



Ministry of Housing,
Communities &
Local Government

Ms Hannah Whitney
Lichfields
14 Regents Wharf
All Saints Street
London N1 9RL

Our ref: APP/N5660/V/20/3254203 &
APP/N5660/V/20/3257106

23 June 2021

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 – SECTION
12
APPLICATIONS MADE BY U AND I (8AE) LIMITED AND THE LONDON FIRE
COMMISSIONER
LAND AT 8 ALBERT EMBANKMENT AND LAND TO REAR BOUNDED BY LAMBETH
HIGH STREET, WHITGIFT STREET, THE RAILWAY VIADUCT, SOUTHBANK HOUSE
TOGETHER WITH LAND ON THE CORNER OF BLACK PRINCE ROAD AND
NEWPORT STREET, LONDON.
APPLICATION REFS: 19/01304/FUL & 19/01305/LB**

1. I am directed by the Secretary of State to advise that consideration has been given to the report of David Richards BSocSci DipTP MRTPI, who held a public local inquiry on 1–4 December, 8-11 December, 14 & 18 December 2020 into your client's application for planning permission and listed building consent for phased mixed use development including up to 443 residential units and comprising: part redevelopment and restoration, conversion and extension of former Fire Brigade Headquarters building and demolition of the existing extension and re-provision of obelisk to provide a new fire station (Sui Generis), a new London Fire Brigade museum (Class D1), residential units (Class C3), a ten storey hotel (Class C1) with up to 200 bedrooms and a flexible retail/lobby space (Classes A1/A2/A3/A4/C1), and a rooftop restaurant with ancillary bar (Class A3); demolition and redevelopment of the central workshop building to provide buildings of up to twenty-six storeys plus basements, comprising business floorspace (Use Class B1), a gym (Class D2), retail units (Classes A1/A2/A3/A4) and residential units (Class C3); development of land to the rear to provide a eleven storey building plus basement, comprising a flexible commercial unit (Classes A1/A2/A3/A4/D1/D2/B1) and residential units (Class C3); all together with associated areas of new public realm, hard and soft landscaping, basement and surface parking, servicing, means of access and plant and

equipment, in accordance with applications 19/01304/FUL and 19/01305/LB, dated 29 March 2019¹.

2. On 5 August 2020, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's applications be referred to him instead of being dealt with by the local planning authority.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission and listed building consent is not granted.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendations. He has decided to refuse planning permission and refuse listed building consent. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR6, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the Inquiry

6. At the time of the Inquiry, the development plan included the 2016 version of the London Plan. The 2021 London Plan was adopted on 2 March. Relevant policies of the (then) emerging Plan were considered by the Inspector at the Inquiry. The Secretary of State does not consider that the adoption of the new London Plan raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on the applications, and he is satisfied that no interests have thereby been prejudiced.
7. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties.

Policy and statutory considerations

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be

¹ While the description of works in the Listed Building application is the same as that for the Planning application, the Listed Building application relates to the Western site which involves works to the listed buildings.

determined in accordance with the development plan unless material considerations indicate otherwise.

9. In this case the development plan consists of the London Plan (LP) 2021 and the London Borough of Lambeth Local Plan (LLP), adopted in 2015. The Secretary of State considers that relevant development plan policies include those set out at IR23-66. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
11. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Emerging plan

12. The emerging plan comprises the Draft Revised Lambeth Local Plan (DRLLP). The DRLLP was submitted to the Secretary of State in May 2020 and the examination has been completed.
13. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
14. The Secretary of State has given consideration to the DRLLP policies which are of most relevance to this case and these attract significant weight. These include H1 Maximising housing growth together with H4 Housing size and mix in new developments, ED3 Key Industrial and Business Areas (KIBAs), Q26 Tall and large buildings, Q2 Amenity, together with PN2 Vauxhall (through which the application site is allocated as Site 10).

Main issues

15. The Secretary of State agrees that the main issues are those set out by the Inspector at IR617.

Conserving and enhancing the historic environment

The effect on 8 Albert Embankment

16. The Secretary of State has carefully considered the Inspector's assessment at IR618-652, his conclusions at IR653-658 and then overall at IR833. For the reasons given in those paragraphs, he agrees with the Inspector that there would be harm to the significance of the building arising from the addition of the rooftop restaurant, [certain] internal alterations, and external changes affecting the rear elevation (IR653). He also agrees there would be harm to significance through the effective loss of the drill yard and that there would be harm to the setting of the listed building (also IR653).

17. The Secretary of State agrees with the Inspector's overall conclusion on 8 Albert Embankment at IR833, that there would be some harm to the significance of the London Fire Brigade HQ and that the two tall towers on the central site would diminish the visual importance of the listed building in its setting on the Albert Embankment. He further agrees that the harm to the listed buildings would be less than substantial, and that in accordance with the NPPF and relevant caselaw this harm should be accorded great importance and weight. The Secretary of State does however note that there would also be heritage benefits to be weighed against the harm through the restoration and reuse of the two listed buildings, and the removal of the 1980s CMC building (IR658). Like the Inspector, the Secretary of State will assess the weight to be given to these benefits in undertaking the planning balance below (IR658).

Effect on Albert Embankment Conservation Area (AECA)

18. The Secretary of State has also considered the Inspector's conclusions at IR659-666 and then overall at IR834. For the reasons given there, he agrees with the Inspector that the proposal would have a significant effect in the immediate surroundings, and certain elements would be visible from a wider number of locations (IR662). He also agrees that the less than substantial harm to the significance of listed buildings at 8 Albert Embankment would also affect the significance of the conservation area (IR663) and that the harm to the significance of the conservation area would be less than substantial (IR666).

