



**ANTHOLOGY
KENNINGTON STAGE**

Built from London

Planning Proof of Evidence

Donald Considine Bsc Dip TP

October 2020

tp bennet

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING APPEALS (DETERMINATION BY INSPECTORS)
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000 (AS AMENDED)
APPEAL MADE UNDER SECTION 78(2)(A) OF THE ACT

PLANNING PROOF OF EVIDENCE OF DONALD CONSIDINE BSC DIPTP
ON BEHALF OF ANTHOLOGY KENNINGTON STAGE LIMITED
RELATING TO THE REDEVELOPMENT OF THE FORMER WOODLANDS AND
MASTER'S HOUSE, OFF DUGARD WAY KENNINGTON, SE11 4 TH

APPEAL REFERENCE: APP/N5660/W/20/3248960
LPA REFERENCE: 19/02696/FUL

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1 EXECUTIVE SUMMARY

- 1.1 My name is Donald Considine, and I appear on behalf of the Appellant to address planning matters. I have over 35 years of planning experience, and I have been instructed in relation to this development since February of 2018.
- 1.2 Within this proof, I assess the appeal schemes against the relevant Development Plan policies and other material considerations, about those matters that remain in disagreement between the parties.
- 1.3 The Development Plan for the consideration of the Appeal Scheme comprises the following:
 - (a) The London Plan (2016)
 - (b) The London Borough of Lambeth Local Plan (2015)
- 1.4 I can confirm that I have had regard to the above documents in my assessment of the proposals, in addition to other planning documents and guidance, including the NPPF, which I reference within my evidence.
- 1.5 The NPPF promotes sustainable development that delivers economic, social and environmental benefits (paragraph 8). To achieve this, the efficient use of land is required (paragraph 122), with development on previously developed, vacant or underutilised sites especially being promoted, in particular for new housing (paragraph 118d). The NPPF states that it is especially important in areas such as this that planning policies and decisions avoid homes being built at low densities and that developments make optimal use of the potential of each site (paragraph 123).
- 1.6 The severe housing shortage in London is widely acknowledged at all levels a position that provides the context for the SoS rejection of the draft London Plan, in its inability to meet the housing requirements of Londoners. The implication is clear that the Development Plan needs to maximise housing delivery.
- 1.7 The proposed development provides a substantial quantum of market housing, along with 50% affordable housing. This level of provision of affordable housing is far from the norm, and contributes substantially to the needs of the Borough, both in market and affordable terms. A Viability Assessment has been agreed between the Appellant and LBL. It confirms that the Development will deliver the maximum reasonable level of affordable housing,
- 1.8 Local Plan policy D1 seeks to maximise the use of previously developed land by fully exploring regeneration opportunities, as is the case in this application. Furthermore, the Local Plan states that housing is a priority land use in Lambeth and that the Council will expect schemes to optimise the housing potential of suitable under-used or vacant sites consistent with a high-quality environment for all.
- 1.9 The site currently comprises a vacant former nursing home, and a Grade II listed building occupied by the Cinema Museum; the remainder of the site is taken up by service roads, car parking, and scrubland; the environment being threatening, insecure and lacking surveillance. There is no northern or north eastern access or egress to the site and the Site is fundamentally disconnected from the urban fabric, its continued existence in this form, in this location, effectively a failure of planning.
- 1.10 The borough boundary with Southwark, the boundary with Central Activity Zone, the boundary with the Elephant and Castle Major Centre and the boundary with the Elephant and Castle Opportunity Area all run adjacent to the Site to the east; it has a PTAL of 6A/ 6B and is some 550m walking distance from the Elephant and Castle tube station.
- 1.11 The Site is firmly within the typologies of Central London, and the Elephant and Castle has been subject of significant change over the recent past changing the nature of the surrounding area substantially.
- 1.12 These factors define the site as highly sustainable, underutilised, brownfield, ex-public sector, and within a central area typology. The Development Plan thereby requires the site to optimise residential

development, and to be tested against what that optimal development might be, and that in accordance with the NPPF low density development be avoided.

- 1.13 The site is suitable in principle for a tall building, the Borough having identified areas as unsuitable for tall buildings and this not being one of them, and the principle of a tall building being supported by the GLA from an early stage. Subject to assessment, the principle of a tall building on the site is in accordance with the development plan, and the area is characterised by tall buildings in its immediate environment.
- 1.14 In his evidence, Mr Graham the architect responsible for leading the design process, describes the proposed development, including; details of the context, influences, scale, layout and appearance; materials. Mr Graham's evidence demonstrates that the proposed development will be highly sustainable, and the design and materials proposed are of exemplary quality.
- 1.15 The design evidence demonstrates that the proposed development will meet all relevant housing and design standards, and will provide 258 much needed high quality new homes, including also much needed affordable homes, with thoughtfully designed, on-site amenity space, which will provide a high level of amenity to residents, while also providing a well thought pedestrian route through the site, improved permeability and security.
- 1.16 Having regard to the evidence of Mr. Lane and the views of planning officers at Lambeth, I do not believe that either appeal scheme would cause unacceptable harm to the daylight and sunlight levels of surrounding properties and I think that existing residents would continue to enjoy a satisfactory level of amenity and living conditions within their homes commensurate with the location; the relationship of proposal to its neighbours has been carefully and sensitively considered throughout the design process. The schemes therefore is in accord with the Development Plan in this regard.
- 1.17 When considering the views of officers at Lambeth on the specific issue of future residents' outlook, I am of the opinion that the proposal will not unacceptably compromise amenity or cause any undue sense of enclosure.
- 1.18 The design evidence in this case is complemented by townscape and heritage evidence of Dr Miele. He concludes that the Proposed Development is of exceptional quality and that the less than substantial harm to the setting of any designated heritage asset is at the lower end of the scale. While there is no dispute that the Development can be seen from some views, including from designated heritage assets, that is not in itself cause for refusing planning permission given the building's quality and contribution to both its immediate vicinity and more distant views.
- 1.19 As required by paragraph 196 of the NPPF a balancing exercise against public benefits has been carried out and both individual and cumulative benefits of substantial weight identified, in particular the provision of market and affordable housing, but also economic, environmental and heritage benefits including the securing of the future of the Cinema Museum.
- 1.20 These are substantial benefits and clearly in the balance outweigh any harm identified.
- 1.21 I consider that the appeal site is a prime location for new residential development. It has the capacity to accommodate the proposed development and will do so without placing unacceptable pressure on local infrastructure.
- 1.22 Based on my evidence, and the additional expert evidence presented by others on behalf of the Appellant, I conclude that the proposed development satisfies all the relevant provisions of the Development Plan, in as far as relevant policies are up to date, and that in accordance with Section 38(6) of the Act, the determination which would be in accordance with the Development Plan would be to allow this Appeal. In addition, material considerations further support the grant of consent.
- 1.23 Overall, I conclude that the proposals put forward by both schemes represent sustainable development which will deliver significant public benefits, to which very significant weight should be attached in the planning balance.

- 1.24 If the decision maker judged there was conflict with any relevant and up to date Development Plan policies, I consider these would be outweighed by material considerations, namely, the very significant public benefits that the proposed schemes will deliver.
- 1.25 In these circumstances, I respectfully request that the appeal is upheld and planning permission is granted.
- 1.26 LBL's reasons for refusal are included at Appendix I to this proof. Since the submission of the Appeal, the Appellant has been attempting to negotiate with the LBL to narrow down the issues between them. As a result, refusal reasons 1, 9, 10 11, and 13 have been withdrawn, reason 2 is to become part of the s.106 discussions it is anticipated that 12 will be negotiated prior to the inquiry. Should this be the case 6 [reasons] issues will be outstanding at the inquiry.
- 1.27 Following further design development, a set of refinements were submitted to help narrow down the reasons for refusal. This comprised a series of elements: 89 cycle spaces have been relocated into the secure basement area; the Northern Gatehouse is slightly reduced in size and footprint and now accommodates additional storage space and the substation in place of the relocated cycle spaces; the Southern Gatehouse is now reduced in size and footprint and will be used for external storage; the entrance lobby to Block B has been reduced in size.
- 1.28 A consultation letter was sent to local residents and a web site set up to allow viewing in the current circumstances. A copy of the letter is attached as appendix 2.
- 1.29 In the light of the above, I have identified the key issues as design, heritage, daylight/sunlight, housing mix, whether the amenity area of is of adequate quality and overall compliance with the Development Plan.
- 1.30 **Outline of the Appellant's case**
- 1.30.1 My evidence will demonstrate that the Site is a highly accessible central London brownfield site that is unsecure and neglected.
- 1.30.2 My evidence will demonstrate that the Proposed Development will deliver the optimal amount of housing on the Site in accordance with Development Plan, and that the maximum quantum of affordable housing will be delivered, and that this is genuinely affordable, within the meaning of planning policy.
- 1.30.3 My evidence will demonstrate that the proposed housing unit mix across all housing tenures, will make a valuable contribution towards meeting housing need, is suitable for the site and surrounding area, and complies substantially with the relevant planning policies by providing a good mix of unit sizes across the respective tenures, including affordable homes. This will be addressed by Mr Ireland in his evidence.
- 1.30.4 In addition to providing high quality homes, the Proposed Development will create a new public realm and pedestrian environment, with the provision of a high-quality public space and increased permeability, while securing the future of the Cinema Museum.
- 1.30.5 My evidence will demonstrate that the Site is appropriate not just for a tall building, but for this tall building, of the highest architectural quality, and this will be substantiated through the evidence of Dr Miele.
- 1.30.6 I have considered the weight to be accorded to the less than substantial harm on nearby heritage assets, and this is further addressed by Dr Chris Miele, and weighed against public benefits in Paragraph 196 of the NPPF.
- 1.30.7 I have also considered the substantial public benefits of the Proposed Development in the planning balance. I conclude that given these very significant public benefits there is still a compelling case in favour of the grant of planning permission, because the public benefits clearly outweigh any alleged harm.

- 1.30.8 I conclude that the Proposed Development accords with the Development Plan, and that there are no material considerations which would warrant the refusal of planning permission. Given evidence on the extent of unmet housing need in London, I also conclude that there is a strong argument in favour of approving the Proposed Development without delay. If, contrary to my view, it is found that the Proposed Development is not in accordance with the Development Plan, then my view is that material considerations, namely the very significant benefits, do indicate otherwise and as such permission should be granted nevertheless.
- 1.30.9 My evidence adopts, and draws upon the evidence of others, and examines the Proposed Development against all the relevant national and local planning policies and any other material considerations. Planning policy explicitly supports high density residential development in this location, and there is no policy constraint against a taller building, subject to other policy considerations.
- 1.30.10 Mr Charles Graham of Rolfe Judd presents expert evidence explaining the context for the Proposed Development, and how their design concept has evolved, based on a number of design iterations, and responds to local context and policy objectives. His evidence demonstrates the Proposed Development comprises a carefully planned set of buildings of very high quality, and adheres to the principles of placemaking and exemplary design and addresses the existing poor quality public realm, providing high quality space, which will materially enhance the quality of the environment, improve permeability and accessibility.
- 1.30.11 Dr Chris Miele of Montagu Evans gives expert evidence on heritage and townscape matters, and will demonstrate that any harm is at the lower end of less than substantial, and that a tower was the most suitable form of development for this site, enabling a significant amount of new open space and an attractive route; and that this tower is one of the highest quality.
- 1.30.12 Mr Nick Lane of Point 2 provides expert evidence on sunlight / daylight matters and sets out that an assessment of daylight and sunlight has been carried out in accordance with the criteria set by the BRE guide and the Development Plan, and that the approach to the balancing of daylight and sunlight issues is entirely in accordance with policy.
- 1.30.13 Mr Nick Ireland of Iceni will show that the proposed housing unit mix across all housing types is appropriate for the site and will make a valuable contribution towards meeting housing need. I shall explain that the housing mix proposed is suitable for the site and surrounding area, meets housing need requirements and complies with the relevant planning policies by providing a good mix of unit sizes across the respective tenures, including affordable homes.
- 1.30.14 Mr Noah Farrer of Farrer Huxley will show that the dedicated playspace is a fundamental part of the development, is exemplary, fit for purpose and marries form and function, providing enhanced public and private spaces, and is fully compliant with the requirements of the Development Plan.

1.31 **Remaining Putative Reasons for Refusal**

- 1.31.1 The full remaining proposed reasons for refusal are:
- (a) **Affordability of Intermediate Shared Ownership**
- (i) 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. 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).

- (b) Inadequate Residential Unit Size Mix
 - (i) 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).

- (c) Inappropriate Design and Unacceptable Impact on Townscape
 - (i) 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).

- (d) Unjustified harmful impacts on the setting of heritage assets and insufficient public benefits
 - (i) 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).

- (e) Adverse Impact on Existing Residential Amenities (Daylight Effects to Habitable Rooms and Sunlight Amenity Effects to Gardens)
 - (i) 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).

- (f) Inadequate Residential Amenity for Future Occupiers Of Development
 - (i) 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).
- (g) Poor Quality Communal and Playscape Amenity
 - (i) 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).
- (h) Planning Obligations.
 - (i) In the absence of agreed heads of terms and a legal agreement to secure agreed policy compliant financial and non-financial contributions that includes: affordable housing, employment & skills contributions; and 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).

2 QUALIFICATIONS AND EXPERIENCE

- 2.1 My name is Donald Considine.
- 2.2 I hold the degree of Bachelor of Science (with Honours) in Town and Country Planning and a Diploma in Town Planning, both from University of Wales Institute of Science and Technology (Cardiff University). I am eligible for membership of the Royal Town Planning Institute. I have over 35 years' experience in the field of town planning, primarily in London. I am a Director at tp bennett, a leading architecture practice and specialist planning consultancy in London.
- 2.3 In 2000 I was one of a handful of early appointees at the newly formed GLA, leading on complex strategic applications, planning frameworks and negotiations within a complex political environment. Prior to joining tp bennett I was Town Planning and Regeneration Manager for the delivery side of the Olympic Delivery Authority where I was specifically responsible for the planning delivery of the Velodrome and the Eton Manor elements of the Olympic Park and their transformation in legacy, along with management of their integration into the totality of the Park. I held lead responsibility for ensuring the smooth planning relationship with the GLA, in securing the 'global' Olympic application, and worked closely with the Mayor, his political advisors and senior officers.
- 2.4 I have been involved with Anthology Kennington Stage Limited in connection with the redevelopment of the former Woodlands and Master's House, off Dugard Way, Kennington, SE11 4TH site since February 2018. I was responsible for the preparation of the planning application and the pre application discussions and have been advising Anthology Kennington Stage Limited since prior to the submission of the original application in 2019.
- 2.5 I was first instructed to provide planning consultancy support to Anthology Kennington Stage Limited in connection with the redevelopment of the former Woodlands and Master's House for residential use in early 2018 and thereafter have provided advice on a continual basis as the scheme advanced through the pre-application and planning application stages. I attended pre-application meetings with London Borough of Lambeth, the GLA, TfL, and the public consultation events.
- 2.6 I am familiar with the appeal site and the borough of Lambeth as a whole. I have visited the site and the surrounding area on numerous occasions in recent years.
- 2.7 My evidence focuses on the main planning issues and supplements the evidence provided by other consultants appointed on behalf of Anthology Kennington Stage Limited on detailed matters, namely:
- Mr Charles Graham (Rolfe Judd) whose evidence addresses design matters.
 - Dr Chris Miele (Montagu Evans) whose evidence addresses heritage and design matters.
 - Mr Noel Farrer (Farrer Huxley) whose evidence addresses quality of amenity space.
 - Mr Will Seymore (Montagu Evans)
 - Mr Nick Lane (Point 2) whose evidence addresses daylight, sunlight and overshadowing.
 - Mr Nick Ireland (Iceni Projects) whose evidence addresses housing mix.
 - Mr Patrick West (Vectos) whose evidence addresses transport matters.
- 2.8 I can confirm that my evidence for this appeal has been prepared and is given in accordance with the guidance of the RTP1, and I confirm that the opinions expressed are my true and professional opinions.

