conflicts with the development plan.

- 9.18 The Appeal Scheme would therefore not be sustainable development and the appeal should be dismissed.

10.0 CONDITIONS AND INFORMATIVES

- 10.1 Should the Inspector be minded to allow the Appeal, a list of the suggested agreed conditions will provided to the Inspector at least 10 working days in advance of the appeal being heard.