Design and townscape effects

19. The Secretary of State has carefully considered the Inspector's analysis at IR667-674. For the reasons given the Secretary of State agrees that the harm identified [through design] principally arises from the changes to the listed building and the effects of tall buildings on its setting (IR674). He further agrees that the harm would be less than substantial (also IR674).

Effect on Lambeth Palace Gardens, Archbishop's Park, Old Paradise Gardens and Lambeth Palace Conservation Area

20. For the reasons given at IR675-679, the Secretary of State agrees with the Inspector that there would be very limited and certainly less than substantial harm to the setting of Lambeth Palace (IR678). Furthermore he agrees that while the two towers would be highly visible from Old Paradise Gardens, the presence of the tall buildings would not render the Gardens of less value for outdoor recreation, or seriously diminish the significance of the Gardens in the Conservation Area (IR679). He also agrees the harm would be less than substantial (IR679) both to the setting of Lambeth Palace and the associated conservation area (IR834).

Effects on the setting of the Palace of Westminster World Heritage Site (WHS)

21. The Secretary of State has carefully considered the Inspector's analysis at IR680-708, noting the policy protection for the WHS is set out at IR681-684. He further notes the Inspector's analysis in respect of certain magnified and unmagnified views (IR695 – 698) and that the development would be visible from [particular LVMF views - i.e. Primrose Hill and Parliament Hill East of Summit] behind the palace of Westminster, and agrees it would make the upper parts of the silhouette more difficult to distinguish (IR835). In doing so he also agrees with the Inspector that although the architectural and historic interest of the WHS is of the highest significance and its visibility in the wider setting contributes importantly to that significance, the harm to the setting would be less than substantial (IR699) albeit given that any harm to Outstanding Universal Value (OUV) should attract 'the maximum weight possible in decision making' (IR700).

22. For completeness, the Secretary of State agrees with the Inspector's analysis at IR706-707, and, like the Inspector, does not consider the proposal would cause harm to the significance of Smith Square and Millbank Conservation Areas (IR708).
23. He agrees with the Inspector's conclusion in IR709 that there would be less than substantial harm to the OUV of the Palace of Westminster WHS, as reaffirmed at IR835.

Overall conclusion on heritage impacts

24. The Secretary of State agrees with the identified less than substantial harm to the various heritage assets set out at IR710. He similarly considers that in accordance with the Framework and relevant caselaw that great weight should be attached to that harm. He further agrees that the identified heritage harms would involve a degree of conflict with the relevant development plan policies (IR836) particularly in respect of aspects of LLP site allocation Policy PN2 (Site 10), but also others including LP policies HC1 and HC4 and LLP policy Q22 in respect of the historic environment.

Living conditions of neighbouring residents with particular reference to daylight and sunlight effects

Daylight effects

25. For the reasons given at IR725-729 the Secretary of State agrees with the Inspector in that he accepts that the proposal would have a major adverse impact on the 24 rooms on the lower floors of Whitgift House (IR731). He also agrees with the Inspector's analysis of daylight effects at 2 Whitgift Street (IR732-735). He further agrees with the Inspector's analysis of daylight effects at 72-79 Black Prince Road (IR736-738), 9 Albert Embankment (IR739-742) and other buildings (IR743-748).

Acceptability of daylight impacts

26. The Secretary of State has considered the Inspector's analysis at IR749-760 of the acceptability of daylight effects. For the reasons given there, he agrees with the Inspector's conclusion at IR759 that the proposal would result in some significant individual reductions in daylight levels to a limited number of properties. He agrees that those reductions at Whitgift House and 2 Whitgift Street would result in reductions greater than Building Regulations Establishment (BRE) guidelines, in some cases substantially so, and residents [at Whitgift House and 2 Whitgift Street] would experience an unacceptable increase in gloominess. Accordingly, like the Inspector he attaches very significant weight to the harm to the occupiers of these two properties (IR759). He further agrees with the Inspector's conclusion at IR760 that there would be some other – mostly minor to moderate – adverse effects on daylighting at a number of other properties.

Sunlight effects

27. For the reasons given at IR761-765, the Secretary of State agrees with the Inspector that the development would have a very limited adverse impact on levels of sunlight to the windows of affected properties, or to neighbouring gardens/amenity spaces (IR765).

Overall conclusion on living conditions

28. For the reasons set out above the Secretary of State agrees with the Inspector overall, that there would be harm to the living conditions of residents by reason of significant loss of daylight to windows and habitable rooms, principally affecting Whitgift House and 2 Whitgift Street (IR837). He considers that the identified harms would involve a degree of conflict with the relevant development plan policies particularly in respect of aspects of LLP site allocation Policy PN2 (Site 10) as well as LLP policy Q2 and LP policies D3 and D6.

Amenity of neighbouring community and other uses

29. For the reasons given at IR766-770 the Secretary of State agrees with the Inspector that it is clear that the Garden Museum is a great cultural and community asset to the locality and to London. However, he further agrees that he is unable to find any persuasive evidence that the proposed development would be harmful to the Garden Museum's continuing success, or would prevent it developing its work in the community, including the greening and enhancement of adjacent spaces (IR770).
30. For the reasons given at IR771-776 the Secretary of State agrees that the Beaconsfield Gallery would still receive adequate levels of daylight and sunlight in its key spaces and agrees that its use would not be compromised or its future threatened by the development.
31. Overall, he agrees with the Inspector at IR777 that there would be no significant adverse effect on the levels of sunlight and daylight reaching community uses and associated spaces in the neighbourhood of the development.