3 SCOPE AND STRUCTURE OF EVIDENCE

3.1 INTRODUCTION

3.2 FACTUAL BACKGROUND

3.3 POLICY BACKGROUND

3.4 WHY PLANNING PERMISSION SHOULD BE GRANTED

3.5 SUMMARY AND CONCLUSIONS.

4 INTRODUCTION

- 4.1 On 24 July 2019 the Appellant submitted an application for full planning permission to the London Borough of Lambeth ('**LBL**') for the redevelopment of the of the former Woodlands and Master's House, off Dugard Way, Kennington, SE11 4TH (the "**Site**").
- 4.2 The description of the proposed development is set out as follows:
- "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."
- (the "**Planning Application**" or "the **Proposed Development**")
- 4.3 The Council validated the Planning Application on 16 August 2019.
- 4.4 The Appellant is the freehold owner of the Site. In the event planning permission is granted for the Proposed Development, the Appellant will start construction within 6 months of the grant of any planning permission given that the Proposed Development is fully funded and is in the control of the Appellant.
- 4.5 Following the submission of the Planning Application and discussion with the LBL, it became clear that agreement could not be secured as a route towards an officer recommendation, and an appeal for non-determination was submitted on behalf of the Appellant to the Planning Inspectorate on 13th March 2020 (the "**Appeal**").
- 4.6 The Planning Application was considered under delegated powers and 13 putative reasons for refusal were issued by the LBL on 25 June 2020 ("**Reasons for Refusal**").
- 4.7 As a developer, the Appellant focus on developing high quality residential led schemes across London and have partnered with some of the largest names in the industry, with completed and current projects delivering throughout the capital. Previous and current projects in London include:
- 4.7.1 Deptford Foundry (London Borough of Lewisham)
 - 4.7.2 Hoxton Press (London Borough of Hackney) – shown here
 - 4.7.3 Wembley Parade (London Borough of Brent)
 - 4.7.4 Hale Works (London Borough of Haringey)
- 4.8 The Appellant delivers mixed use and residential developments and are a hands-on developer, operating as main contractor on all sites. They are committed to developing high quality buildings and engaging with local stakeholders and the wider community in the design process.
- 4.9 The success of the Appellant has been recognised at numerous prestigious awards. Hoxton Press, for example, has won a New London Award, a RIBA London Award and has been shortlisted for a Housing Design Award.

5 THE FACTUAL BACKGROUND

5.1 The Appeal Site

- 5.1.1 While largely hidden from public view, this is a site that in my strong opinion currently completely fails its location and surrounds. Its development has the potential to integrate Kennington better into the Elephant and Castle, and its surrounds, and act as a catalyst for regeneration in the Kennington area. The site is 0.7 ha and located to the east and north of Renfrew Road and Dugard Way; it currently comprises a vacant former nursing home (C2) and the Masters' House, a Grade II listed building occupied by the Cinema Museum; the remainder of the site is taken up by service roads, car parking, and scrubland. There are two locally listed lodges, which frame the entrance gates into the site from Renfrew Road. There are no routes through, the nursing home car park effectively creating a cul de sac, taking up the entire north of the Site. At present there would be no reason to venture further than the Cinema Museum, the environment being threatening, insecure and lacking surveillance.
- 5.1.2 Historically, the Site comprises the remaining part of a much larger former hospital site (the rest of which has been developed piecemeal over time) and this piecemeal nature of development is reflected both in the site's internal layout and its relationship with the surrounding urban grain. The site is accessed by vehicular traffic from Renfrew Road onto Dugard Way; pedestrian only access is provided through a series of pathways including via George Mathers Road; there is no northern or north eastern access or egress to the site. The Site is fundamentally disconnected from the urban fabric, its continued existence in this form, in this location, effectively a failure of planning.

5.2 Surrounding Area

- 5.2.1 The borough boundary with Southwark, the boundary with Central Activity Zone (CAZ), the boundary with the Elephant and Castle Major Centre and the boundary with the Elephant and Castle Opportunity Area (E&C OA) all run adjacent to the Site to the east. As the Site shares a boundary with these designations, it is in effect no metres distance from these key designations; it has a PTAL of 6A/ 6B and is some 550m from the entrance to the Elephant and Castle tube station.
- 5.2.2 The Site has low density two/three storey housing immediately on three sides; however, this is not representative of the 'character' of the area. Dante Road is characterised by four storey student blocks along the eastern side, before the 'Uncle' building at 44 storeys; the Bellway Homes development is varied, but five storeys immediately adjacent to the site; Renfrew Road has a range of typologies ranging from three to six storeys; the residential block to the immediate south of the Kennington Lane is ten storeys; the residential blocks to the immediate west along Kennington Lane (further out from Elephant & Castle) are fifteen storeys. This places the site firmly within the typologies of Central London. Kennington and the Elephant and Castle have been subject of significant change over the recent past changing the nature of the surrounding area substantially, and this is examined below.
- 5.2.3 To the east is the listed Water Tower, which has more recently been extended and converted to a single-family dwelling house.

5.3 Summary

- 5.3.1 The Site is a former public sector brownfield site in a highly accessible location, with a PTAL 6a, a boundary with the CAZ, the Elephant and castle OAPF and the Elephant and Castle Major Centre. The Site is highly central and undergoing rapid change as at least partially as a result of the adjacent policy designations. To be clear, the CAZ designation defines the central area of London, placing the site firmly within the fringe of the CAZ an area in which proposals should support the integration and wider regeneration of

surrounding areas including housing, new infrastructure, facilities and environmental improvements.

5.4 Planning History

5.4.1 There is limited planning history on the Site; however, application 97/01751/FUL is of relevance which permits the change of use from a hospital to a cinema museum, with ancillary parking. This consent had a condition limiting the use to a 'cinema museum' and for no other use, including those within the same use class.

5.4.2 Other planning history relevant to the appeal is set out below:

- (a) 08/00427/FUL - Old Lambeth Hospital Site Dugard Way Off Renfrew Road London SE11 4TH 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.
- (b) 14/00509/FUL - Demolition of raised podium deck, existing day nursery, management office and associated structures. Redevelopment of the site involving the creation of a replacement day nursery and external play area (Use Class D1) along with provision of 89 residential units (Use Class C3) in buildings ranging from 1 to 16 storeys in height; public realm improvements; parking and servicing space; creation of new vehicular and pedestrian accesses; and associated works. | Nursery School 10 Lollard Street London SE11 6UP.

5.4.3 Cross Borough Emerging Character

- (a) 16/AP/4458 - Phased, mixed-use redevelopment of the existing Elephant and Castle shopping centre and London College of Communication sites comprising the demolition of all existing buildings and structures and redevelopment to comprise buildings ranging in height from single storey to 35 storeys (with a maximum building height of 124.5m AOD) above multi-level and single basements, to provide a range of uses including 979 residential units (use class C3), retail (use Class A1-A4), office (Use Class B1), Education (use class D1), assembly and leisure (use class D2) and a new station entrance and station box for use as a London underground operational railway station; means of access, public realm and landscaping works, parking and cycle storage provision, plant and servicing areas, and a range of other associated and ancillary works and structures (undecided)
- (b) 13/AP/3450 5-9 - Rockingham Street, London, se1 6pd Demolition of existing buildings and redevelopment of site to provide a 13 storey building with 30 residential units (comprising 9 x 1 bed, 17 x 2 bed and 4 x 3 bed units) and 373m² restaurant (A3 use) at part basement/part ground floor level and mezzanine storage with the provision of 2 disabled car parking spaces and associated refuse and cycle storage
- (c) 12/AP/1092 - Outline application for: Demolition of all existing structures and bridges and redevelopment to provide a mixed use development comprising a number of buildings ranging between 3.95m (AOD) and 104.8m (AOD) in height with capacity for between 2,300 (min) and 2,462 (max) residential units together with retail (Class A1-A5), business (Class B1), leisure and community (Class D2 and D1), energy centre (sui generis) uses. New landscaping, park and public realm, car parking, means of access and other associated works.
- (d) 12/AP2239 - Redevelopment to provide a 37 storey building (maximum building height 127m AOD) and 4 storey pavilion building (maximum building height 20.5m AOD), comprising 284 residential units, 809 sq.m flexible ground floor retail / financial and professional services / restaurant uses (Use Classes A1-A3) and 413 sq.m commercial (Use Class B1) use, basement car parking, cycle parking, vehicular access from Brook Drive, servicing and plant areas, landscaping and public realm

improvements and associated works. The application is accompanied by an Environmental Statement submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 201

- (e) 07/AP/0760 - Erection of buildings comprising 1 building of up to 44 storeys (145.5 metres AOD) and a terrace of up to 7 storeys in height to provide 470 residential flats (Class C3), theatre (Class D2) and cafe (Class A3) uses and a pavilion building for retail/marketing suite purposes (Class A1/ Sui Generis) with associated public open space, landscaping, underground car parking for 30 cars and servicing space. | site of the former London park hotel, 80 Newington butts, London, se1 4qu
- (f) Heygate Estate Non-material amendment to outline planning permission ref 12/AP/1092 (for redevelopment to provide a mixed use development comprising a number of buildings ranging between 13.13m (AOD) and 104.8m (AOD) in height with capacity for between 2,300 (min) and 2,469 (max) residential units together with retail (Class A1-A5), business (Class B1), leisure and community (Class D2 and D1), energy centre (sui generis) uses. New landscaping, park and public realm, car parking, means of access and other associated works) to make the following changes to the parameter plans and development specification for plots H11A and H11B (which form MP4): Plot H11A Increase maximum GEA by 3,834sqm. Amend the maximum plot component extent for the mid-rise blocks Block A (by a 1.3m extension) and Block B (by a 2.4m extension) to enable 4 balcony projection towards the courtyard. Plot H11B Reduce the maximum GEA by 3,834sqm Amend the permitted uses at ground floor to include Classes A1-A5 and B1. Amend the maximum plot component height for Block B (midrise block) increasing the maximum AOD from 40.45m to 42.55m to accommodate the lift-overrun on the Heygate Street frontage
- (g) Newington Causeway Redevelopment of the site for a mixed use development comprising a basement/mezzanine basement, ground plus twenty-three floors to accommodate a 140 room hotel (levels 1-11), 48 residential units (levels 12-24), a retail unit (at ground floor), associated cycle parking, servicing and refuse and recycling, landscaping and private and communal residential amenity space (including at roof top level), external refurbishment to the front of the railway arches, and a new pedestrian route through the site linking Newington Causeway with Tiverton Street
- (h) E&C Phased, mixed-use redevelopment of the existing Elephant and Castle shopping centre and London College of Communication sites comprising the demolition of all existing buildings and structures and redevelopment to comprise buildings ranging in height from single storey to 34 storeys (with a maximum building height of 124.5m AOD) above multi-level and single basements, to provide a range of uses including 979 residential units (use class C3), retail (use Class A1-A4), office (Use Class B1), Education (use class D1), assembly and leisure (use class D2) and a new station entrance and station box for use as a London underground operational railway station; means of access, public realm and landscaping works, parking and cycle storage provision, plant and servicing areas, and a range of other associated and ancillary works and structures.
- (i) Skipton House Demolition of the existing buildings and creation of 2 levels of basement (plus mezzanines) and the erection of buildings ranging from Ground Floor plus 7 to ground floor plus 39 stories (maximum building height of 146.3m AOD) comprising retail uses (Use Classes A1/A3/A4) at ground floor, multifunctional cultural space (Use Classes D1/D2/Sui Generis) and flexible retail/fitness space (Uses Classes A1/A3/A4 & D2) below ground, and office use (Use Class B1) and 421 residential units (Use Class C3) on upper levels, new landscaping and public realm, a publically accessible roof garden, ancillary servicing and plant, cycle parking and associated works.

5.4.4 Commentary

- (a) The Site sits outside of, but on the boundary with, the Elephant and Castle OA, the CAZ, the E&C Major Centre, and London Borough of Southwark. It's most immediate points of reference are the developments within the Elephant and Castle, and any opening up of the Site is likely to make these links even clearer. While the Site sits within Lambeth, it is quite clear that it is impossible to view it without reference to the significant changes in the immediate area, to do so would be to ignore the actual character of the area as experienced, and be a failure of cross borough strategic planning.
- (b) The actuality of the urban environment, then, does not fit so easily into administrative boundaries, and the above are all relevant to the Site as experienced and as an urban context. In my opinion, it is not possible to consider the site without considering its location in relationship to the centre of London and Elephant and Castle Opportunity Area and in the context, the role of the GLA in establishing principles for the Site, is particularly important.

5.5 The Proposed Development and Application Process

5.5.1 Application Proposals

- (a) A full description of the Proposed Development is contained in the DAS; however, the proposed new building comprises *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.*"
- (b) This involves the erection of two buildings; one a total of 29 storeys and one four storeys.
- (c) The twenty-nine storey building (Building B) has been designed to respond to immediate and wider context, to reinforce the spatial hierarchy and aid legibility and wayfinding. Rather than a single form, the massing is split into two distinct forms to emphasise verticality and in response to the site at ground level. In order that the building visually steps down from the Elephant and Castle cluster and to form an identifiable top to the building, the north / north western portion of the building is reduced by 5 storeys. The overall form and design of the top of the building are key in ensuring that the building makes a positive contribution to the existing and emerging skyline when viewed from a distance.
- (d) To the south and east, the base of the building is lifted to create a strong entrance to the building, a visible pedestrian connection to the Cinema Museum and to make the transition between the building and the surrounding context. The split in massing enables the facades to be treated differently in response to the surrounding neighbourhood making a positive contribution to the local townscape in terms of legibility, proportions and materiality.
- (e) To the south and east, the base of the building is lifted to create a strong entrance to the building, a visible pedestrian connection to the Cinema Museum and to make an appropriate transition between the building and the surrounding context.
- (f) In order to define the base and maintain a pedestrian scale, the building is supported on inverted tripod-inspired 'V' structural columns, architecturally separated from the materiality of the facades above.
- (g) Building A is a four-storey block, mediating between the approach from the cinema museum, the new pedestrian route and the public space. The building 'turns the corner' and faces the new pedestrian access route. This bold brick corner piece echoes the former corn mill buildings that existed in this location.

5.5.2 The Application Process

(a) Consultation

(i) The Appellant undertook a substantial consultation exercise prior to the submission of the application, with the LBL, local stakeholders and members of the public. Comprehensive pre-application discussions were held with the LBL and other statutory and non-statutory consultees throughout the design process and in the lead up to the submission of the planning application.

(ii) Pre-application discussions specific to the Site began in February 2018 with both LBL and the GLA. These initial meetings were positive around the key principles, including that of a tall building, and as a result the process was taken forward and subsequently supplemented with a programme of topic meetings with the LBL on height, views, landscaping, viability, design, housing and transport. Pre-application consultation also included a series of formal discussions with officers at the Greater London Authority (GLA), Transport for London (TfL), as well as extensive public consultation. Meetings were held with the LBL on the following dates:

A 08/02/18

B 31/07/18

C 15/10/18

D 05/12/18

E 23/01/19

F 19/03/19

G 04/04/19

H 10/04/19

I 20/05/19

J 18/06/19

(iii) Meetings with the GLA were also held on the following:

A 09/02/18

B 19/09/18

C 09/01/19

D 15/01/19

E 24/04/19

(iv) Significant design development resulted from the pre-application process to the form and appearance of the Proposed Development specifically around height, layout, landscaping, and the relationship of the Proposed Development to key views.

(v) Early iterations of the scheme proposed a taller building on the Site. Given the location of the Site adjacent to a number of conservation areas, there were

extended discussions on the appropriateness of the height of the building. While an agreed height was never settled on with Lambeth, those discussions were centred on how much a tall building should step down from the Elephant and Castle, and the effect on views, rather than whether one was appropriate at all. The GLA, in particular have been supportive of a tower solution to the Site and were supportive of the principle of a 34-storey development (CD7/5).

- (b) Public Consultation Exercise
- (i) The public consultation was intended to initiate a dialogue between the Appellant and the key stakeholders and local community in order to understand their objectives, aspirations and expectations and allow these to inform the design process.
 - (ii) The Appellant hosted three separate public consultations at The Cinema Museum. The first event was used primarily to better understand how local stakeholders viewed their area and how this may translate into priorities for the redevelopment of the site (no designs were presented). The two subsequent public exhibitions then sought to gain feedback on the iterative design process. From the outset, the Applicant made it clear that there were three main priorities:
 - A Deliver 50% on-site affordable housing;
 - B Retain the Cinema Museum on-site in Masters House; and
 - C Improve the pedestrian links throughout the area.
 - (iii) All events gave attendees the opportunity to provide feedback on the proposals and to speak to members of the project team. It is fair to say that the commentary around height has been prevalent throughout each stage of the consultation. From the outset residents specified that they would prefer a low-rise solution on the site as a first preference. The applicant sought to address this by first modelling a low-rise solution comprised of Mansion Blocks. However, the modelling demonstrated that the approach would have a greater impact on the levels of daylight/sunlight enjoyed by neighbouring residents and within the development Site, reduce the amount of ground floor public realm and have a greater impact on privacy/overlooking to existing neighbours.
 - (iv) The Stage 1 report from the GLA dated 18 February 2016, (CD3/4) concluded that the key elements of the Proposed Development were strongly supported, in particular
 - A the principle of a high-density residential development
 - B securing the long-term future of the Cinema Museum; and
 - C the principle of a tall building on the Site.