Delivering a sufficient supply of homes

32. The Secretary of State notes that there is no dispute between the parties that Lambeth can maintain its five-year supply of housing without the additional units proposed (IR783) and that housing delivery is generally on track (IR796). For the reasons given at IR778-797, he agrees with the Inspector that it is clear from the NPPF and relevant Local Plan policies that the contribution of 443 dwellings, including 40% affordable housing, should carry substantial weight in the balance (IR796).

The supply of land for employment use

33. The Secretary of State notes that the central and east sites lie within the South Bank House and Newport Street Key Industrial and Business Area (KIBA). He has given careful consideration to the analysis at IR798-815 and further notes that the Inspector considers the application scheme includes a very substantial element of residential development on the KIBA site, [and] is stretching the range of permissible interpretations of Policy PN2 Site 10 (IR808). Notwithstanding the aforementioned reservation, having considered the analysis at IR808-815, the Secretary of State agrees that the scheme would deliver a very substantial increase in the number of jobs provided on the site and that the mix of uses would broadly accord with policy objectives for the area (IR815). Accordingly, the Secretary of State attributes substantial weight to this benefit.

Other matters

Loss of sui generis uses, transport and Optimum Viable Use (OVU)

34. The Secretary of State has considered the Inspector's analysis at IR816 in relation to the potential conflict with LLP Policy S1 arising from the conversion of much of the Fire Station building to residential and redevelopment of the Workshop site for residential/employment use. For the reasons given, he agrees that the Application scheme would not involve any conflict with the provisions of LLP Policy S1.
35. The Secretary of State agrees with the Inspector's analysis of transport evidence at IR817-824. He agrees with the Inspector at IR824 that there is no reason to withhold consent on traffic and transport grounds.

36. The Secretary of State agrees with the Inspector's analysis of OVU at IR825-830 given there is no other scheme with planning permission to make comparisons with before the Inquiry, nor any costed alternative scheme (IR830).

Planning conditions

37. The Secretary of State has given consideration to the Inspector's analysis at IR591-595, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing planning permission.

Planning obligations

38. Having had regard to the Inspector's analysis at IR596-615, the planning obligation dated 16 December 2020, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR596-615 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for refusing planning permission.

Planning balance and overall conclusion

39. For the reasons given above, the Secretary of State considers that the application is not in accordance with a number of development plan policies; particularly, key principles in respect of heritage and residential amenity of the LLP site allocation Policy PN2 (Site 10), but also others including LP policies HC1 and HC4 and LLP policy Q22, in respect of the historic environment and LP policies D3, D6 and LLP policy Q2, in respect of residential amenity. Therefore, the Secretary of State considers that the application is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

40. Weighing against the proposal is the less than substantial harm to a number of important heritage assets from the impact of the proposed tall buildings; to the significance of 8 Albert Embankment (former London Fire Brigade HQ and drill tower), to the significance of the Albert Embankment Conservation Area, to the setting of Lambeth Palace and the associated conservation area and to the setting of the Palace of Westminster WHS. Collectively this harm is apportioned great weight and also puts the development in conflict with key principles of the site allocation policy in respect of heritage. Significant weight is apportioned to the harm to residential amenity by virtue of loss of daylight and sunlight at flats within Whitgift House and 2 Whitgift Street, which also conflicts with relevant principles of the site allocation policy. Furthermore, the Secretary of State attributes significant weight from the conflict with emerging local plan policy in the DRLLP including on tall buildings at this location specifically within the allocation.

41. Weighing in favour of the proposal are the delivery of 443 new dwellings, including 40% affordable housing, which the Secretary of State accords substantial weight. He considers the creation of space for some 1,264 on-site jobs across a range of sectors also attracts substantial weight. The restoration and reuse of the Grade II-listed former

London Fire Brigade HQ building and separately Grade II-listed drill tower, which would secure their long-term futures, attracts considerable weight. The provision of a new 'fit-for-purpose' fire station and emergency base for central London also attracts considerable weight. The creation of a permanent home for the London Fire Brigade Museum attracts further considerable weight. The creation of 1,084m² of new public realm, including a range of squares and spaces with active commercial frontages, attracts moderate weight.

42. The Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the London Fire Brigade HQ and drill tower and the Albert Embankment Conservation Area, as well as to the setting of Lambeth Palace and the associated conservation area and the setting of the Palace of Westminster, is outweighed by the public benefits of the proposal. In accordance with the s.66 duty, he attributes considerable weight to the harm. As per paragraph 41 of this letter, there are numerous public benefits to weigh against the identified heritage harms.
43. The Secretary of State has given careful consideration to the public benefits of the scheme and concludes that overall the heritage harms are not outweighed by the public benefits of the scheme. He considers that the balancing exercise under paragraph 196 of the Framework is therefore not favourable to the proposal.
44. Overall the Secretary of State considers that the material considerations in this case indicate a decision in line with the development plan – i.e. a refusal of permission.
45. The Secretary of State therefore concludes that planning permission and listed building consent should be refused.

Formal decision

46. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses planning permission and listed building consent for phased mixed use development including up to 443 residential units and comprising: part redevelopment and restoration, conversion and extension of former Fire Brigade Headquarters building and demolition of the existing extension and re-provision of obelisk to provide a new fire station (Sui Generis), a new London Fire Brigade museum (Class D1), residential units (Class C3), a ten storey hotel (Class C1) with up to 200 bedrooms and a flexible retail/lobby space (Classes A1/A2/A3/A4/C1), and a rooftop restaurant with ancillary bar (Class A3); demolition and redevelopment of the central workshop building to provide buildings of up to twenty-six storeys plus basements, comprising business floorspace (Use Class B1), a gym (Class D2), retail units (Classes A1/A2/A3/A4) and residential units (Class C3); development of land to the rear to provide a eleven storey building plus basement, comprising a flexible commercial unit (Classes A1/A2/A3/A4/D1/D2/B1) and residential units (Class C3); all together with associated areas of new public realm, hard and soft landscaping, basement and surface parking, servicing, means of access and plant and equipment, in accordance with application ref applications 19/01304/FUL and 19/01305/LB, dated 19 March 2019.

Right to challenge the decision

47. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for

leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

48. A copy of this letter has been sent to the Council of the London Borough of Lambeth and Rule 6 parties, Lambeth Village and Westminster Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

MA Hale

Mike Hale

This decision was made by the Minister of State for Housing on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
ALLEN, G	10/04/2021
BALL, M	02/04/2021
BALL, M (on behalf of Lambeth Village)	07/05/2021
BELL, B	10/04/2021
BOLTON, J	20/05/2021
BOYLE, J	28/04/2021
BRAINCH, H	10/04/2021
BRICE, C	12/04/2021
CHANDRASEKERA, V (on behalf of Lambeth Village)	15/06/2021
CHEUNG, W-K	10/04/2021
CLARK, R	04/05/2021
CODRINGTON, S	05/05/2021
CONRAN, V	10/04/2021
CRAWFORD, R	07/05/2021
CROSS, S	13/04/2021
DEAN, M	06/06/2021
ETTLINGER, P	05/04/2021
EVERS, M	12/04/2021
GEDDES, F	05/04/2021
GREENWAY, D	10/04/2021
GREGORY, L	07/06/2021
GREGORY, W	14/06/2021
HOUSSEIN, G	07/06/2021
HUGHES, A	26/05/2021
KANE, M	01/05/2021
KEARNEY, D	03/05/2021
KWAN, H	12/04/2021
LAWRENCE, M	01/05/2021
LEADLAY, E	03/03/2021
MARTINEAU, A	19/04/2021
McFARLAND, G	09/06/2021
MUKUMA, D	06/04/2021
NELSON, S	24/04/2021
NOUSIANINEN, J	07/06/2021
ORR, J	25/04/2021
PERRY, G	13/04/2021
PREECE, C	07/05/2021
PRIZEMAN, S	17/05/2021
ROBERTS, J	01/05/2021
ROE, T	09/05/2021
ROWLEY, A	07/05/2021
SAINT, A	02/05/2021

SANDHAM, G	11/04/2021
SEARCHWELL, M	01/05/2021
SEMPER, G	06/06/2021
SHARMA, R	14/05/2021
SIDERFIN, N	06/06/2021
SMITH, T	07/05/2021
STILES, J	02/05/2021
TANDY, C	06/06/2021
TAYLOR, B	10/04/2021
TIMBERLAKE, J	07/06/2021
TURNER, G	08/04/2021
TURNER, J	10/04/2021
USTAOGU, B	06/05/2021
WALLIS, K	09/04/2021
WAUGH, S	10/05/2021
WEBB, T	05/04/2021
WEBB, T	15/06/2021
WEIGHT, A	14/06/2021
WINSTONE, E	06/06/2021



Report to the Secretary of State for Housing, Communities and Local Government

by **David Richards** BSocSci DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Date 22 March 2021

TOWN AND COUNTRY PLANNING ACT 1990

LONDON BOROUGH OF LAMBETH

APPLICATIONS BY U + I LTD AND THE LONDON FIRE COMMISSIONER

**8 Albert Embankment and land to rear bounded by Lambeth High Street,
Whitgift Street, the Railway Viaduct, Southbank House together with land
on the corner of Black Prince Road and Newport Street, London**

Inquiry Held on 1 – 4 December, 8 – 11 December, 14 & 18 December 2020

File Ref(s): APP/N5660/V/20/3254203 & APP/N5660/V/20/3257106

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ABBREVIATIONS USED IN THIS REPORT

8AE	8 Albert Embankment
9AE	9 Albert Embankment
ADF	Average Daylight Factor
AECA	Albert Embankment Conservation Area
AH	Affordable Housing
AUV	Alternative Use Value
BRE	Building Regulations Establishment
CAZ	Central Area Zone
CD	Core Document
CIL	Community Infrastructure Levy
DRLLP	Draft Revised Lambeth Local Plan 2020
FVA	Financial Valuation Assessment
GLA	Greater London Authority
HE	Historic England
HTVIA	Heritage, Townscape and Visual Impact Assessment
ICOMOS	International Council on Monuments and Sites
KIBA	Key Industrial and Business Areas
LAC	London Advisory Committee (of Historic England)
LBL	London Borough of Lambeth
LFB	London Fire Brigade
LFC	London Fire Commissioner
LP 2021	London Plan 2021
LP (ITP)	London Plan (Intend to Publish) 2019 (draft review of the London Plan)
LLP	Lambeth Local Plan 2015 – the adopted plan
LPCA	Lambeth Palace Conservation Area
LVMF	London View Management Framework
NPPF	National Planning Policy Framework
NSL	No sky line
OA	Opportunity Area
OUV	Optimum Use Value
POW	Palace of Westminster
PPG	Planning Practice Guidance
SoCG	Statement of Common Ground
SoS	Secretary of State (for Housing, Communities and Local Government)
SPG	Supplementary Planning Guidance
VNEB	Vauxhall, Nine Elms, Battersea Opportunity Area
VSC	Vertical Sky Component
WHS	World Heritage Site
XIC	Examination in chief
XX	Cross examination

File Ref: APP/N5660/V/20/3254203

8 Albert Embankment and land to rear bounded by Lambeth High Street, Whitgift Street, the Railway Viaduct, Southbank House together with land on the corner of Black Prince Road and Newport Street, London.