5.6 Identification of Determining Issues

5.6.1 *Areas of common ground between the Appellant and LBL*

- (a) It is clear from the Officer Report, and the subsequent discussions surrounding the Statement of Common Ground (the “**SOCG**”), that some of these issues have been resolved, and do not form part of the reasons for refusal. Specifically, I understand the following matters are agreed between the Appellant and LBL:

- (i) The nursing home is no longer required by the Regional Health Authority and alternative arrangements have been made. It is agreed that the evidence is sufficient and supports the loss of use on site.
 - (ii) The provision of new housing (Use Class C3) would be consistent with key Development Plan policies and is considered acceptable in principle in land use terms.
 - (iii) The proposal would not result in the loss of any heritage assets and would not cause substantial harm to any heritage assets.
 - (iv) The Viability Assessment accurately demonstrates that the maximum reasonable affordable contribution is being provided.
 - (v) The design is informed by a comprehensive urban design analysis and environmental considerations;
 - (vi) All proposed units meet or exceed the relevant minimum internal space standards
 - (vii) the Development would provide acceptable cycle parking.
 - (viii) The Development would have acceptable delivery and servicing arrangements.
 - (ix) The car parking can be fully managed.
 - (x) The quantum of amenity space is acceptable.
 - (xi) No Strategic Views are adversely affected.
 - (xii) All proposed homes would meet the 'accessible and adaptable dwellings' standard and that 10% should meet the 'wheelchair user dwellings' standard
- (b) In this context, the first refusal reason (affordable housing), the tenth refusal reason (cycle parking) and the thirteenth (inadequate information) have now been withdrawn.

5.6.2 Outstanding Matters

- (a) The main detailed issues outstanding relate to:
 - (i) design, height and scale
 - (ii) unit mix
 - (iii) heritage
 - (iv) residential quality, amenity space and play provision
 - (v) overlooking and privacy
 - (vi) weight to be attached to planning benefits in the balance
- (b) This leaves the only substantive planning issues between the Appellant and LBL as the alleged harm to the settings of designated heritage assets; alleged failure to secure a development of the highest quality; and concerns about the quality of on-site amenity space and overlooking and the weight to be attached to the benefits of the Proposed Development.

6 THE POLICY BACKGROUND

- 6.1 I will now assess the appeal scheme against the relevant development plan policies and other material considerations, in relation to those matters that remain in disagreement between the parties. This can be summarised as an assessment of whether the application is in accordance with the development plan and whether there are any material considerations that might indicate otherwise.
- 6.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.3 The Development Plan in this case comprises:
- 6.3.1 The London Plan (2016) ("the London Plan"); and
 - 6.3.2 The Lambeth Local Plan (2015)
- 6.4 The Development Plan should be read as a whole. A comprehensive list of planning policies, primarily those contained within the Development Plan, together with regional and national planning guidance which are applicable to the application proposal is provided in the SoCG.
- 6.5 All of the policies in the Draft London Plan are of strategic importance; however, the policies within the London Plan which are considered particularly relevant to the proposed development on the Site are:
- 6.5.1 Policy GG1 Building strong and inclusive communities;
 - 6.5.2 Policy GG2 Making the best use of land;
 - 6.5.3 Policy GG3 Creating a healthy city;
 - 6.5.4 Policy GG4 Delivering the homes Londoners need;
 - 6.5.5 Policy GG6 Increasing efficiency and resilience;
 - 6.5.6 Policy SD10 Strategic and local regeneration;
 - 6.5.7 Policy D1 London's form and characteristics;
 - 6.5.8 Policy D2 Infrastructure requirements for sustainable densities;
 - 6.5.9 Policy D3 Optimising site capacity through the design-led approach;
 - 6.5.10 Policy D4 Delivering good design;
 - 6.5.11 Policy D5 Inclusive design;
 - 6.5.12 Policy D6 Housing quality and standards;
 - 6.5.13 Policy D7 Accessible housing;
 - 6.5.14 Policy D8 Public realm;
 - 6.5.15 Policy D9 Tall Buildings;
 - 6.5.16 Policy D10 Basement Development
 - 6.5.17 Policy D11 Safety, security and resilience to emergency;

- 6.5.18 Policy D12 Fire Safety;
- 6.5.19 Policy D14 Noise;
- 6.5.20 Policy H1 Increasing housing supply;
- 6.5.21 Policy H4 Delivering affordable housing;
- 6.5.22 Policy H5 Threshold approach to applications;
- 6.5.23 Policy H6 Affordable housing tenure;
- 6.5.24 Policy H10 Housing size mix;
- 6.5.25 Policy H12 Supported and specialised accommodation
- 6.5.26 Policy S2 Health and social care facilities
- 6.5.27 Policy S4 Play and informal recreation;
- 6.5.28 Policy E11 Skills and opportunities for all;
- 6.5.29 Policy HC1 Heritage conservation and growth; (cc) Policy HC3 Strategic and Local Views
- 6.5.30 Policy HC4 London View Management Framework;
- 6.5.31 Policy G1 Green Infrastructure
- 6.5.32 Policy G5 Urban greening;
- 6.5.33 Policy G6 Biodiversity and access to nature
- 6.5.34 Policy G7 Trees and woodlands
- 6.5.35 Policy SI1 Improving air quality
- 6.5.36 Policy SI2 Minimising greenhouse gas emissions;
- 6.5.37 Policy SI3 Energy infrastructure;
- 6.5.38 Policy SI4 Managing heat risk;
- 6.5.39 Policy SI5 Water infrastructure;
- 6.5.40 Policy SI7 Reducing waste and supporting the circular economy
- 6.5.41 Policy SI 8 Waste capacity and net waste self-sufficiency
- 6.5.42 Policy SI12 Flood risk management;
- 6.5.43 Policy SI13 Sustainable drainage;
- 6.5.44 Policy T1 Strategic approach to transport;
- 6.5.45 Policy T2 Healthy Streets;
- 6.5.46 Policy T4 Assessing and mitigating transport impacts;
- 6.5.47 Policy T5 Cycling;

- 6.5.48 Policy T6 Car parking;
 - 6.5.49 Policy T6.1 Residential parking;
 - 6.5.50 Policy T7 Deliveries, servicing and construction;
 - 6.5.51 Policy T9 Funding transport infrastructure through planning
 - 6.5.52 Policy DF1 Delivery of the Plan and Planning Obligations
- 6.6 The Lambeth Local Plan is the overarching document of the LDF and sets out planning policies for Lambeth to guide growth in housing and jobs, infrastructure delivery, place shaping and the quality of the built environment over fifteen years from 2015 to 2030. The Local Plan replaced the Core Strategy (2011) but retains the spatial strategy, vision and strategic objectives of the borough. It focuses on the key issues to be addressed and includes a delivery strategy for achieving these objectives. The main strategic objectives of the Local Plan are to accommodate economic and housing growth across the borough.
- 6.7 The key Local Plan policies which are considered particularly relevant to the proposals for the Site include:
- 6.7.1 Policy D2 – Presumption in favour of sustainable development;
 - 6.7.2 Policy D3 – Infrastructure;
 - 6.7.3 Policy D4 – Planning obligations;
 - 6.7.4 Policy H1 – Maximising Housing Growth;
 - 6.7.5 Policy H2 – Delivering Affordable Housing;
 - 6.7.6 Policy H4 – Housing Mix in New Developments;
 - 6.7.7 Policy H5 – Housing standards;
 - 6.7.8 Policy H8 – Housing to meet specific community needs
 - 6.7.9 Policy S1 – Safeguarding existing community premises;
 - 6.7.10 Policy S2 – New or improved community premises;
 - 6.7.11 Policy T6 – Assessing impacts of development on transport capacity;
 - 6.7.12 Policy T1 – Sustainable Travel;
 - 6.7.13 Policy T2 – Walking;
 - 6.7.14 Policy T3 –Cycling;
 - 6.7.15 Policy T4(d) – Public transport infrastructure;
 - 6.7.16 Policy T6 – Assessing impacts of development on transport capacity;
 - 6.7.17 Policy T7 – Parking;
 - 6.7.18 Policy T8 – Servicing;
 - 6.7.19 Policy EN1 – Open Space;

- 6.7.20 Policy EN3 – Decentralised Energy;
- 6.7.21 Policy EN4 – Sustainable Design and Construction;
- 6.7.22 Policy EN5 – Flood Risk;
- 6.7.23 Policy EN6 – Sustainable drainage systems and water management;
- 6.7.24 Policy EN7 – Sustainable waste management
- 6.7.25 Policy Q1 – Inclusive Environments;
- 6.7.26 Policy Q2 – Amenity;
- 6.7.27 Policy Q3 – Community Safety;
- 6.7.28 Policy Q5 – Local Distinctiveness;
- 6.7.29 Policy Q6 – Urban Design: Public Realm;
- 6.7.30 Policy Q7 – Urban Design: New Development;
- 6.7.31 Policy Q8 – Design quality: construction detailing;
- 6.7.32 Policy Q9 – Landscaping;
- 6.7.33 Policy Q10 – Trees;
- 6.7.34 Policy Q12 – Refuse/recycling Storage;
- 6.7.35 Policy Q13 – Cycle Storage;
- 6.7.36 Policy Q15 – Boundary treatments;
- 6.7.37 Policy Q18 – Historic environment strategy;
- 6.7.38 Policy Q20 – Statutory listed buildings;
- 6.7.39 Policy Q22 – Conservation areas;
- 6.7.40 Policy Q23 – Undesignated heritage assets: local heritage list;
- 6.7.41 Policy Q25 – Views;
- 6.7.42 Policy Q26 – Tall Buildings; and
- 6.7.43 Policy PN8 – Oval and Kennington

6.8 I set out below the policies that are particularly pertinent to this case, in relation to housing, design and heritage, amenity and transport, dealing with London wide, and local planning policies in turn.

6.9 **The Development Plan**

The London Plan

6.9.1 Regional planning policy is set out in the London Plan, which was published by the Mayor of London in March 2016. This is the overall strategic plan for London, setting out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2036.

6.9.2 *Housing Need*

- (a) London Plan Policy 3.3 states that Boroughs should seek to achieve and exceed the relevant minimum borough annual average housing target, which for Lambeth is 15,594 homes between 2015 and 2025, or 1,559 homes per year.
- (b) London Plan Policy 3.8 requires new residential development to offer a range of housing choices in terms of the mix of housing sizes and types, taking account of the housing requirements of different groups and the changing roles of different sectors.

6.9.3 *Affordable Housing*

- (a) Policy 3.11 from the London Plan states the Mayor will, and boroughs and other relevant agencies and partners should, seek to maximise affordable housing provision and ensure an average of at least 17,000 more affordable homes per year in London over the term of the Plan (40% of the overall total). In order to give impetus to a strong and diverse intermediate housing sector, 60% of the affordable housing provision should be for social and affordable rent and 40% for intermediate rent or sale. Priority should be accorded to provision of affordable family housing.
- (b) London Plan Policy 3.12 seeks the maximum reasonable amount of affordable housing having regard, to amongst other things, the need to encourage rather than restrain residential development.
- (c) London Plan Policy 3.10 defines affordable housing, to include social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. The supporting text to the policy states that intermediate housing should be available at prices and rents above those of social rent, but below market prices or rents.

6.9.4 *Optimising Development*

- (a) London Plan in Policy 3.4 Optimising Housing Potential states that taking into account local context and character, design principles and public transport capacity, development should optimise housing output for different types of location within the relevant density range shown and based around character areas:
 - (i) central – areas with very dense development, a mix of different uses, large building footprints and typically buildings of four to six storeys, located within 800 metres walking distance of an International, Metropolitan or Major town centre.
 - (ii) urban – areas with predominantly dense development such as, for example, terraced houses, mansion blocks, a mix of different uses, medium building footprints and typically buildings of two to four storeys, located within 800 metres walking distance of a District centre or, along main arterial routes
 - (iii) suburban – areas with predominantly lower density development such as, for example, detached and semi-detached houses, predominantly residential, small building footprints and typically buildings of two to three storeys.
- (b) The GLA Housing SPG outlines at 1.3.8 that these ranges “should be used as a starting point and guide rather than as an absolute rule”. Proper account should also be taken of other objectives, especially for dwelling mix, environmental and social infrastructure, local character and context, together with other local circumstances, such as improvements to public transport capacity and accessibility. It adds that the “density matrix should not be applied mechanistically”.

6.9.5 *Tall Buildings/Design*

- (a) Policy 7.7 relates to the location and design of tall and large buildings. Tall and large buildings should be part of a plan-led approach to changing and developing an area by the identification of appropriate, sensitive and inappropriate locations. Tall buildings should not have an unacceptably harmful impact on their surroundings.
- (b) It is long recognised that Policy 7.7 provides a checklist against which Development Plans should judge applications for tall buildings even in the absence of site-specific allocations.
- (c) Since the consultation stage, the GLA has been supportive of the principle of developing a tall building on the Site, subject to further consideration of the building's impact upon heritage assets and more design detail to ensure the building is of the highest architectural standard.

6.9.6 *Amenity/Housing Quality*

- (a) London Plan Policy 3.5 seeks the design of all new housing developments to enhance the quality of local places, taking into account physical context; local character; density; tenure and land use mix; and relationships with, and provision of, public, communal and open spaces, taking particular account of the needs of children, disabled and older people.
- (b) Policy 3.6 Children and Young People's Play and Informal Recreation Facilities outlines that development proposals that include housing should make provision for play and informal recreation, based on the expected child population generated by the scheme and an assessment of future needs.
- (c) London Plan Policy 7.4 notes that development should have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. It should improve and area's visual or physical connection with natural features.
- (d) In areas of poor or ill-defined character, which I think it is appropriate to consider the existing Site, development should build on the positive elements that can contribute to establishing an enhanced character for the future function of the area.
- (e) In relation to planning decisions, Policy 7.4 states that:- Buildings, streets and open spaces should provide a high quality design response that:- *"a) has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass b) contributes to a positive relationship between the urban structure and natural landscape features, including the underlying landform and topography of an area c) is human in scale, ensuring buildings create a positive relationship with street level activity and people feel comfortable with their surroundings d) allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area e) is informed by the surrounding historic environment."*
- (f) Policy 7.5 notes that London's public spaces should be secure, accessible, inclusive, connected, easy to understand and maintain, relate to local context and incorporate the highest quality design, landscaping, planting, street furniture and surfaces, have a clear purpose, maintain uncluttered spaces and should contribute to the easy movement of people through the space.
- (g) Policy 7.6 states that architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. It should incorporate the highest quality materials and design appropriate to its context. The policy states that buildings and structures should:- *"a) be of the highest architectural quality b) be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm c) comprise details and materials that complement, not necessarily replicate, the local architectural character d) 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”

- (h) The GLA considered the urban design and layout of the Proposed Development in its Stage 1; some concerns were raised about sightlines through the Site and detailing of the landscaping however, the creation of the new pedestrian route was welcomed.

6.9.7 *Heritage*

- (a) London Plan Policy 7.7 states that the impact of tall buildings proposed in sensitive locations should be given particular consideration. Such areas might include conservation areas, listed buildings and their settings.
- (b) London Plan Policy 7.8 on ‘Heritage Assets and Archaeology’ seeks for “a) *Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate. b) Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.”*

6.9.8 *Other*

- (a) Policy 6.13 on parking advises that the Mayor wishes to see an appropriate balance being struck between promoting new development and preventing excessive car parking. The policy requires the promotion of car-free developments in locations with high public transport accessibility. Maximum car parking standards are set out in Table 6.2 of the ‘Parking Addendum’ to the chapter in the London Plan.
- (b) Policy 5.2 requires development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy.

Lambeth Local Plan

6.9.9 Local planning policies are contained within Lambeth’s Local Development Framework (LDF), which comprises the Lambeth Local Plan (2015), the Local Plan Policies Map (2015) and saved policies of the Unitary Development Plan (2010) and the Core Strategy (2011).

6.9.10 The Site is located in a number of key planning policy designations within the Local Plan for which there are Local Plan policies; these designations include:

- (a) Conservation Areas, (Policy Q22) - The application site is partly in the Renfrew Road Conservation Area (CA41) although the main development area is outside of such. Other local conservation areas, Kennington Walcot and West Square are more distant from the application site.
- (b) Views; (Policy Q25 Views) - The Site falls within, or on the border of, a number of local views.

6.9.11 *Housing*

- (a) Policy H1 of the adopted Local Plan states that LBL will seek to maximise the supply of additional homes in the borough to meet and exceed the annual housing target for Lambeth as set out in the London Plan for the period 2015 to 2030.
- (b) Lambeth’s Local Plan H2 sets a 50% affordable housing target where subsidy is available and 40% without public subsidy with a tenure mix of 70% of new affordable housing units as social and affordable rent and 30% as intermediate. The policy also recognises that LBL will take into account the specific circumstances of the site and viability when considering the contribution towards affordable housing. It states a

financial appraisal will be required if the affordable housing provision is less than the specified policy requirements or where the proportions of affordable rented and/or intermediate housing are not in accordance with policy which is consistent with London Plan.

- (c) Local Plan Policy H4 states that the affordable housing element of residential developments should reflect the preferred borough-wide housing mix for affordable rented and intermediate housing, which it then sets out.

6.9.12 *Optimising Density*

- (a) Summary of Spatial Planning Issues F acknowledges that *High-density development will continue to be an essential element in meeting Lambeth's many needs over the next 15 years, and excellent design and management will be key to preventing problems that can be associated with high density, such as noise, disturbance, overlooking and poorly maintained shared areas. goes on to state that the approach to density should reflect the London Plan and that: "seeking levels of residential density consistent with London Plan guidelines, having regard to the provision of other uses on the site, availability of local services, access to and capacity of public transport, urban design context, quality of design and impact on existing and future residents and the local environment"*

6.9.13 *Design, heritage and tall buildings*

- (a) There are a significant number of design related policies and whilst they all have specific points of detail, they broadly follow the advice the NPPF sets out at paragraph 124 that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- (b) The Local Plan Policy Q26, sets out areas in which tall buildings are inappropriate, and as the site is not within an area defined as 'inappropriate for tall buildings' in the Local Plan, there is de facto support for the initial principle of a tall building on the site, which is then assessed against parts (ii) – (v): (ii) there is no adverse impact on the significance of strategic or local views or heritage assets including their settings; (iii) design excellence is achieved (in terms of form, silhouette, materials, detailing etc.); (iv) the proposal makes a positive contribution to the townscape and skyline either individually to form a distinctive landmark or as a contribution to a group; (v) they are of the highest standards of architecture and materials;
- (c) The Plan goes further, acknowledging that there can be positive benefits to tall buildings:
 - (i) *Tall buildings are one form of high-density development that can be appropriate for some uses and, in some locations, again subject to excellent design, protection of strategic views, good public transport accessibility and consideration of the impact on the surrounding area. They can also provide more opportunities for the creation of space between buildings than is possible through lower level development involving extensive site coverage. Tall buildings can also contribute to place-shaping by providing landmarks and defining gateways*
- (d) Policies Q1 – Q7 set out the generalised design policies around amenity, local distinctiveness, community safety, urban design; Q14 covers back land development. As would be expected there is a housing standards policy (H5).
- (e) Policy Q1 seeks inclusive design, and improvements to existing accessibility; Policy Q2 addresses privacy and amenity, and daylight and sunlight, without establishing restrictive standards, Policy Q3 seeks secure by design to be incorporated into

developments at the design stage; Q5 requires design development to address local distinctiveness; Q6 requires development to make effective use of sites, and improve the public realm; Q7 supports high quality design, with appropriate bulk and massing.

- (f) Of these policies only Q26 alters significantly in the DRLLP, with a move towards identifying locations where tall buildings are acceptable, rather than where they are not acceptable; however, it allows for tall buildings in 'windfall' sites, in tested locations.
- (g) In addition to the above Policy Q20 states that development affecting listed buildings will be supported where it would: (i) conserve and not harm the significance/ special interest; (ii) not harm the significance/setting (including views to and from); and (iii) not diminish its ability to remain viable in use in the long term. Policy Q25, resists harm to strategic and local views.

6.10 Other Material Considerations

6.10.1 NPPF

- (a) The National Planning Policy Framework (NPPF) sets out the Government's economic, environmental, and social planning policies; it identifies that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF advises that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent development. It also sets out that in determining planning applications, local planning authorities should apply the presumption in favour of sustainable development.
- (b) Further Local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given)
- (c) Paragraph 8 places the achieving of three interdependent overarching objectives at the centre of sustainable development, as economic, social and environmental.
- (d) Paragraph 9 of the NPPF 2019 makes it clear that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF 2019 but that these are not criteria against which every decision can or should be judged.
- (e) Paragraph 11 makes clear that the presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay.
- (f) The Local Plan was adopted in 2015, preceding the changes to the NPPF in 2019, and the draft London Plan.
- (g) Paragraph 20 establishes that strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for... community facilities (such as health, education and cultural infrastructure).
- (h) Paragraph 38 states Local Planning Authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.
- (i) Paragraph 39 states that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.
- (j) Paragraph 48 states that Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging

plan (the more advanced its preparation, the greater the weight that may be given);
b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);

- (k) Paragraphs 54 to 56 provide guidance on the use of conditions and planning obligations, and these have been considered in the appendices of my Proof.
- (l) In terms of housing, paragraph 59 sets out that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. Paragraph 65 outlines that strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need can be met over the plan period.
- (m) To achieve this sustainable development, the efficient use of land is required (paragraph 122), with development on previously developed, vacant or underutilised sites especially being promoted, in particular for new housing (paragraph 118d).
- (n) The NPPF states that it is especially important in areas such as the Site that planning policies and decisions avoid homes being built at low densities and that developments make optimal use of the potential of each site (paragraph 123). There is particular emphasis on bringing forward land previously in public ownership. In these circumstances plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible
- (o) Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.
- (p) The NPPF places an emphasis on minimum density standards for city and town centres and other locations that are well served by public transport, with a 'significant uplift in average density' unless it can be shown that there are strong reasons why this would be inappropriate. 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).
- (q) Development should create pedestrian priority accessible places that are safe, secure and attractive and allow for the efficient delivery of goods, and access by service and emergency vehicles (para 110). Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (par 109).
- (r) The NPPF places great emphasis on achieving well-designed places. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities (para 124). Design quality should be considered throughout the evolution and assessment of individual proposals (para 128). Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, though where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development (para 130).

- (s) Design quality should be considered throughout the evolution and assessment of individual proposals. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot
- (t) Development proposals that have the potential to affect heritage assets should describe the significance of assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance (para 189).
- (u) In determining applications, local planning authorities should take account of:
 - (i) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - (ii) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - (iii) the desirability of new development making a positive contribution to local character and distinctiveness
- (v) 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).
- (w) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (para 196). When determining planning applications, local planning authorities should consider the desirability of new development in making a positive contribution to local character and distinctiveness (para 192 c)).
- (x) When determining planning applications for renewable and low carbon development, local planning authorities should a) not require applicants to demonstrate the overall need for renewable or low carbon energy and b) approve the application if its impacts are (or can be made) acceptable (para 154).
- (y) Planning policies and decisions should ensure that developments, function well for the lifetime of a development, re visually attractive as a result of good architecture, are sympathetic to local character and history, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, and create places that are safe, inclusive and
- (z) The Government has also published National Planning Practice Guidance (NPPG) which provides further detailed guidance on matters outlined in the NPPF.

6.10.2 **Draft London Plan (Intend to Publish)**

- (a) The Mayor of London has published a Draft London Plan; this was subject to a letter from the Secretary of State on 13 March 2020, which is further addressed elsewhere in this proof. One of the key themes of Draft London Plan is reaffirming the urgent need for additional new homes and includes an increase in the overall housing target from 49,000 to 66,000 new homes annually and meeting a need for circa 43,000 affordable homes annually.

- (b) Draft London Plan Policy GG2 requires the creation of successful sustainable mixed-use places that make the best use of land, those involved in planning and development must enable the development of brownfield land, particularly in Opportunity Areas, prioritise sites which are well-connected by public transport and proactively explore the potential to intensify the use of land to support additional homes and workspaces, promoting higher density development, particularly in locations that are well-connected to jobs, services, infrastructure and amenities by public transport, walking and cycling.
- (c) Policy GG4 states that those involved in planning and development must ensure that more homes are delivered. Policy H1 Increasing Housing Supply sets out that Boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially on sites with existing or planned public transport access levels (PTALs) 3-6 or which are located within 800m distance of a station or town centre boundary, or public sector owned sites (all of which are applicable to the appeal site). The Draft London Plan reduces Lambeth's ten-year housing target to 13,350, and this is addressed later in the proof.
- (d) The Secretary of State's letter (CD1/20) specifically rejects the approach to housing delivery:
 - (i) *Housing delivery in London...has been deeply disappointing, over the last three years housing delivery has averaged just 37,000 a year; falling short of the existing Plan target and well below your assessment of housing need" and "Clearly, the housing delivery shortfall you have overseen has led to worsening affordability for Londoners; and things are not improving, with housing starts falling a further 28 per cent last year compared to the previous." Further, "Following the Planning Inspectorate's investigation of your Plan, they only deem your Plan credible to deliver 52,000 homes a year. This is significantly below your own identified need of around 66,000 homes and well below what most commentators think is the real need of London. As I have set out, the shortfall between housing need in London and the homes your Plan delivers has significant consequences for Londoners...I am not convinced your assessment of need reflects the full extent of housing need in London to tackle affordability problems. I have listened carefully to yours, and others, representations, and I am clear that the public interest lies with ensuring you deliver the homes London needs, including in the short term, as quickly as possible."*
- (e) The Draft London Plan outlines at Policy H4 a strategic target for 50% of new homes to be affordable, to be achieved in part by requiring major developments which trigger affordable housing requirements to provide affordable housing through the threshold approach. Policy H5 Threshold Approach to Applications sets out that the threshold level of affordable housing on gross residential development is initially set at a minimum of 35% or 50% for Non-Designated Industrial Sites appropriate for residential uses where the scheme would result in a net loss of industrial capacity (there would be no loss of industrial capacity as a result of this application, so the 35% threshold would apply in this case).
- (f) Policy H6 of the Draft London Plan and Affordable Housing Viability SPG sets out a preferred tenure split of at least 30% low cost rent (social or affordable rent), at least 30% intermediate (with London Living Rent and shared ownership being the default tenures), and the remaining 40% to be determined by the LPA to achieve mixed and balanced communities.
- (g) Draft Policy D3 (Optimising Site Capacity Through the Design-Led Approach) requires that all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. 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.

- (h) The addendum to the Secretary of State's letter of March 2020 (CD1/20) specifically recommends that Policy D3 be amended by the addition of:
 - (i) *The design of the development must optimise site capacity. Optimising site capacity means ensuring that development takes the most appropriate form for the site. Higher density developments should be promoted in areas that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling. B Where there are existing clusters of high-density buildings, expansion of the clusters should be positively considered by Boroughs. This could also include expanding Opportunity Area boundaries where appropriate.*
 - (i) Draft Policy D6 (Housing Quality and Standards) sets out that housing development should be of high-quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. It then details a range of requirements and standards that should be achieved.
 - (j) The Draft London Plan HC1 states that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Policy HC3 protects strategic and local views.

6.10.3 **Draft Revised Lambeth Local Plan (the "DRLLP")**

- (a) LBL is also in the process of preparing a Local Plan Review pursuant to Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and consulted on a draft Revised Local Plan from 23 October to 10 December 2017. A Proposed Submission Version was published in January 2020 and submitted to the SoS for Examination in Public (EIP) in May 2020. Again, I consider whether the relevant provisions are material to this case, later in Section 5.
- (b) The Draft Revised Lambeth Local Plan, has yet to be through the EIP and therefore of very limited weight, particularly as the Draft London Plan remains unadopted. Much of the changes are of no great significance; however, they are picked up where appropriate, including where relevant, the issues raised by the Inspector.

6.10.4 **Supplementary Planning Guidance**

- (a) The Mayor has also published supplementary planning guidance and strategies which elaborate on London Plan Policy. Those most relevant in consideration of the proposals are:
 - (i) Mayor's Draft London Housing Strategy (September 2017)
 - (ii) Mayor's Affordable Housing and Viability SPG (August 2017)
 - (iii) Housing SPG (March 2016)
 - (iv) Central Activities Zone (March 2016)
 - (v) The Control of Dust and Emissions During Construction and Demolition (July 2014)

- (vi) Character and Context (June 2014)
 - (vii) Social Infrastructure (May 2015)
 - (viii) Sustainable Design and Construction (April 2014)
 - (ix) Accessible London – Achieving an Inclusive Environment (October 2014)
 - (x) Shaping Neighbourhoods: Character and Context (June 2014)
 - (xi) Shaping Neighbourhoods: Play and Informal Recreation (September 2012)
 - (xii) London View Management Framework (March 2012)
 - (xiii) London Cycle Design Guide (2014)
- (b) The Affordable Housing and Viability Supplementary Planning Guidance (August 2017) includes a new Threshold Approach to viability, which makes provision for a Fast Track Route for planning applications which are not required to submit a viability assessment. For public land, the SPG states that land that is surplus to public sector requirements typically has a low value in its current use, allowing higher levels of affordable housing to be delivered. For these reasons the Mayor has an expectation that residential proposals on public land should deliver at least 50 per cent affordable housing to benefit from the Fast Track Route.

6.10.5 **Summary**

- (a) From the above analysis of the planning policy framework there are a number of key issues:
- (i) The importance of meeting housing need within London;
 - (ii) The importance of making the most efficient use of land, through optimising development in highly sustainable locations;
 - (iii) The need to maximise the provision of affordable homes;
 - (iv) The importance of good design to ensure that development enhances the character and appearance of the area.
 - (v) The need to assess harm to heritage assets.

7 WHY PLANNING PERMISSION SHOULD BE GRANTED

7.1 This section of my proof outlines the key issues in respect of the determination of this planning appeal having regard to national planning policy, the Development Plan and other material considerations.

7.2 As set out in my section 6, Section 38(6) of the Planning and Compulsory Purchase Act (2004) refers to the Development Plan as a whole and states that:

“If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.3 The appeal scheme will give rise to a number of significant economic, social and environmental benefits. It is these benefits which should be considered against any alleged impacts the development may cause, and considerable weight should be applied to those benefits.

7.4 Before examining the alleged impacts, I consider the overall benefits arising from the appeal proposals. These are significant material considerations and must be weighed in the balance against any adverse impacts.

7.5 Benefits

7.5.1 The proposal would deliver a significant number of new homes, investment, environmental improvement and regeneration in the area. The proposals would deliver a number of substantial planning benefits including making optimum use of this brownfield site, design and visual improvements as well as assisting with continuing regeneration of a strategically important area and these are examined below.

7.5.2 Development in a Highly Sustainable Location

- (a) The NPPF places the purpose of the planning system as being to contribute to the achievement of sustainable development (paragraph 8) and goes on to promote sustainable development that delivers economic, social and environmental benefits (paragraph 8). If sustainability is to be at the heart of the planning system, then the location of development where it is most able deliver a sustainable relationship between living and working is fundamental to the achievement of that goal, and developing housing at locations where people are most able to access public transport is a core mechanism to achieving that sustainability.
- (b) The Site is on the boundary of the Central Activity Zone, the E&C OAPF, the E&C Major Town Centre, and the London Borough of Southwark; it largely has a PTAL of 6A/ 6B and is some 550 metres from the Elephant and Castle tube station. The Site shares core characteristics with all of these designations. It is located within walking distance of Waterloo Station, numerous Tube Stations, and as is recognised in its PTAL is at the highest end of accessibility in London, and by implication the country. This is the definition of a highly sustainable location.
- (c) As a matter of principle the development of a site in this location is a benefit with substantial weight, in accordance with the Development Plan and the NPPF, a position continued into the Draft London Plan where Policy GG2, requires the creation of sustainable places that make the best use of land, including that development must enable the development of brownfield land, particularly in Opportunity Areas, and prioritise sites which are well-connected by public transport. As above, while the Site is not within an Opportunity Area, it shares both a boundary and locational characteristics with one.
- (d) This clearly has an interrelationship with optimisation; however, the development of this highly sustainable Site is a substantial benefit in its own right.

7.5.3 Use of Previously Developed Land

- (a) Substantial weight is given to the value of using suitable brownfield land for homes (NPPF para 118). The NPPF promotes and supports the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing. There is particular emphasis on bringing forward land previously in public ownership.
- (b) Such a position underpins the entire approach of the London Plan, and the Local Plan, with the maximisation of the proportion of development taking place on previously developed land a key performance indicator. Policy 3.3 of the London Plan specifically seeks to enable additional development capacity through the realisation of brownfield housing capacity and states that “In a city where space is increasingly at a premium, it is essential that wherever practicable, brownfield sites...be recycled into new uses” (paragraph 5.95).
- (c) Policy D1 of the Local Plan seeks to ensure that sustainable development maximises the use of previously developed land and vacant buildings.
- (d) Draft London Plan Policy GG2 states that those involved in planning and development must enable the development of brownfield land, particularly on surplus public sector land, and sites within and on the edge of town centres, must prioritise sites which are well-connected by public transport; must proactively explore the potential to intensify the use of land to support additional homes, and promote higher density development, particularly in locations that are well-connected by public transport, walking and cycling. As an uncontentious policy entirely within the direction of travel of the Secretary of State letter of March 2020 (CD1/20), it entirely reasonable to give this substantial weight as a policy.
- (e) The principle of the re-use of previously developed land as a solution to the acknowledged severe housing shortage runs through the Development Plan, and is taken forward into the Draft London Plan, in a manner consistent with the SoS position, and the solution to the housing shortage will only be achieved through development on such sites.
- (f) This is a highly underutilised site largely consisting of a vacant nursing home, a car park and scrubland; there is no excuse for a Site in this location to remain so underutilised, particularly in the context of the immediate boundary with the CAZ and the E&C OA.
- (g) Clearly the principles apply to this Site and in my opinion can be given substantial weight.