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 11 June 2020.
- The application is made by U & I (8AE) Limited and the London Fire Commissioner to the Council of the London Borough of Lambeth.
- The application Ref. 19/01304/FUL is dated 29 March 2019.
- The development proposed is phased mixed use development including up to 443 residential units and comprising: part redevelopment and restoration, conversion and extension of former Fire Brigade Headquarters building and demolition of the existing extension and re-provision of obelisk to provide a new fire station (Sui Generis), a new London Fire Brigade museum (Class D1), residential units (Class C3), a ten storey hotel (Class C1) with up to 200 bedrooms and a flexible retail/lobby space (Classes A1/A2/A3/A4/C1), and a rooftop restaurant with ancillary bar (Class A3); demolition and redevelopment of the central workshop building to provide buildings of up to twenty-six storeys plus basements, comprising business floorspace (Use Class B1), a gym (Class D2), retail units (Classes A1/A2/A3/A4) and residential units (Class C3); development of land to the rear to provide a eleven storey building plus basement, comprising a flexible commercial unit (Classes A1/A2/A3/A4/D1/D2/B1) and residential units (Class C3); all together with associated areas of new public realm, hard and soft landscaping, basement and surface parking, servicing, means of access and plant and equipment.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - a) The extent to which the proposed development is consistent with the Government policies for delivering a sufficient supply of homes (NPPF Chapter 5);
 - b) The extent to which the proposed development is consistent with the Government policies for conserving and enhancing the historic environment (NPPF Chapter 16);
 - c) The extent to which the proposed development is consistent with the development plan for the area including any emerging plan;
 - d) and any other matters the Inspector considers relevant.

Summary of Recommendation: I recommend that planning permission is not granted.

File Ref: APP/N5660/V/20/3257106

8 Albert Embankment, London

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 5 August 2020.
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- The application Ref. 19/01305/LB, was dated 29 March 2019.
- The works proposed are phased mixed use development including up to 443 residential units and comprising: part redevelopment and restoration, conversion and extension of former Fire Brigade Headquarters building and demolition of the existing extension and re-provision of obelisk to provide a new fire station (Sui Generis), a new London Fire Brigade museum (Class D1), residential units (Class C3), a ten storey hotel (Class C1) with up to 200 bedrooms and a flexible retail/lobby space (Classes A1/A2/A3/A4/C1), and a rooftop restaurant with ancillary bar (Class A3); demolition and redevelopment of the central workshop building to provide buildings of up to twenty-six storeys plus basements, comprising business floorspace (Use Class B1), a gym (Class D2), retail units (Classes A1/A2/A3/A4) and residential units (Class C3); development of land to the rear to provide

a eleven storey building plus basement, comprising a flexible commercial unit (Classes A1/A2/A3/A4/D1/D2/B1) and residential units (Class C3); all together with associated areas of new public realm, hard and soft landscaping, basement and surface parking, servicing, means of access and plant and equipment¹.

- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - a) The extent to which the proposed development is consistent with the Government policies for delivering a sufficient supply of homes (NPPF Chapter 5);
 - b) The extent to which the proposed development is consistent with the Government policies for conserving and enhancing the historic environment (NPPF Chapter 16);
 - c) The extent to which the proposed development is consistent with the development plan for the area including any emerging plan;
 - d) and any other matters the Inspector considers relevant.

Summary of Recommendation: I recommend that Listed Building Consent is not granted.

¹ While the description of works in the Listed Building application is the same as that for the Planning application, the Listed Building application relates to the Western site which involves works to the listed buildings.

PROCEDURAL MATTERS

1. The applications were the subject of a 'resolution to grant' by Lambeth Council at its Planning Applications Committee meeting on 3 December 2019, but on 11 June 2020 the Planning Casework Unit of the Ministry of Housing, Communities and Local Government (MHCLG) notified the parties that the Secretary of State (SoS) had decided to call in the planning application under Section 77 of the Town and Country Planning Act 1990. Subsequently on 5 August 2020 the associated listed building consent application was also called in by the SoS.
2. The planning application was advertised as a departure from policy on the basis that it is not in accordance with the site allocation 10 in LLP Policy PN2, which states that the Council will support development on the site subject to a number of design principles and key development considerations, in particular (iv) *'relates in height and bulk to the adjacent townscape taking into account the height, massing and scale of neighbouring buildings and the historical built form of the area; the heritage sensitivity of the site makes it inappropriate for tall building development.'*
3. The matters on which the SoS particularly wished to be informed are set out in the headers above. I held a case management conference on 16 October 2020 at which I informed the parties that, having regard to the matters identified by the SoS, I wished to hear evidence on the following:
 - The extent to which the proposed development is consistent with the Government policies for conserving and enhancing the historic environment (NPPF Chapter 16) including:
 - a) The effect of the proposals on the significance of the host building (Lambeth Fire Station) and significance of other neighbouring heritage assets in LB Lambeth:
 - b) The effect of the proposals on the setting of the Palace of Westminster (World Heritage Site), with particular reference to protected views from Primrose Hill and Parliament Hill.
 - The effect of the proposals on the living conditions of neighbouring residents with particular reference to daylight and sunlight effects.
 - The effect of the proposals on the amenity of neighbouring community and other uses.
 - The extent to which the proposed development is consistent with the Government policies for delivering a sufficient supply of homes (NPPF Chapter 5).
 - The effect of the proposal on the supply of land for employment use in Lambeth Borough.
 - Matters raised by residents and others, including traffic impacts.
 - Any benefits to be weighed in the planning balance.
4. The Inquiry sat for 10 days between 1 and 18 December 2020. Objectors to the scheme were represented by a consortium of Rule 6 Parties which included Lambeth Village, The Garden Museum, and the Beaconsfield Gallery. A representative of Historic England attended the Inquiry on 10 December 2020 to answer questions from the various parties.
5. By agreement with the parties I carried out site visits on 25 and 26 November 2020. On 25 November I visited Parliament Hill and Primrose Hill unaccompanied, to aid understanding of the effects on the setting of the Palace of Westminster