7.5.4 Optimisation of the Use of the land

- (a) NPPF is clear that planning policies should make an effective use of land and the use of highly accessible sites should be given substantial weight, further 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. It adds that density standards should seek a significant uplift in the average density of residential development within these areas. In my opinion, in combination with accessibility and underutilisation, these are the cornerstones of achieving sustainable development.
- (b) The position that sites should be assessed against their ability to optimise development runs through all layers of the Development Plan, so that the London Plan is clear that development should optimise housing output as is the Local Plan which again expects schemes to optimise the housing potential of suitable under-used or vacant sites.

- (c) The benefits of the scheme and the weight to be attached clearly overlap between the nature of the site, its location and the requirement to optimisation. In this context The London Plan acknowledges that while density is only ever an indicator of optimising housing capacity a density matrix provides an indicator for an assessment of what might be appropriate on the site. As the Site is clearly Central within the definitions, any appropriate density would be at the higher end of the scale, although the GLA Housing SPG qualifies that densities “should be used as a starting point and guide rather than as an absolute rule” (para 1.3.8), and that the density matrix should not be applied mechanistically, foregrounding a design approach to such matters.
- (d) Again, it is useful to look at the direction of travel in this regard, so the Draft London Plan strips out the density matrix, linking assessment to design, form, and character, while still placing optimisation at its centre. This position clearly holds substantial weight, essentially building on the concepts of the previous London Plan, foregrounding locational factors, and good design, over density per se. This requirement for optimisation to be the test against which housing development be assessed runs throughout the Draft London Plan, with for example, Policy H1 setting out that Boroughs should optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially on sites with existing or planned public transport access levels (PTALs) 3-6 or which are located within 800m distance of a station or town centre boundary, or public sector owned sites; all of which are applicable to the appeal site.
- (e) Draft London Plan Policy GG2 states that those involved in planning and development *must* enable the development of brownfield land; *must* prioritise sites which are well-connected by public transport; *must* proactively explore the potential to intensify the use of land to support additional homes, and promote higher density development, particularly in locations that are well-connected by public transport, walking and cycling.
- (f) In accordance with paragraph 48 of the NPPF there is substantial weight to be accorded to these policies, which also sit entirely within the direction of travel taken by the Secretary of State in his letter of March 2020.
- (g) Again, the Local Plan expects schemes to optimise the housing potential of suitable under-used or vacant sites and goes on to link this to the London Plan position.
- (h) The principle of optimising development is then, in my opinion a planning benefit of significant weight. The evidence of Mr Charles Graham will address in detail the architectural approach to the Site and the robust optioneering exercise that has been carried out to demonstrate how an optimal development has been achieved.

7.5.5 Provision of market housing

- (a) The redevelopment of the site to provide a significant quantum of market housing is a significant benefit with the delivery of housing at the centre of the Delivery Plan and the NPPF, which sets out a clear requirement to make the most effective use of sites, and the need to meet housing needs (Paragraph 117 onwards) and attaches great weight to bringing forward such sites
- (b) As identified in ‘Planning for New Homes’ (February 2019), published by the National Audit Office, *‘The Ministry of Housing, Communities and Local Government’s objective for housing in England is to: ‘support the delivery of a million homes by the end of 2020 and half a million more by the end of 2022 and put us on track to deliver 300,000 net additional homes a year on average.’* (Paragraph 1)
- (c) London’s need for more homes is well established at all levels of policy. The London Plan identifies the need for more homes in London (Policy 3.3) to promote opportunity and provide real choice for all, and the draft London Plan, goes on to

note that the failure to provide sufficient numbers of new homes has given rise to a range of negative social, economic and environmental consequences. The SoS letter and its addendum (March 2020) (CD1/20), specifically raise concerns around the need for more housing in London and how this might be addressed.

- (d) The first Strategic Objective (Strategic Objective A) of the Local Plan is to increase the overall supply of housing, by at least 17,925 additional dwellings and increase the mix and quality of housing to address the need for all types of housing, including affordable housing and the needs of different groups in the community.
- (e) While it is accepted that LBL has met the Housing Delivery Test, the Draft Review Lambeth Local Plan is currently pre EIP and the Review Inspector has specifically queried the housing supply, particularly in relation to smaller sites. Either way meeting the Housing Delivery Test does not override the presumption in favour of providing and maximising housing on brownfield, highly accessible former publicly owned sites and the benefit in the provision of that housing is not lessened as a result. In the context of the severe housing shortage in London, and the SoS letter to the GLA, this is a particularly important point – the requirement for housing does not stop at the borough boundary and the targets are not maxima.
- (f) Indeed, the Inspectors Initial thoughts on the DRLLP (CD7/34) raise this exact point: *“given the London-wide housing shortfall...should the Council be addressing this in this Plan in cooperation with its neighbouring LPAs? Where does the Council consider the balance to lie between the London Plan (Intend to Publish version) and the individual Boroughs and Development Corporations in addressing the London-wide housing shortfall”*
- (g) The GLA’s Strategic Housing Market Assessment (November 2017) (CD1/19) which has informed the Draft London Plan identifies a need for approximately 66,000 additional homes a year. In this context, the most recent statistics ‘London Housing Market Report’ (May 2020) (CD7/17), shows completion rates for new homes for the year 2019/2020 to be 42,630, a substantial shortfall on this target.
- (h) This provides the context for the Secretary of State’s rejection of the draft London Plan, in its inability to meet the housing requirements of Londoners. The implication is clear that the Draft London Plan and Local Plans need to maximise housing delivery.
- (i) Increased housing supply is a fundamental policy objective at national, regional and local levels. The Proposed Development clearly seeks to optimise the residential output and make efficient use of land to meet the overarching policy objectives to increase housing supply, and in doing so meets fully the Development Plan, and the benefit can only be allocated substantial weight.

7.5.6 The provision of affordable housing

- (a) The principle of affordable housing is a key requirement as set by the NPPF, the London Plan, the Draft London Plan and the LLP (both adopted and review). LBL and the appellant are now in agreement that the maximum reasonable affordable housing is being provided, and that this comprises 50% affordable housing in compliance with Lambeth Policy H2, the adopted London Plan, Policy H4 of the Draft London Plan, and the Draft Review Lambeth Local Plan.
- (b) The affordable housing contribution, then, comprises 291 habitable rooms (50%) or 123 units (44%), of which 29% of is London Affordable Rent and 69% is Intermediate (London Shared Ownership). This is now accepted by the LPA as compliant with the maximum affordable provision, and therefore a fully policy compliant tenure mix. This is a significant benefit and to be weighted accordingly.

- (c) It is relevant to note from Table 6 of 'Lambeth's Annual Position Statement: Housing Supply & delivery (October 2019)' (Appendix 5) that there have been significant fluctuations in affordable housing delivery since 2011/12. The below table summarises the percentage of affordable units completed relative to residential units completed during this period (net):

Monitoring Year	Residential Units Completed	Affordable Units Completed	Affordable Units as a % of all units completed
2011/12	850	348	41%
2012/13	623	269	42%
2013/14	853	99	12%
2014/15	1406	354	25%
2015/16	1353	141	10%
2016/17	1455	439	30%
2017/18	1544	294	19%
2018/19	1219	309	24%

- (d) The above figures show how significant is the contribution which the scheme will make to affordable housing in the borough, and the weight to be accorded, which in my opinion can only be significant, particularly as the scheme is fully funded and the appellant looks to commence within six months.

7.5.7 Social benefits

- (a) There are a number of social benefits which I consider arise from the scheme, the key points of which are largely considered above; however, I summarise these as follows:
- (i) The site at present is a group of underutilised and vacant buildings in a highly accessible location. The redevelopment of the site to provide a significant quantum of both market and affordable housing can only in my opinion be viewed as a significant benefit.
 - (ii) Increased housing supply is a fundamental policy objective at national, regional and local levels. The Proposed Development clearly seeks to optimise the residential output and make efficient use of land to meet the overarching policy objectives to increase housing supply, and in particular accords with London Plan and Local Plan Policy.
 - (iii) The NPPF now sets out a clear requirement to make the most effective use of sites, and the need to meet housing needs (Paragraph 117 onwards). There is a national housing crisis, and an acute shortage of new homes in London. The provision of between 160 and 178 new homes on the site, including 35% affordable housing in a highly accessible location represents a significant benefit towards meeting current and future housing needs in London.
 - (iv) The redevelopment of the site to optimise the delivery of well designed, high quality housing is in accordance with the requirements of the NPPF (Paragraph 103), London Plan (Policies 3.3 and 3.4), Lambeth Local Plan (Policy H1) and the Draft London Plan (Policy H1) which all promote optimising development, including the delivery of new homes in sustainable locations.
 - (v) The site is located approximately 500m from Elephant and castle tube, which is reflected in the site's excellent PTAL rating of 6a. The site is also located adjacent to the boundary of Elephant and Castle major centre. The site

therefore meets both sources of capacity mentioned within Policy H1 B(2a) of the draft London Plan.

- (vi) The appeal proposals provide 50% of homes as affordable (habitable rooms), with an agreed viability assessed tenure split.
- (vii) The proposed affordable housing meets the NPPF definition of affordable housing provision, as well as those definitions contained with regional and local policy for the delivery of Affordable Rent and Intermediate homes, and this will be secured in the S.106.

7.5.8 Car free development

- (a) Car free development is promoted by the London Plan, Lambeth Local Plan, the NPPF, the Draft London Plan, all of which link it to accessibility and location, and the ability to provide is both an indicator of sustainability of the Site and an environmental benefit in its own right. This is a clear planning benefit, and in my view can be given moderate weight.

7.5.9 Economic benefits

- (a) The securing of economic benefits is at the heart of the NPPF, and the Development Plan. The proposed development will secure significant jobs and training during the construction phase of the development and will contribute significantly through the regeneration of the area. Lambeth relies on the idea that any development would contribute to employment and skills, to limit the importance of these benefits; however, this is not the relevant test and no alternative scheme is for consideration, and significant should be attributed to the economic benefits.

7.5.10 Environmental benefits

- (a) At present, the northern part of the Site is intimidating and badly laid out - the quality of the public environment is low, and the access to the vacant care home poorly lit; this is a negative contributor not just to the conservation area but to the basic principles of secure by design. The provision of a high-quality architectural solution to this Central site will contribute to the Development Plan principles, providing an appropriate setting for a heritage asset, and bringing it into the public realm, in a way that is currently unachievable, while making effective use of the land.
- (b) Further, the relationship between the Bellway development and the Site is poorly planned and difficult to navigate. The creation of legible routes through the site, along with increased open space, will enhance the relationship of not just the Site to the urban fabric, improving the actual safety and perceived safety of the Site, improving security through a designed approach, and creating better, master planned, and permeable spaces, and improving pedestrian and cycle links through Kennington and Elephant and Castle.
- (c) The improved urban greening and biodiversity of the site, through new tree and shrub planting, integrating with existing trees, and integrating them into the overall landscape strategy, further benefitting the setting and adding to biodiversity.
- (d) It is clear that these are considerable benefits and, in my opinion, attract moderate weight.

7.5.11 Regeneration

- (a) The benefits accruing to the Elephant and Castle through the adoption of a clear strategic planning strategy have been largely limited by the boundary with Southwark. This cannot have been the intention given the consistency of sites and the arbitrariness of municipal boundaries.

- (b) The Proposed Development represents an important local regeneration scheme for Kennington. As existing, the site is impermeable, unsafe, semi derelict, and does nothing for local people. The Proposed Development will create a permanent home for the Cinema Museum, an attractive, safe and permeable space for residents, and enable a co-ordinated and sustainable regeneration, that while outside of the OAPF area, allows the cross-borough benefits to be realised. The Development represent an important local regeneration scheme for Kennington.
- (c) In this context, regeneration as a characteristic of change runs throughout the NPPF, the London Plan, and the Draft London Plan and the Local Plan; the utilisation of tall buildings as a route to delivering regeneration is a benefit that, in my opinion can only accrue substantial weight, socially, economically and environmentally.

7.5.12 Heritage

- (a) The Proposed Development secures significant heritage benefits including:
 - (i) The creation of an improved setting to Masters House using materials sensitive to the historic context, and a landscape design that evokes the heritage and workhouse history of the site, through rich design detailing.
 - (ii) Creating a clear approach to cementing the character of the area, building upon key characteristics, to create an identity that currently doesn't exist, in what is in effect a neglected part of Central London.
 - (iii) Securing viable future use of the locally listed building group of Workhouse Porters' Lodges and the Reception Building within the Site. While unlisted these are within the conservation area and part of the setting of the Master's House. At present they are vacant and semi derelict. The finding of a viable use is a clear public benefit.
 - (iv) Securing future maintenance of locally listed Workhouse Entrance Gates and Boundary Wall at south west edge of Site.
 - (v) Securing improvements to immediate setting of the Master's House as a Grade II listed building through significant public realm improvements and new pedestrian links; creating a more legible and accessible urban context, directly related functional space from where to better understand and appreciate the significance of this heritage asset. The resetting of this context and the creation of a through route, will create greater footfall opening the heritage assets to a wider public.
 - (vi) The delivery of high-quality architectural building with a design specifically related to its historical context and contributing to the visual attractiveness, functioning, inclusion, safety, and accessibility, of the Site and area through active place making.

7.5.13 High Quality Design

- (a) The delivery of a prominent building of the highest design quality is a significant public benefit, with design at the heart of the Development Plan and the NPPF. Mr Graham will explain in his evidence the design methodology behind the scheme, and Dr Miele will conclude that the proposed development will make a significant contribution to the area as an addition to the townscape.
- (b) The design of the Proposed Development has fully understood the context of the Site with an architectural response that builds on the design and architectural heritage of the immediate surroundings and response to the wider urban environment. In my opinion, this attracts significant weight as a benefit.

7.5.14 Provision of open space and improved accessibility

- (a) There is no doubt that the proposals will deliver substantive public realm benefits, given the current characteristics of the Site, which is difficult to locate, inaccessible, potentially dangerous at night, and provides no reason for anybody to access past the Cinema Museum. The local authority acknowledges this to be a fragmented site, but this significantly underplays the reality.
- (b) The Proposed Development will not only enhance and improve the existing poor quality streetscape of this section of Kennington/ the Elephant and Castle, but will reintegrate the Site into the surrounding area, improve permeability, and create a well-designed pedestrian route linking the surrounding streets better to both the Elephant and castle and the Imperial War Museum, and hence integrating a currently 'dead' site into the fabric of the centre of London, and as above act as a catalyst for regeneration.
- (c) The delivery of high-quality landscaped open space and planting, as part of this considered place making exercise fits within both the quality of the overall design and the establishment of clear public and private spaces, and the ability to create a permeable space in accordance with good design principles.
- (d) The Proposed Development, then, takes the full opportunity to open up the Site and reveal the intrinsic qualities of the Cinema Museum. In my opinion this is a clear public benefit with substantial weight, in accordance with the London Plan, Lambeth Local Plan the Draft London Plan and the NPPF.

7.5.15 Securing the Future of the Cinema Museum

- (a) The Cinema Museum is a key priority for the Proposed Development, as an integrated core component of the Site. The Museum has been on an insecure rolling one-year lease historically, as a result of which it has been unable to have a secure future, or access funding. Consequently, while it is a culturally significant site, it is run on a volunteer basis, frequently not open, and the fabric of both the building and its contents deteriorating. There is no long, or medium term, programme for its survival.
- (b) The condition attached to the original permission prevents this from being treated as a general D2 use, and therefore should its lease expire, and the building become vacant, it is difficult to see how the Cinema Museum use could be protected within planning policy.
- (c) While the lease itself is not a planning issue, the ceasing of the use as a Cinema Museum is, and within the meaning of the condition, the only protected use would be an alternative Cinema Museum. In effect this is a personal consent, and the local planning authority would find it very difficult to protect in a planning sense.
- (d) Given this position, it would have been entirely possible to include Master's House in the application as part of the overall approach to residential provision on the Site and be consistent with the planning position.
- (e) In this context keeping the Master's House in its current use and putting the Museum on a permanent footing is a key policy outcome, a major public benefit, and its retention is a central to the Proposed Development.
- (f) The GLA strongly supports the Appellant's position on the Cinema Museum subject to this being secured through a S.106 agreement. The Proposed Development will place the Cinema Museum on a permanent footing, allowing it to fully access funding, upgrade the building and place itself on footing commensurate to its reputation. In this context, in my opinion this can only be a substantial benefit.

7.5.16 Cumulatively very substantial/compelling benefits

- (a) The benefits of the scheme and the weight to be attached clearly overlap between the nature of the site, its location, optimisation, environmental, regenerative and economic, and have a cumulative weight. The ability for the Site to deliver its full potential of both market and affordable housing, is clearly linked to its accessibility, which is linked to its ability to deliver car free housing; the ability to make the most effective use of brown field land is inextricably linked to its regenerative benefit, and its environmental and heritage benefits.
- (b) The Proposed Development delivers a number of substantial public benefits, which in my opinion can be viewed cumulatively to provide a benefit greater than the sum of their parts.

7.6 The Impacts Alleged by the LPA and Rule 6 Party.

7.6.1 Design

- (a) This addresses Refusal Reason 4.
- (b) The relevant starting point here is that the Site is appropriate for a tall building.
- (c) The principle of tall buildings in accessible locations is recognised in both the London Plan and the Draft London Plan particularly in order to make optimal use of the capacity of sites with high levels of public transport accessibility.
- (d) First and foremost, the London Plan recommends that tall buildings should be part of a plan-led approach identifying appropriate and inappropriate locations. Further it states that tall buildings should be generally located in the Central Activity Zone (CAZ), opportunity areas, areas of intensification or town centres that have good access to public transport, subject to other tests against recognised planning interests and the provision of other planning benefits, and the adopted Local Plan sits within this framework, in its assessment of appropriate locations for tall buildings. While the Site is not within the CAZ or an Opportunity Area, it is coterminous to them, and shares characteristics with them, and it is significant that the GLA has supported a tall building approach to the Site from the earliest discussions.
- (e) Local Plan Policy Q26, sits within the above with a plan led approach determining appropriate and inappropriate areas; as the site is not within an area defined as 'inappropriate for tall buildings' there is de facto support for the initial principle of a tall building on the site, particularly given the policy context of optimisation and accessibility. Subject to modelling and testing against other policy and design principles, this is a site that meets the relevant Development Plan locational criteria. There is also weight to be accorded to the Draft London Plan policy that such sites must be prioritised and proactively explored to support additional homes.
- (f) The Draft London Plan again places an emphasis on development plans defining locations where tall buildings may be appropriate, and places this within the context of site optimisation, public transport and access.
- (g) While the Draft Review Lambeth Local Plan alters the emphasis of Policy Q26 with a move towards defining locations where tall buildings are acceptable, rather than where they are not acceptable, in my opinion this holds little weight, It relies largely on the evidence base underpinning the previously adopted policy position (Lambeth Tall Building Topic Paper November 2019) (CD1/15), and the Borough has not sought to define character areas as such for the purpose of development control, so assertions around where any particular piece of land sits within the unadopted policy hierarchy is un-evidenced. In my opinion, this fails to amount to a rigorous approach, is untested at EIP, and is of very limited weight in accordance with paragraph 48 of the NPPF.

- (h) The Site, by any reasonable reading of the Development Plan is clearly appropriate for a tall building, in principle a position supported by the GLA throughout the pre application process.
- (i) The issue is not whether a tall building is supported by the Development Plan, but whether this tall building is supported by the Development Plan, and in my opinion it is.
- (j) The NPPF is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, and while making clear the importance of design creates no further benchmark, other than where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.
- (k) The height scale and massing has been developed to achieve the optimal density for the Site and the process and methodology are considered in detail in the evidence of Mr Charles Graham. The quality and townscape context of the Proposed Development is considered in the evidence of Dr Miele and I agree with his conclusions. The planning policy context for this, is summarised in my evidence, namely Local Plan Policies Q1 – Q7 and other policies, in the light of the conclusions drawn by Mr Graham and Dr Miele.
- (l) The issues around heritage and views are considered elsewhere in the proof, however I do consider that the proposal will fully accord with the relevant design and townscape policies in the London Plan.
- (m) In accordance with these policies, local character and public realm will be protected and considerably improved (Policies 7.4 and 7.5). The Proposed Development is drawn from a historical and contextual analysis of the local urban form (Policy 3.4), will enhance the quality of the area (Policy 3.5) The Proposed Development will be of high architectural quality and make a positive contribution to the public realm, (Policy 7.6Ba), will make a significant positive contribution to the city (Policy 7.6A) and will preserve the historic environment (Policy 7.8-7.10). The analysis set out in the TVIA and in the Design and Access Statement demonstrates that the site is suitable for tall and large-scale development (Policy 7.7). That is also the conclusion drawn by Dr Miele.
- (n) The Draft London Plan policies build upon or reiterate these fundamental positions, and the Proposed Development follows a design led approach (Policy D3), demonstrates design scrutiny (Policy D4), achieves the highest standards of accessible and inclusive design, (Policy D5), meet housing standards (D6), and creates a whole new public realm (D8).
- (o) London Plan Policy 7.7 which provides something of a list of criteria, against which tall buildings can be assessed, and there is much overlap between policy 7.7 and policy D9. For the purposes here the proposed development meets the requirements of the London Plan Policy checklist. Some of these are locational and have been addressed, while others are design based and fully addressed in the evidence of Mr Graham and Dr Miele.
- (p) In the context, the harm identified by Refusal Reason 4 essentially relates to the subjective elements of design quality, rather than effect on heritage assets or the quantifiable measures of residential amenity addressed elsewhere, and these are amalgamated under the umbrella term 'overbearing', a term which does not appear in the relevant local plan policies, nor those in the London Plan, nor the NPPF in relation to such matters; it is reasonable however to assume that it refers to a general perception, separate from the quantifiable issues referred to in other refusal reasons. This seems to me a false way of addressing issues of design and layout, as the quantifiable effects are part of the assessment of good design and whether the layout

works internally and externally. Nevertheless, daylight and sunlight, amenity space, the servicing and cycle parking and the relationship with adjoining residents are all either addressed elsewhere, or agreed as a matter of common ground, and I would suggest that if all of these are appropriately addressed then it is hard to conclude that the Site is overdeveloped, or the development overbearing; the issue is a more subjective one of design.

- (q) Policy Q26 of the LLP is positively worded to support tall buildings where there is no adverse impact on the significance of strategic or local views or heritage assets including their settings. In the design evidence, then, Mr Charles Graham explains how the design process has led to a design of exceptional quality, which enhances the character of the surrounding area, improves legibility, and incorporates the highest standards of architecture and materials, and Dr Miele assess the design who concludes that this is a design of the highest quality, a conclusion I agree with.
- (r) The LPA then relies on Policies Q1 – Q7 along with Q14 and Q26, and there is considerable overlap in these with other refusal reasons; where this is the case, I have addressed them in the relevant section; however, the Policies amount to something of a checklist. Policy Q1 is addressed by the development, which is both inclusive and accessible to all, meeting all relevant good practice, and there is no serious implication that the design does not do so. Policy Q2 is a positively worded policy that development will be supported where it addresses amenity in its broadest form: visual, daylight and sunlight, privacy, overlooking, amenity space, which are addressed elsewhere ; Policy Q3 expects safety and secure by design and regard to shared spaces to be built into the development; again while the LPA has raised contested issues on sightlines through there Site, there is no serious view that the proposed development doesn't meet secure by design standards, or provide well designed shared spaces. Policy Q5 states that proposals will be supported where design of development is a response to positive aspects of the local context and historic character, and this is addressed in the evidence of Mr Graham; Policy Q6 focuses on the public realm and supports development that provides attractive, uncluttered, co-ordinated public realm, improved legibility, permeability and convenient access via direct routes for all users; new or enhanced open space (including gaps between buildings) and landscaping/trees; for the removal of redundant or unsightly street furniture/clutter; retains and enhances the heritage value of existing spaces; pedestrian and cycle-priority environments which are not dominated by vehicles whether moving or parked. Policy Q7 supports high quality new development, where it has a bulk which adequately preserves or enhances the prevailing local character; or, in the case of regeneration and opportunity areas where the context is changing, it respects and contributes towards the intended future character of the area.
- (s) These are all detailed policies that have been fully assessed as part of the submission and have no focus in the particularity, the substantive elements of which are addressed either elsewhere or by expert witness. This is a development of exemplary quality, based on a deep analysis of the urban environment, in which new through routes, and vastly improved public space are created, and an unsafe, underutilised brown field site is integrated back into the urban grain. Lambeth acknowledge this to the extent that they place these policies together and use them as symptomatic of overdevelopment, rather than emphasise them individually. To demonstrate the elements of the Proposed Development as being 'symptomatic' of overdevelopment, LBL would need to show that the Site was not capable of containing the quantum of development proposed. This is not the case here, it is common ground for example that the quantum of amenity space more than meets policy requirements, and that the servicing arrangements are acceptable. Issues of daylight and sunlight, and privacy, are dealt with elsewhere, but these are not hard and fast standards and are to be interpreted flexibly, particularly in urban areas.
- (t) In this context, Policy Q14a which the Council use to justify the position, explicitly relates to backland sites. This is clearly incorrect, the usual definition of backland

sites being “‘landlocked’ sites behind existing buildings, such as rear gardens and private open space, usually within predominantly residential areas. Such sites often have no street frontages. (Planning Portal Glossary of Planning Terms); this definition is clearly reflected in the policy and is not a relevant consideration. However, the purpose of its inclusion is to characterise the Site in a particular way, that justifies the overall approach of the LPA, underpinning its entire approach to the Proposed Development. It is clear to me that this is a fundamental error on the part of LBL, and the character of the Site is precisely the opposite: a highly sustainable site in the fringe of the CAZ that meets all of the Development Plan requirements for a high-density development.

- (u) It is also clear to me that the Proposed Development then meets all the relevant Development Plan policy positions, creating a development that starts from a position of site analysis to place good design at the centre of the proposal; the Site is appropriate for a tall building, and this tall building is demonstrably the product of great care and consideration, arrived at, in massing terms, by extensive options analysis intended to achieve optimisation.

7.6.2 Heritage

- (a) This addresses Refusal Reason 5.
- (b) The protection of heritage assets is a well-established planning principle through national, regional and local policy, and needs to be carefully addressed as part of the planning process, particularly the way that this policy priority interacts with other policy priorities around density, tall buildings and bringing forward accessible sites. In considering proposed development affecting a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the area’s character or appearance.
- (c) The concept of the setting of a conservation area is not enshrined in the legislation and does not attract the weight of statutory protection. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. However, the corollary to this (i.e. that proposals that do not take such opportunities should be treated unfavourably) is not explicitly stated by the NPPF, and the NPPF does not introduce any separate test over and above the main test of balancing harm against benefits.
- (d) Where a development proposal will lead to 'less than substantial' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the Proposed Development (paragraph 196).
- (e) The Government’s Planning Practice Guidance (the “**NPG**”) specifically gives guidance on ‘public benefits’ in this context: public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress and should flow from the Proposed Development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit.
- (f) The Development Plan sits within this context, London Plan Policy 7.7 stating that the impact of tall buildings proposed in sensitive locations should be given particular consideration, and Policy 7.8 that development affecting heritage assets and their settings should conserve their significance.
- (g) These positions remain largely unchanged in the Draft London Plan Policy HC.1, while Draft London Plan Policy HC.3 picks up that development proposals must be assessed for their impact on a designated view if they fall within the foreground, middle ground or background of that view

- (h) The key Lambeth policies here are Q20 (development affecting listed buildings), Q25 (views) and Q26 (tall buildings), which tie into the London Plan positions; so Q20: supports development affecting listed buildings where it would conserve and not harm the significance/ special interest; not harm the significance/setting (including views to and from); and not diminish its ability to remain viable in use in the long term. Policy Q21 Registered parks and gardens development proposals affecting parks and gardens on the national register will be supported where they: take opportunities to restore original features or do not compromise future restoration opportunities. Policy Q22 Conservation areas; development proposals affecting conservation areas will be permitted where they preserve or enhance the character or appearance of conservation areas, and Policy Q26 (iv) that the proposal should make a positive contribution to the townscape and skyline either individually to form a distinctive landmark or as a contribution to a group;
- (i) The changes to the above Policies coming through the DRLLP are largely minor and hold little weight.
- (j) I have addressed the principle of a tall building elsewhere in the proof and in light of the adopted policies, and there should be no objection to the principle of a tall building on the Site. It also follows that the ability to see a building from nearby designated heritage assets is not an objection in itself. Policy Q26 makes this clear, tall buildings are not unacceptable per se in relation to heritage assets but are assessed in relation to their impact on local views and assets, and their contribution to the townscape. This is made clear in the Lambeth Tall Buildings Study (CD1/12 2014) which explicitly states “*Given the dense urban nature of the northern part of borough it is not unusual for existing tall building development to be visible from within conservation areas there... Visibility itself should not, in most cases, denote harm; form, materials, scale, etc. all need to be considerations.*” (para 4.100)
- (k) The Development Plan position, then, clearly does not preclude development of taller buildings purely on the basis that they can be seen from designated heritage assets. On the contrary, the potential for buildings of exemplary design and quality to enhance the cityscape and the setting of heritage assets, is recognised in current and emerging policy, and there are numerous instances of taller buildings adjoining Conservation areas, within the immediate setting of listed buildings and tall buildings which can be seen in views from such assets.
- (l) Policy Q25 adopts a similar approach but to a list of specific views; again, this is addressed in detail by Dr Miele who weighs up the effect on heritage assets including views; however it is worth noting that LBL raise particular concern around the view over Lambeth Palace, and it is important to note that Historic England did not comment on the impact on this view in their formal response.
- (m) Heritage and Townscape matters, then, are addressed in detail in the evidence of Dr Miele, who has undertaken a comprehensive review of all the relevant designated heritage assets, the features which contribute to their significance, and analysed whether they would be affected by the Proposed Development. Dr Miele concludes that this is a very high-quality scheme, demonstrably enhancing the character and appearance of the area, affecting no highly graded designated assets, having a very slight harmful effect on those nearest to the proposals. The harm identified is then residual or net heritage harm. I recognise that great weight should be given to the conservation of a heritage asset even where the harm is less than substantial in accordance with paragraph 193 of the NPPF. This less than substantial harm needs to be balanced against the public benefits of the proposals.
- (n) The benefits (including heritage) are fully addressed elsewhere in the proof, and in fact clear and convincing justification has been provided for the proposed scheme and its heritage impacts, and also that any less than substantial harm caused would be decisively outweighed by the significant wider public (including heritage) benefits that this scheme could deliver, in the terms of the NPPF and the Development Plan.

7.6.3 Daylight and Sunlight

- (a) This addresses Refusal Reason 6.
- (b) The NPPF is clear that local authorities should adopt a flexible approach when considering daylight and sunlight impacts, and that the overriding principle is the efficient use of land and the provision of 'acceptable' living standards. Paragraph 123 of the NPPF identifies that where there is an 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 Part (c) of this paragraph clarifies that authorities should take a flexible approach in applying daylight and sunlight policies, where they would otherwise inhibit making efficient use of a site. This position clearly places the efficient use of the Site above daylight and sunlight guidance in any hierarchy of assessment.
- (c) This flexible approach is reflected in the Development Plan, wherein London Plan 7.7 refers to adverse effects, while Lambeth Policies Q2 and Q26 refer to unacceptable impact, a position that gives substantial leeway to determine the nature of adversity and unacceptability; these positions are rolled forward into the Draft Review Lambeth Local Plan (CD1/4); this is further reflected in the Mayor of London's Housing SPG (2016) which repeatedly emphasise flexibility and sensitivity in application, and a recognition that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced, particularly in central and urban settings.
- (d) The basis for the technical analysis and methodology employed for sunlight, daylight and overshadowing is derived from The Building Research Establishment Guidelines (CD1/33). These are the principal source of guidance in this area and are also identified in LBL Local Plan (CD1/3) as a reference document, and these recognise themselves that difference target values may be use, and that particularly in a City Centre or in an area with modern high-rise buildings a higher degree of obstruction may be unavoidable.
- (e) The approach is also referenced in appeal decisions, most notably the Whitechapel Estate decision (CD7/25), where the Inspector said at paragraph 108 "*I agree with the appellants that blanket application of the BRE guide optimum standards, which are best achieved in relatively low-rise well-spaced layouts, is not appropriate in this instance*", but also in others:
 - (i) *... It has to be said that some shadowing or loss of daylight is not atypical of such dense urban locations and should not be held against the proposal (para 12.8.2) Vauxhall island site (CD7/26).*
 - (ii) *. Where there are shortfalls against these technical guidelines, they are limited breaches and given the overall lighting in the properties, the nature of the surrounding dense urban area and the existing features of the buildings these are generally acceptable. (para 16) Cornwall Road, Wootton Street and Windmill Walk, London, SE1 8TP (CD7/28)*
- (f) The context here is important. As an ex public sector, brownfield, central site, bounding the CAZ and the E&C OA, with a PTAL of 6a; the Development Plan requires that development be optimised and that housing being at low densities be avoided; this is precisely the circumstances around which flexibility is foregrounded within the NPPF and the Development Plan.
- (g) The principle of securing appropriately optimised housing is then the overriding principle a position entirely consistent with the Development Plan, and the approach to the design development is dealt with elsewhere, but is noteworthy that within this hierarchy of assessment there is an agreed viability assessment which demonstrates

that there is a minimum quantum of development below which the development is unviable.