World Heritage Site (WHS). Visibility was fair though the sky was overcast. I also walked the area surrounding the appeal site in the evening. On 26 November I undertook a programme of accompanied site visits following a route agreed with the parties, which included the Fire Brigade Headquarters, the Workshop and Training Centre, The Garden Museum, Lambeth Palace Road, Archbishop's Gardens, the Newport Street Gallery (exterior only), the premises of James Knight Mayfair, and the Beaconsfield Gallery. I also visited private residences in Whitgift House, Black Prince Road and 9 Albert Embankment.

6. The planning application was accompanied by an Environmental Statement (ES). On 25 October 2020 the Planning Inspectorate sent a Regulation 25 letter to the Applicant identifying some inconsistencies in the ES and requesting clarification of other points. The Applicant provided further information in a report which comprehensively addressed the concerns on 3 December 2020 (CD X8). The document was posted on the Inquiry website, and although not a requirement of the regulations, the changes were advertised in the South London Gazette on 4 December 2020. No party at the Inquiry suggested that the ES was in any way deficient, and no responses were received to the advertisement. On 14 December 2020 the Planning Inspectorate confirmed to the Applicant that the issues raised in the Regulation 25 Request had been addressed. In my view, with the revisions and the additional information, the ES fully meets the requirements of the regulations and I have taken the environmental information into consideration in my assessment and recommendation.

THE SITE AND SURROUNDINGS

7. The site and surroundings are described in detail in the evidence and the statement of common ground (SoCG)².
8. The site (1.06 hectares) is located on the eastern side of Albert Embankment, at the junction with Black Prince Road. It is bounded by Whitgift Street to the north, the railway and Newport Street to the east, Southbank House and Black Prince Road to the south and Albert Embankment to the west
9. The site contains 17,714 m² of existing floorspace and is subdivided into three separate parcels of land by Lambeth High Street and the railway lines on a viaduct. The three parcels are referred to as the West Site, the Central Site and the East Site.
10. The whole site is allocated for mixed-use development, including residential and employment uses, under Policy PN2 Site 10 of the LLP, and Draft revised Lambeth Local Plan Submission Version. The central and east sites lie within the South Bank House and Newport Street Key Industrial and Business Area (KIBA).

West Site

11. The West Site (0.41 hectares) is bounded by Albert Embankment to the west, with the River Thames beyond; Black Prince Road to the south, beyond which are residential buildings of up to 13 storeys, and White Hart Dock; the International Maritime Organisation Headquarters to the north, of up to ten storeys, and the Windmill public house; and Lambeth High Street to the east, beyond which is the Central Site.

² CD N1

12. The West Site includes a Grade II listed building constructed in 1937 as the headquarters of the London Fire Brigade (LFB), of up to 10 storeys with 8,650 m² floorspace. The building is in 'Sui Generis' use as Lambeth Fire Station, with offices and sleeping accommodation above, although the upper floors are largely vacant.
13. To the rear, in the south-west corner of the parcel, is a vacant 3 storey 1980's extension, known as the Communications Mobilising Centre (CMC) Building, with a floorspace of 1,763 m². The extension forms part of the listed building, although the listing description identifies it as not of special interest.
14. The remainder of the site is made up of a hard-surfaced drill yard, used by the fire brigade for parking, training and fire related operations. The yard contains a stone Obelisk, built in 1940 as a ventilation shaft for a war-time underground bunker but never used for that purpose. On the east side of the yard is the Grade II listed 10 storey Drill Tower (135 m² GIA), also constructed in 1937, still in use for training purposes by the fire brigade.

Central Site

15. The Central Site (0.61 ha) is bounded by Lambeth High Street to the west, with the West Site beyond; Whitgift Street to the north, beyond which are residential buildings of up to 6 storeys and Old Paradise Gardens park; the railway viaduct between Waterloo and Vauxhall Stations to the east, with industrial uses in the arches beneath; and the Grade II listed Southbank House to the south, of up to 6 storeys, formerly part of the Royal Doulton Factory, now in use as office space, with the 23 storey 81 Black Prince Road residential block beyond.
16. The site comprises an area of car parking that fronts onto Lambeth High Street; behind which is a two to four storey building known as The Workshop with a floorspace of 6,980 m².
17. Planning Permission for the Workshop to be used for a temporary period of time for 'meanwhile uses' for Museum and event space (Use Class D1) was first permitted in September 2016 (ref 16/03122/FUL) and the timescales for the temporary change of use were subsequently extended via s73 applications (ref. 17/05142/VOC and 18/04185/VOC).
18. In December 2019 a full planning application was submitted for the change of the Workshop from Sui Generis to a display and events space (Use Class D1) and offices/workspace (Use Class B1) extended temporary period (application ref. 19/04626/FUL). The application remains pending and is yet to be determined by LBL.