- (h) Mr Lane in his evidence will respond in full to the daylight and sunlight issues and demonstrate that within the context established by the Development Plan as a whole the effects are limited and proportionate and that the height of the development, over a limited point, is not a key determining factor in the daylight and sunlight results.
- (i) The Council's position is that the alleged impacts are a specific result of the proposed scale, massing and proximity of the proposed 29 storey building. In this context, it is reasonable to assess the effect of marginal changes in height on daylight and sunlight figures, and determine at what point change occurs, and whether it would be reasonable within the parameters of the Development Plan to limit development to that point. It is also reasonable to address the characteristics of the existing site, which are of fundamental importance in the assessment. While being a sizeable site, as existing the site is effectively undeveloped in the most part, and it is almost always the case that when replacing largely undeveloped sites such as this with higher density developments, there will be daylight and sunlight reductions which exceed the national advice offered by the BRE Guidelines.
- (j) It is my opinion that LBL acknowledge that they are utilising daylight and sunlight as a secondary, cumulative, indicator of 'overdevelopment' "*When these concerns are considered in context of the foregoing conclusions on design, density and residential quality, it is clear that these shortcomings are fundamental.*" (officer report para 10.6.55)
- (k) However, the issues of design, density and residential quality are addressed in this proof, and the proofs of others, and in my opinion, meet the requirements of the Development Plan. I would suggest then that daylight and sunlight cannot be used as indicative of broader overdevelopment issues, this is clearly demonstrated within Mr Lane's evidence, and this is clearly not the relevant approach.
- (l) This balancing exercise is the very purpose of the flexible approach within the Development Plan – to acknowledge that in the Planning Balance, in urban areas, there will be elements of non-compliance, and there are policy priorities that could not possibly be met were this not the case. The benefits of this development and the policy weight to be ascribed to them are covered elsewhere in this Proof; while there is weight to be attached to breaches of daylight and sunlight, these are to be weighed against the broader Development Plan and can only be moderate in that context.

7.6.4 Housing Mix

- (a) This addresses Refusal Reason 3.
- (b) London Plan Policy 3.8 states that new developments should offer a range of housing choices, and that boroughs should work to identify the needs likely to arise within their areas while identifying that there is a particular need for social/ affordable rented family homes.
- (c) The Draft London Plan policy has changed since application submission, and Policy H10 now states, that schemes should consist of a range of unit sizes, determined through robust local evidence to deliver mixed and inclusive neighbourhoods, acknowledging that this should be dependent on the nature and location of the site, and that one and two bed units are more appropriate in locations closer to town centres or with higher public transport access and connectivity, with the aim to optimise housing potential on sites, while reducing pressure on conversion, sub-division and amalgamation of existing stock and freeing up family housing. This is an extensive list and clearly indicates flexibility, a non-prescriptive approach, and foregrounds the role of one and two bed units within a locational based approach.

- (d) 5.67 The GLA's thinking is elaborated on in the notes produced for the Draft London Plan EIP. In particular Mayoral Note M28 Housing Size Mix (CD7/13):
- (i) *The supply of new market and intermediate homes must be responsive to market signals to deliver a range of housing sizes across London at different price points. Requiring the delivery of a fixed proportion of certain sized market or intermediate units without an understanding of a site's specific characteristics would slow down delivery in instances where there is no, or very limited, demand for that product in that location and at that price point. Demand for larger market and intermediate units will be lower in locations where fewer people seek family housing or where the price of larger homes would limit the pool of potential buyers... First time buyers of both shared ownership and market homes with average incomes are typically unable to afford larger homes in many parts of London without significant deposits. For all of these reasons, prescriptive size mix requirements for market and intermediate homes would therefore have a negative impact upon the viability and deliverability of schemes.*
- (e) The logic is clear: *"Intermediate and market housing is treated differently because the markets for these types of home are not contained within a single borough. Unlike low cost rented homes, for which local housing authorities control allocations, households select their homes based on a range of factors. The options for all households in market and intermediate housing are constrained by the number of bedrooms required and the affordability of meeting that need in different locations. Additionally, different households have different preferences regarding locational characteristics such as access to transport, services and other amenities"* (CD3/11)
- (f) Only for low-cost rent units, should boroughs provide guidance on the size of units required (by number of bedrooms) to ensure affordable housing meets identified needs.
- (g) It is reasonable to ascribe appropriate weight to the Draft London Plan positions, given the advanced stage of preparation and the lack of contestation, however only insofar as a matter of principle; how the policy might be interpreted in individual borough policies, and on individual sites is a matter for their adoption process, and therefore holds less weight.
- (h) The DRLLP states that LBL will support proposals which offer a range of dwelling sizes and types to meet current and future housing needs. All residential developments are expected to provide a mix of dwelling sizes with the affordable housing element reflecting the preferred borough-wide housing mix for affordable rented and intermediate housing. The London Plan and the adopted Local Plan, then do not make a distinction between the different affordable tenures, so adopted Policy H4 merely states that:
- (i) *"the affordable housing element of residential developments should reflect the preferred borough-wide housing mix for affordable rented and intermediate housing as set out below:*
 - A 1-bedroom units: not more than 20%
 - B 2-bedroom units: 20-50%
 - C 3-bedroom+ units: 40%"
- (i) The purpose of the policy is clearly to restrict one-bedroom units within the affordable element of any development and place the focus on two- and three-bedroom units.
- (j) Any differentiation between different affordable tenures only comes through in the DRLLP, which revisits this policy; again, all residential developments are expected

to provide a mix of dwelling sizes, however low cost rented are expected to reflect the preferred borough-wide housing mix:

- (i) 1 bedroom units not more than 25%
 - (ii) 2-bedroom units 25 – 60%
 - (iii) 3-bedroom units up to 30%
- (k) The DRLLP policy, while underpinned by the Draft London Plan policy, can only be of limited weight; the robust evidence required in its implementation on borough basis having not as yet been tested. The effect, however, is to place a greater emphasis on provision of 2-bed properties. The percentages however continue to emphasise provision of 3+ bed properties over 1-bed units.
- (l) In my opinion there are two separate issues here. The expression of both adopted and unadopted policies is to restrict one-bedroom units within the affordable element of developments, and to focus on two and three bed units; this is a position entirely consistent with the London Plan and the draft London Plan. This is fully examined in the evidence of Mr Ireland, who concludes that the highest priority need for rented affordable accommodation is for 2-bed, followed by 3+ bed properties, with the Council's own Housing Strategy prioritising the delivery of larger family homes for rent. The scheme thus proposes a mix of rented affordable housing which focuses on those with more acute needs. Mr Ireland concludes that the focus on the rented affordable housing on 2- and 3-bed units should be regarded as a benefit to be weighed in the planning balance, and I would agree.
- (m) Secondly, as the adopted policy makes no differentiation between affordable tenures the Proposed Development cannot be in breach of this policy in the manner expressed in the refusal reason, in that LBL's expressed concern limits itself to low cost rented and to the concern that too few one bedroom units are being provided.
- (n) With regard to the market provision, the adopted LLP Policy H4 contains no preferred mix for private units, other than the broader test of a balanced mix of unit sizes including family-sized accommodation, and the DRLLP alters this to bracket intermediate with market housing, but again only requires a balanced mix of unit sizes including family-sized accommodation. The policy expressly allows locational, site and viability factors to be considered as part of the assessment of what a balanced community might be. There is clearly then an assessment to be made and the policy is not intended to be rigidly applied. The adopted plan states that the proposals will be expected to demonstrate that the provision of family-sized housing has been "*maximised*"; the emerging plan requires demonstration that this has been "*considered*", a position which in my opinion, clearly demonstrates an intentional refocussing of weight as applying to market provision.
- (o) I would also suggest any such assessment of mix and balance does not differentiate across tenure or affordability and would realistically be measured across the development as a whole; a balanced community is not tenure specific.
- (p) Given the Development Plan position, which in effect requires a site specific approach to be taken, it is entirely reasonable to examine what a robust approach to the site might comprise and take this from the London wide and Borough wide SHMAs and ward by ward census information, and other information as necessary. In this context, the evidence of Mr Ireland will demonstrate that the Proposed Development meets the criteria for a mixed and balanced development across tenures, taking into account the locational and borough differentials, drawing on the SHMA evidence. This is precisely the approach established by the Development Plan, in acknowledging that a Borough of Lambeth's characteristics is not homogenous, and what might be required of a site in Tulse Hill, is not the same as a site in Vauxhall.

- (q) In this context, the harm generated by the lack of provision of larger units within the scheme, can be weighted against locational factors, and this is the purpose of the flexibility within the policy; the harm therefore is of a very limited extent in particular given that the reality is that the nature of the development scheme, its location and the cost of units would more likely mean that many larger units would be purchased by higher earnings singles/ couples or overseas investors and would not meet the needs of larger families to which the Council's policies aspire.

7.6.5 Quality of amenity space

- (a) This addresses Refusal Reason 8.
- (b) While Policy 3.5 of the London Plan is a generalised housing standards policy, Policy 3.6 seeks to ensure that development proposals include suitable provision for play and recreation, with further detail in the Mayor's supplementary planning guidance 'Shaping Neighbourhoods: Play and Informal Recreation' (CD1/7), which sets a benchmark of 10sq.m of useable child play space to be provided per child, with under-fives play space provided on-site as a minimum. Lambeth relevant policy (H5) refers across to these as the relevant standards.
- (c) It is common ground that the Proposed Development more than meets the quantum of dedicated play space required by policy; however, it is contested that this is usable.
- (d) LBL have provided no evidence to substantiate their position that can be meaningfully assessed. Given that the quantum of dedicated space is agreed to be substantially in excess of that required by policy (68% more space than policy compliance), the exact layout of the space would normally expect to be dealt with by condition; however, the evidence of Mr Noel Farrer will demonstrate that playspace and its design have been at the heart of the design and layout of the Site, incorporating the principles established in the SPG and this result is exceptionally well designed, laid out and designed for purpose and entirely in accordance with the Development Plan.
- (e) It is my opinion that there is no harm generated by the development in this regard.

7.6.6 Future Occupiers

- (a) This addresses Refusal Reason 7.
- (b) The concern of LBL is entirely limited to residential amenity for future occupiers, specifically overlooking, privacy and daylight and sunlight; the LPA relies solely on Policy Q2, which refers to 'acceptable' standards of privacy, 'adequate' outlook, and daylight and sunlight as before.
- (c) It is reasonable and has been held at appeal that the weight to ascribed to the amenity of future occupiers is lesser and that they are less likely to be concerned about amenity than existing residents, and are able to make decisions about such in an overall balance:
 - (i) *"... I consider that the trade-off with other factors, such as access to public transport or green space, is likely to be of more relevance to an occupier of new development than to an existing neighbour whose long-enjoyed living conditions would be adversely affected by new buildings (para 113 APP/E5900/W/17/3171437) (CD7/25).*
 - (ii) *On balance, whilst not perfect, I am content that the living conditions for future occupiers...would not be unacceptable in this tight-knit urban context. I am also mindful that the arrangement affects one single bedroom in just two flats out of a total of 42 homes that would be provided and future residents would*

be aware of the arrangement before taking up residence.(para 62: APP/M9584/W/19/3233990 60 Dace Road, London, E3 2NN) (CD7/21).

- (d) In this context the principle of flexibility with regard to daylight and sunlight remains the same, and the weight to be attached to individual results remains low; however as a matter of fact, the officers report acknowledges that for future occupiers, the rooms not meeting the target ADF are limited to block A, are bedrooms (and therefore where daylight can be considered less important and hold less weight) and typically have balconies. This could reasonably be seen as precisely the flexibility that guidance and policy is intended to address, and there are numerous examples of consented developments where the Council have accepted lower ADF levels than those recommended within the BRE guidelines, which Mr Lane's evidence draws attention to.
- (e) Again, within the context of future occupiers, overlooking is something of a nebulous concept; there can be no loss of amenity to a future resident, and the LLP policy test is 'acceptable' which is further qualified by 'wherever possible' in its effects. The Mayor's Housing SPG specifically references overlooking, but only in the context of acknowledging that using a traditional 18 – 21m separation distance only very be viewed as a 'useful yardstick' and should not unnecessarily restrict density or limit the variety of urban spaces.
- (f) The relevant area of the development under discussion is that between block a and b, and is designed to provide play space that is well observed and safe for under-fives; the layout of the development is such that this space is unlikely to be utilised by anybody other than residents. The space is itself is good example of everything that 'good design' within the context of policy is intended to achieve. The issue then is not the layout or the use of the space, and in my opinion this space is squarely within the type of 'variety of spaces' that the Housing SPG wishes to promote: safe, intimate and fit for purpose.
- (g) Further the number of units which LBL argue will be overlooking, is 16, although the actual figure will be lower than this as because of the double height ground floor, the lower two levels on Block A do not have units directly opposite on the same level, and therefore there is an inbuilt degree of mitigation.
- (h) The urban context here is important, a position tacitly acknowledged in the adaptable wording of the policy, and the adjacent Bellway Development has separation distances of approximately 12.5m, has no obvious overlooking issues, and provides an urban environment commensurate to its inner London location. Such distances are not uncommon in inner London, a position acknowledged in TfL Streets a Historical Perspective which refers to the 'classic 36ft bye law street' *Subsequently health came to the forefront and the classic 36 ft wide bye-law street was devised as a means of ensuring the passage of air in densely built-up areas.* "
- (i) Given the relevant weight to be accorded to the relevant policies and their expression, the very purpose of which is to allow developments to be assed in relation to site specific locational factors and other policy priorities, it can only be concluded that the Proposed Development meets the requirements of the Development Plan, and that very limited weight should be attached.

7.6.7 Rule 6 Parties

Stop the Blocks has been accepted as a Rule 6 party, and has raised some specific issues:

7.6.8 Loss of C2 use

- (a) Both the Appellant and the Council agree that there is no basis to refuse the proposals on grounds of loss of the C2 use. The Woodland Care Home, while being vacant, sits within use class C2 and is afforded in principle protection through policy.

Adopted Lambeth Local Plan Policy H8 specifically relates to C2 housing, both in respect of its provision and where its loss is proposed as part of a redevelopment proposal, and protects existing C2 housing which meets identified specific community needs unless it can be demonstrated that either:

- (i) the accommodation is no longer needed, and the new accommodation will instead meet another identified priority local need; or
 - (ii) the existing accommodation will be adequately re-provided to an equivalent or better standard on-site or elsewhere in the borough.
- (b) This position is continued through into the DRLLP and Policy S2 of the Draft London Plan has similar aims and objectives and advocates/supports new models of care provision to meet identified needs.
- (c) The Draft London Plan acknowledges that the loss of social infrastructure can have a detrimental effect on a community, and where possible, boroughs should protect such facilities and uses, and where a development proposal leads to the loss of a facility, require a replacement that continues to meet the needs of the neighbourhood it serves.
- (d) The loss of this health care facility predates this application, the buildings have not been in use since 2013, and are currently looked after by a security firm. Woodlands originally provided 38 places (28 for Lambeth residents) and was constructed in the 1990s by Lambeth Healthcare and transferred to South London and Maudsley NHS Trust (SLaM) in 1999. The accommodation provided no on-suite facilities and the design predated NHS requirements for single sex accommodation.
- (e) The key principle behind these policies is to ensure that there is no net loss in service provision, and no reduction in health care facilities for residents. As the Draft London Plan acknowledges such decisions are essentially fluid and change in accordance with best practice and improved understanding of clinical need. In practice then, the Draft London Plan approach is closer to the realities of healthcare provision, in that national policy has driven substantial change in the delivery of care to people with complex mental health needs, with a move to an emphasis on independence and choice. As a result, care is no longer based on institutionalisation environment, but provided in the community, or a person's place of residence. This sits as part of an overall strategy of prevention and early intervention, resulting in a reduction in people presenting in crisis. As part of this overall approach to clinical need, a rigorous assessment was taken as to requirements and as to whether Woodlands should be kept open. As a result of this, within the context of an overall strategic healthcare package, Woodlands was consolidated with the Greenvale Unit in Streatham. At the time of the closure of Woodlands, only 12 beds were occupied, and the design and layout was substandard, pre dating current NHS requirements.
- (f) The loss of the Care Home, then, meets both of the Lambeth policy tests in that it is no longer needed; the healthcare problem which it was designed to address is being met through a mixture of alternative, more patient driven, strategies, and where necessary, a facility elsewhere in the borough, and the site is being brought forward as an identified priority local need.
- (g) The Proposed Development is entirely in accordance with the provisions of the Development Plan, and no weight is to be attached.

7.6.9 Delivery and Servicing

- (a) Both the Appellant and the Council agree that there is no basis to refuse the proposals on grounds of loss of proposed delivery and servicing arrangements. A full transport assessment was submitted with the application and it has been demonstrated through a swept path analysis that that all vehicles expected to service

the site can access and exit the site in a forward gear. This has been done and agreed with LBL.

- (b) The applicant has submitted a Travel Plan Framework that has been assessed by LBL's Travel Plan Coordinator (TPC). In principle, the TPC agrees with the key principles included to encourage sustainable travel initiatives subject to further updates/clarifications. A S106 obligation would normally secure the final version for approval by LBL (and any updates) including the requisite travel plan monitoring fees.
- (c) The Proposed Development is entirely in accordance with the provisions of the Development Plan, and no weight is to be attached.

7.7 The Planning Balance

- 7.7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.7.2 In terms of planning balance, it is clear that the redevelopment of the site provides significant benefits, including housing provision, affordable housing provision, securing the Cinema Museum, the improvement of the setting of the Grade 11 listed Masters House, vastly improved public realm, and the regeneration of the area. The proposals will deliver an exciting, residential-led mixed use area, as well as provide a better connected and much improved public realm.
- 7.7.3 The creation of a tower in this location provides an opportunity to mediate between the taller developments at the Elephant and Castle and the more modest towers characterised by Kennington.
- 7.7.4 The much-needed housing additional housing, both affordable and market, and new public realm will add to the infrastructure of the wider area while the Cinema Museum will serve a London wide market.
- 7.7.5 The mix of units meets the identified needs of the area and is fully addressed in the evidence of Mr Ireland.
- 7.7.6 The proposed housing numbers would make a substantial beneficial contribution towards Borough and London housing delivery and is strongly supported in strategic planning terms. There are a limited number of brownfield sites in London and the site represents an important opportunity to contribute towards housing delivery in strategic planning terms.
- 7.7.7 The Heritage and Townscape evidence of Dr Miele demonstrates that the proposals will make an excellent contribution to the local area, and the quality of the design in relation to heritage assets. The Design evidence will demonstrate that the architectural approach comes from a close reading of the historic and existing urban grain to create a distinctive, high quality and contemporary building whilst respecting local character and context. The relationship of the scheme to its neighbours has been carefully and sensitively considered throughout the design process for the scheme.
- 7.7.8 The daylight and sunlight evidence of Mr. Lane demonstrates that following the guidance in the NPPF and the Mayor of London Housing SPG that the BRE Guidelines has been applied sensitively and that the daylight and sunlight considerations of the proposals have been at the forefront of the design from inception. In the planning balance the daylight and sunlight impacts are proportionate in an inner London area, and entirely consistent with the Development Plan.
- 7.7.9 The amenity and playspace have been integral to the design of the Proposed Development from the earliest stages, and the evidence of Mr Farrer demonstrates that they are of

exceptional quality and usability, in excess of that required by the Development Plan, usable and playable, and in accordance with all relevant standards.

- 7.7.10 The technical evidence covering other matters demonstrates that there are no other material considerations which justify refusal. In these circumstances, there is no basis on which to set aside the presumption in favour of sustainable development.
- 7.7.11 There is a clear and compelling case in favour of the grant of planning permission for the Proposed Development.
- 7.7.12 I have not seen any evidence from the LPA, Rule 6 parties, statutory consultees or other third-party objectors that convinces me that the proposals would cause material harm. To the contrary, the appeal process has focussed minds on how substantial the benefits are, and on the basis of the evidence presented, I do not consider this to be a finely balanced case. In my judgment, the benefits clearly outweigh any perceived adverse impacts, as summarised below:

Benefit	Weight	Alleged Impact	Weight
Development in a Highly Sustainable Location	Substantial	Height, design, layout, access.	None
Use of Previously Developed Land	Substantial	Harm to heritage assets	Great Weight to the less than substantial harm, though this is outweighed by the public benefits
Optimisation of the Use of the land	Substantial	Daylight and sunlight	Limited
Provision of market housing	Substantial	Housing Mix	Very Limited
The Provision of affordable housing	Substantial	Quality of amenity space	None
Car free development	Moderate	Amenity of future occupiers	Very Limited
Economic benefits	Substantial		
Social benefits	Substantial		
Environmental benefits	Moderate		
Regeneration	Substantial		
Heritage	Substantial		
High Quality Design	Substantial		
Provision of open space and improved accessibility	Moderate		
Securing the Future of the Cinema Museum	Substantial		

7.8 Compliance with the Development Plan

- 7.8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. The Development Plan needs to be assessed as a whole.

7.8.2 In my view, the Appellant's evidence demonstrates that the Proposed Development accords with the relevant policies of the Development Plan when considered as a whole, as detailed in my evidence, and there are no material considerations which would indicate refusal against the provisions of the Development Plan. Indeed, material considerations further support the grant of consent.

7.8.3 The relevant policies are detailed above, but I would draw the Inspector's attention to:

- (a) London Plan Policy 3.3 states that Boroughs should seek to achieve and exceed the relevant minimum borough annual average housing target
- (b) London Policy 3.11 states the Mayor will, and boroughs and other relevant agencies and partners should, seek to maximise affordable housing provision
- (c) London Plan Policy 3.10 defines affordable housing, to include social rented and intermediate housing,
- (d) London Plan in Policy 3.4 Optimising Housing Potential states that taking into account local context and character, design principles and public transport capacity, development should optimise housing output for different types of location
- (e) Policy 7.7 relates to the location and design of tall and large buildings. Tall and large buildings should be part of a plan-led approach to changing and developing an area by the identification of appropriate, sensitive and inappropriate locations
- (f) London Plan Policy 3.5 seeks the design of all new housing developments to enhance the quality of local places, taking into account physical context
- (g) Policy 3.6 Children and Young People's Play and Informal Recreation Facilities outlines that development proposals that include housing should make provision for play and informal recreation
- (h) Policy 7.6 states that architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape.
- (i) Policy 7.4 states that:- Buildings, streets and open spaces should provide a high quality design.
- (j) Policy 7.6 states that architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. It should incorporate the highest quality materials and design appropriate to its context
- (k) Lambeth Local Plan Policy H1 of the adopted Local Plan states that LBL will seek to maximise the supply of additional homes in the borough to meet and exceed the annual housing target for Lambeth
- (l) Lambeth's Local Plan H2 (affordable housing)
- (m) Local Plan Policy H4 states that the affordable housing element of residential developments should reflect the preferred borough-wide housing mix for affordable rented and intermediate housing,
- (n) The Local Plan Policy Q26, sets out areas in which tall buildings are inappropriate
- (o) Policies Q1 – Q7 set out the generalised design policies around amenity, local distinctiveness, community safety, urban design; Q14 covers back land development. As would be expected there is a housing standards policy (H5). Policy Q1 seeks inclusive design, and improvements to existing accessibility; Policy Q2 addresses privacy and amenity, and daylight and sunlight, without establishing

restrictive standards, Policy Q3 seeks secure by design to be incorporated into developments at the design stage; Q5 requires design development to address local distinctiveness; Q6 requires development to make effective use of sites, and improve the public realm; Q7 supports high quality design, with appropriate bulk and massing.

- (p) In addition to the above Policy Q20 states that development affecting listed buildings will be supported where it would: (i) conserve and not harm the significance/ special interest; (ii) not harm the significance/setting (including views to and from); and (iii) not diminish its ability to remain viable in use in the long term. Policy Q25, resists harm to strategic and local views.

7.8.4 While unadopted, where uncontested, the policies of the Draft London Plan hold substantial weight:

- (a) Policy H4 sets a strategic target for 50% of new homes to be affordable, to be achieved in part by requiring major developments which trigger affordable housing requirements to provide affordable housing through the threshold approach.
- (b) Policy H5 Threshold Approach to Applications sets out that the threshold level of affordable housing on gross residential development is initially set at a minimum of 35% or 50%
- (c) Policy H6 of the Draft London Plan and Affordable Housing Viability SPG sets out a preferred tenure split of at least 30% low cost rent (social or affordable rent), at least 30% intermediate (with London Living Rent and shared ownership being the default tenures), and the remaining 40% to be determined by the LPA to achieve mixed and balanced communities.
- (d) Policy D3 Optimising Site Capacity Through the Design-Led Approach requires that all development must make the best use of land by following a design-led approach that optimises the capacity of sites.
- (e) Policy HC1 states that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Policy HC3 protects strategic and local views.

7.8.5 I have assessed the development against these policies, and it is my opinion that in providing market and 50% affordable housing on a brownfield, highly accessible site, the proposed development is in accordance with the Development Plan as a whole, and this has been addressed in this proof.

7.8.6 The Development Plan is clear that underutilised brownfield sites should be brought forward for housing development and that development should be optimised; the Development Plan clearly places this as a site where a tall building is appropriate, subject to other policy consideration all of which are addressed here.

7.8.7 It is clear that the redevelopment of the Site provides benefits of significant weight and contributes to the London housing problem, at forefront of the Development Plan, as well as a providing a vastly improved public realm. The proposals will deliver an exciting, residential-led mixed use area, as well as provide a better connected and much improved public realm. The proposed housing numbers will make a substantial contribution towards Borough and London housing delivery. There are a limited number of brownfield sites in London and the site represents an important opportunity to contribute towards housing delivery.

7.8.8 The Proposed Development meets the relevant Development Plan design standards, and is of the highest architectural quality, as demonstrated in the expert evidence of Mr Charles Graham and Dr Miele an acknowledged leading expert in the field. The Proposed

Development embodies the principles of good design, place-making and the conservation of heritage assets.

- 7.8.9 The mix of units meets the identified needs of the area and has been assessed on a site-specific basis commensurate with the test established by the Development Plan, the social rented element focused towards the highest priority need.
- 7.8.10 The design evidence of Mr. Graham demonstrates that the proposals will make an excellent contribution to the local area; the Heritage and Townscape evidence of Dr Miele clearly demonstrates the quality of the design in relation to heritage assets. The design is distinctive, high quality and contemporary whilst respecting local character and context. The relationship of the scheme to its neighbours has been carefully and sensitively considered throughout the design process for the scheme.
- 7.8.11 The daylight and sunlight evidence of Mr. Lane demonstrates that approach follows the Development Plan guidance and that daylight and sunlight considerations of the proposals have been at the forefront of the design from inception, and while there are breaches of a rigid application of BRE guidelines, the policy framework clearly allows for such breaches on a site by site basis, which is appropriate here.
- 7.8.12 The amenity and playspace have been integral to the design of the development from the earliest stages, and the evidence of Mr Farrer demonstrates that they are usable and playable in accordance with all relevant standards established in the Development Plan.
- 7.8.13 The Heritage and Townscape evidence acknowledges that there is a degree of less than substantial harm (albeit at the lower end of the scale) against which the development falls to be weighed against public benefits of the proposal in policy terms paragraph 196 of the NPPF and this is carried out below.

7.9 The Heritage Balance

- 7.9.1 Any harm to the significance of a designated heritage asset requires 'clear and convincing justification', as per paragraph 194 NPPF. A clear and convincing justification does not create a freestanding test requiring the demonstration of less damaging alternatives, and to the extent that there is a test it is to be found in paragraph 196 NPPF (in the case of less than substantial harm):
 - (a) *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*
- 7.9.2 The clear and convincing justification, in this case, is countervailing public benefits, including heritage benefits. Public benefits can be anything which delivers economic, social or environmental progress as described in the NPPF (PPG paragraph 20)
- 7.9.3 The benefits provided by this scheme are covered in detail elsewhere in the proof, but in my opinion, they are cumulatively and individually substantive and attract substantial weight, in particular the provision of market and affordable housing:
 - (a) Provision of market housing
 - (b) The Provision of affordable housing
 - (c) Economic benefits
 - (d) Social benefits
 - (e) Environmental benefits

- (f) Regeneration
- (g) Heritage
- (h) High Quality Design
- (i) Provision of open space and improved accessibility
- (j) Securing the Future of the Cinema Museum

7.9.4 This is to be weighed against the harm to heritage assets, on which I draw attention to the evidence of Dr Miele, who convincingly determines the less than substantial harm to be at the lower end of the scale.

7.10 Any Other Material Considerations

7.10.1 As set out in my section 4, Section 38(6) of the Planning and Compulsory Purchase Act (2004) refers to the Development Plan as a whole and states that:

- (a) *“If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.*

7.10.2 The Proposed Development accords fully with the NPPF, which highlights the importance of approving sustainable new development, and optimising the use of accessible locations to meet the pressing need for new homes.

7.10.3 The Draft London Plan, and the evidence upon which it is based, highlight the clear and pressing need for more homes and support optimising development in accessible brownfield locations.

7.10.4 The principle of the development and the mix of uses; the principle of tall buildings; and the public realm enhancements which the Proposed Development will deliver are supported by a range of supplementary planning guidance.

7.10.5 The Proposed Development delivers significant public benefits, including; the delivery of high-quality buildings and enhanced public realm; new jobs; housing and affordable housing.

7.10.6 For the reasons set out in my evidence, the Proposed Development accords with the Development Plan; the principle of the use of the Site, the principle of a tall building, the relationship with heritage assets are all consistent and the development is of the highest quality; and there are no material considerations which would warrant refusal. If it were to be concluded that the Proposed Development does not accord with the Development Plan, contrary to my view, then material considerations, namely the significant benefits, do indicate otherwise and therefore indicate that permission should be granted nonetheless.

8 SUMMARY AND CONCLUSION

8.1 I set out my Summary and conclusions under the following headings.

8.1.1 The Appeal Site and its Location

- (a) This is a site that completely fails its location and surrounds; it currently comprises a vacant former nursing home, and a Grade II listed building occupied by the Cinema Museum; the remainder of the site is taken up by service roads, car parking, and scrubland; the environment being threatening, insecure and lacking surveillance. There is no northern or north eastern access or egress to the site and the Site is fundamentally disconnected from the urban fabric, its continued existence in this form, in this location, effectively a failure of planning.
- (b) The borough boundary with Southwark, the boundary with Central Activity Zone, the boundary with the Elephant and Castle Major Centre and the boundary with the Elephant and Castle Opportunity Area all run adjacent to the Site to the east. It is in effect zero metres distance from these key designations; it has a PTAL of 6A/ 6B and is some 550m walking distance from the Elephant and Castle tube station.
- (c) The Site is firmly within the typologies of Central London. Kennington and the Elephant and Castle have been subject of significant change over the recent past changing the nature of the surrounding area substantially.
- (d) I consider that the appeal site is a prime location for new residential development. It has the capacity to accommodate the proposed development and will do so without placing unacceptable pressure on local infrastructure.

8.1.2 Planning History

- (a) The Site itself has little planning history, however that of the immediate environment and referenced in the proof demonstrate that the area has undergone substantial change in recent years and is characterised by high density development.

8.1.3 The Development Plan

- (a) Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. 8.2 The Development Plan in this case comprises:
 - (i) The London Plan (2016) ("the London Plan");
 - (ii) The Lambeth Local Plan (2015)
- (b) I have also referred in my evidence to the Draft London Plan (2020) and other relevant local and strategic guidance.

8.1.4 Rule 6

- (a) I do not consider the Rule 6 Party or third-party representations raise any new material considerations that have not been addressed whether in the proof or in the Statement of Common Ground.

8.1.5 My Assessment

- (a) The technical evidence covering other matters demonstrates that there are no other material considerations which justify refusal. In these circumstances, there is no basis on which to set aside the presumption in favour of sustainable development.
- (b) There is a clear and compelling case in favour of the grant of planning permission for the Proposed Development.
- (c) A full heritage assessment has been carried out and the levels of harm been determined. These are at the lower end of less than substantial, and the appropriate balancing with benefits has been fully carried out.
- (d) If, notwithstanding the Appellant's evidence, the Inspector concludes that the Proposed Development does not accord with the Development Plan in one or more material respects, then material considerations, namely the significant benefits of the Proposed Development, do indicate otherwise and therefore indicate that permission should be granted nonetheless.
- (e) The Proposed Development will secure the long overdue redevelopment of an unattractive brownfield urban site with a scheme of high-quality architecture, which will enhance the character, appearance and significance of the area.
- (f) The Proposed Development will secure: -
 - (i) A development which maximises the potential of the Site providing new housing which will contribute to meeting the housing needs of the Borough and London;
 - (ii) The creation of a high-quality, residential development in a highly sustainable location which positively contributes to the character of the local area;
 - (iii) Specifically, the early delivery of 258 new high-quality homes, of an appropriate mix and size to respond to current pressing local housing needs;
 - (iv) The early delivery of affordable homes, representing 50% of the residential element of the approved scheme which are designed to a high quality, which will respond to a clearly defined, urgent need in this area;
 - (v) Improved setting to the Grade II Master's House
 - (vi) The future security of the Cinema Museum.
 - (vii) Improvements to the character and appearance of the area, enhanced townscape and the delivery of new high-quality public realm;
 - (viii) Regeneration of largely vacant and dilapidated site, resulting in greater integration of new and existing communities;
 - (ix) Exemplary standard of architecture which takes inspiration from the surrounding and historic context of the Site;
 - (x) Delivery of new pedestrian routes through the site, improving connectivity within the surrounding area;
 - (xi) Delivery of a car free and sustainable residential development in a highly accessible area; and
 - (xii) A payment towards the Mayoral and Lambeth's Community Infrastructure Levy, which will contribute towards the delivery of infrastructure in the area.

- (g) Set against these significant public benefits, which will be delivered if permission is granted, refusal will the loss of all of these benefits.
- (h) In contrast, the heritage-based objections equate to less than substantial harm which is outweighed by the significant public benefits. Further, the Appellant's evidence is that the architecture is outstanding, and of the highest quality, and will have a positive effect on both the skyline and the immediate vicinity of the Site.
- (i) Based on the evidence in this case, and in these circumstances, I consider that this Appeal should be allowed.