East Site

19. The East Site (0.03 hectares) lies on the east side of the railway viaduct. The north and west boundaries are formed by a car park associated with the former 'Ragged School' at 22 Newport Street, which lies to the north, currently used as the Beaconsfield Art Gallery; with Newport Street to the east and Black Prince Road to the south. The parcel previously provided surface level car parking associated with the fire station, but is currently in use as a plant nursery.

Surroundings

20. In the wider area between Albert Embankment and the railway viaduct there are a number of existing large-scale buildings, with recently completed, under-construction and consented schemes (primarily residential) to the south of up to 30 storeys; and buildings to the north of up to 14 storeys. To the east of the railway viaduct, the context is primarily low-rise residential up to 4 storeys, including some retail as part of Black Prince Road local centre. Damien Hirst's Newport Street Gallery lies approximately 150 metres to the north of the east parcel.
21. The West Site has a prominent frontage location to the river between Lambeth and Vauxhall Bridges. There are a number of open spaces in the locality which contribute to the diversity of uses and are highly valued by existing residents.
22. The site is bounded by the A3036 Albert Embankment to the west, which forms part of the Transport for London Road Network (TLRN). The Vauxhall transport interchange is within 900 metres of the site, providing access to National Rail, Victoria line London Underground, and a number of bus services. In addition, bus stops are located within 100 metres of the site on Albert Embankment.

PLANNING POLICY AND EMERGING PLANNING POLICY

23. The Development Plan consists of the London Plan 2021, and London Borough of Lambeth Local Plan (LLP), adopted in 2015.
24. The new London Plan was adopted on 2 March 2021, after the close of the Inquiry. All the evidence to the Inquiry was prepared on the basis of the London Plan 2016, and the draft London Plan (Intend to Publish) Version of December 2019.
25. On 21 December 2020 (also after the Inquiry closed) the Mayor wrote to the SoS with a revised version of the LP (The Publication Plan 2020), which contains the Mayor's changes in responses to Directions issued by the SoS on 13 March 2020 and 10 December 2020. These are set out in a schedule of modifications³. In issuing his directions the SoS's main concerns were: to achieve delivery of a consistently high level of housing supply in all tenures, including family sized homes in particular; support for ambitious Boroughs seeking to deliver above targets; removing limitations on Borough's abilities to choose more optimal uses for industrial sites where housing is in high demand; ensuring that development is brought forward to maximise site capacity, in the spirit of and to complement the surrounding area, not to its detriment; and, to that end; giving Boroughs the power to determine where tall buildings should be built within their communities. Key modifications as they affect this proposal are as follows (additions/deletions and changes underlined):
 - Policy D3 (A): Add 'Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site'
 - Policy D3 (B): Add 'Higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling'

³ https://www.london.gov.uk/sites/default/files/plp_2020_schedule_of_modifications.pdf

- Policy D9 B 3): Change to read: 'Tall buildings should only be developed in locations that are identified as suitable in Development Plans.'
 - Policy H10 (A)(9): Change to read: '...the need for additional family housing and the role of one and two bed units in freeing up existing family housing.'
26. With regard to Policies E4 and E7 which concern land for Industry, the SoS Direction requires the deletion of any reference to ensuring 'no net loss of industrial floorspace capacity (and operational yard space capacity) within designated SIL and LSIS', while continuing to recognise the need to provide essential services to the CAZ, including last mile distribution/logistics and other essential functions. Table 6.2, which included a list of those Boroughs (including Lambeth) where priority was given to retaining industrial land is deleted.
27. Section 38(5) of the Act states that where there is conflict between policies in different plans, the conflict must be resolved in favour of the more recent policy. If the SoS considers that the adoption of the new London Plan raises any policy issues which were not able to be addressed at the Inquiry, he will need to give consideration to seeking the further views of the parties in the interests of fairness.
28. The LLP is under review and a Draft Revised Lambeth Local Plan (DRLLP) was submitted to the SoS in May 2020. The Examination has been completed but the draft plan remains subject to unresolved objections at the present time.

Making effective use of land

29. The concept of 'Good Growth' – growth that is socially and economically inclusive and environmentally sustainable – underpins the LP 2021 and its policies. LP 2021 Policies GG1 to GG6 set overarching policies to achieve the Mayor's key priorities for building strong and inclusive communities, making the best use of land, creating a healthy city, delivering the homes Londoners need, growing a good economy, and increasing efficiency and resilience.
30. The LP 2021 identifies a Central Activities Zone (CAZ) and the appeal site is within this zone. CAZ Supplementary Planning Guidance (CAZSPG) was published in March 2016. Lambeth Council adopted a Vauxhall Supplementary Planning Document (VSPD) in January 2013, which states that iconic tall buildings of high quality will form a cluster around Vauxhall Cross.
31. The site lies within the LP's Vauxhall, Nine Elms and Battersea (VNEB) Opportunity Area Framework (Greater London Authority, 2012). The framework was prepared jointly by the Greater London Authority (GLA) and the London Boroughs of Lambeth and Wandsworth, and sets out the overall requirements for the area of London running southwards from Lambeth Bridge to the Nine Elms regeneration area and beyond. It notes in particular that '*high density mixed-use housing led intensification is anticipated on Albert Embankment*' (para 4.2)
32. It also forms an integral part of the area covered by the Vauxhall Supplementary Planning Document (VSPD) (LB Lambeth, 2013), connecting the character areas of Lambeth Gateway and Central Embankment and providing a link between Lambeth High Street, Albert Embankment and Newport Street. The West and Central Sites also lie within the Central Activities Zone (CAZ) as defined in Supplementary Planning Guidance (SPG) published by LB Lambeth in 2016. The LP confirms that, as an integral part of the CAZ, the VNEB Opportunity Area has

'potential to deliver greater levels of housing alongside employment than the other CAZ Opportunity Areas' and identifies capacity for 18,500 jobs and 18,500 new homes. Table 2.1 of the emerging DRLLP identifies a remaining capacity of 18,500 new homes and 18,500 new jobs in the VNEB Opportunity Area between 2019 and 2041, consistent with the LP figures.

33. Policy SD1A of the LP sets out measures to ensure that Opportunity Areas fully realise their growth and regeneration potential through the implementation of adopted planning frameworks. Policy D3 London Plan states that *'All development must make the best use of land by following a design-led approach that optimises the capacity of sites. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site⁴. 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 ... Development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness, through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.'*
34. The west and central sites are identified as Site 10 in LLP Policy PN2. The preferred uses include residential and employment. Exceptionally, configuration of the site to include some residential within the KIBA boundary may be considered, if it can be demonstrated that this is necessary to achieve an acceptable scheme in other respects. The amount of replacement employment should be maximised and should include space for small and medium enterprises. Under the heading 'Design principles and key development considerations', the policy identifies an opportunity to bring back into use these underused and vacant premises. *'The Council will support development that:*
- (i) provides a sympathetic reuse of the listed buildings without radical alteration or extension;*
 - (ii) (respects the silhouette of the head-quarters building as viewed from across the river;*
 - (iii) retains the ventilation obelisk on site;*
 - (iv) relates in height and bulk to the adjacent townscape taking into account the height, massing and scale of neighbouring buildings and the historic built form of the area; the heritage sensitivity of the site makes it inappropriate for tall building development;*
 - (v) ensures that 8 Albert Embankment continues to make a positive contribution to the townscape;*
 - (vi) makes sure both existing and new residential amenity is protected;*
 - (vii) focuses employment uses in and around the viaduct and Lambeth High Street;*
 - (viii) provides active frontages opposite the local centre on Black Prince Road and along Lambeth High Street;*
 - (ix) does not provide ground-floor residential uses on any part of the site;*
 - (x) provides public realm improvements to Albert Embankment, Lambeth High Street, Black Prince Road and Whitgift Street, to reduce traffic dominance and promote walking and cycling;*
 - (xi) maximises the amount of replacement employment and includes space for small and medium enterprises;*

⁴ Underlined section new in the LP 2021.

- (xii) *provides a mixed and balanced community with an acceptable mix, tenure split/ distribution of residential accommodation;*
 - (xiii) *allows for the potential to connect to a future district-wide combined heat and power network.'*
35. Subsection k. of Policy PN2 states that development that is appropriate to the different characteristics and roles of distinct character areas of Vauxhall will be supported. The appeal site lies in the 'Central Embankment' character area, where the policy supports enhancing the appearance and character of Albert Embankment, with active ground floor frontages and an expanded range of employment and residential uses. It supports the area becoming highly accessible and well connected to the surrounding area, and maintaining and improving safe access to the river. Development should not create a wall effect through ensuring variation in the roof line and sufficient gaps between buildings, safeguarding strategic and local views and historic environment.
36. The allocations in Policy PN2 have been carried forward into the DRLLP, though the reference to avoiding the creation of a wall effect does not appear in the draft.

Employment Provision

37. Policy E4 of the LP 2021 requires a sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions to be provided and maintained, taking into account reviews, audits and the potential for co-location and substitution. This should make provision for varied operational requirements including light and general industry, 'last mile' distribution, flexible hybrid space and low cost space for small and micro businesses. Part C. of the Policy requires the retention, enhancement and provision of additional industrial capacity on identified locally significant industrial sites (LSIS). However, prior to adoption, the SoS directed the deletion of a reference to 'no net loss of industrial floorspace capacity (and operational yard space capacity' which appeared in the LP (ITP), but which the SoS considered to be too restrictive. Para 6.1.5 of the LP 2021 also notes that 'sufficient space to accommodate demand for workspace suitable for SMEs and for new and emerging industries is also required, including the needs of micro-firms'. Para 6.1.4 references the wide range of industrial, logistics and related uses that are essential to the functioning of London's economy and for servicing the needs of its growing population.
38. Policy ED1 of the LLP identifies a number of 'Key Industrial Business Areas' (KIBAs) in Lambeth. Parts of the application site (the Central and East sites) falls within a KIBA, which are described as 'Lambeth's strategic reservoirs of land for business use' in the LLP. The Policy states that 'Development in KIBAs will be permitted only for business, industrial, storage and waste management uses, including green industries and other compatible industrial and commercial uses ... ancillary to, or providing for, the needs of the KIBA'. In the explanatory text, paragraph 6.10 states that in the case of the Southbank House and Newport Street KIBA which falls within the VNEB Opportunity Area, KIBA policy takes priority over other policies in the plan.
39. LB Lambeth carried out a review of KIBAs in 2019, and the DRLLP states that they are 'well-occupied and provide land for lower value uses, support functions and the growing low-carbon economy (including waste management), as well as

growth sectors such as the creative and digital industries and food preparation and distribution'. In the DRLLP Policy ED3 includes a new provision that areas of KIBA land with potential for both intensification and co-location with residential and other uses are shown on the Policies Map. A 50% affordable housing threshold will apply to proposals of this nature if there is a net loss of industrial floor space capacity, in accordance with LP Policy H6. The reference to KIBA policy taking priority over other policies has been deleted in the DRLLP.

40. With regard to the proposed change of use of the listed building, Policy ED2 (b) of the LLP resists the loss of land or floorspace in business, industrial or storage (B class) use, or in employment generating sui generis use unless clear and robust evidence is submitted which shows there is no demand for floor space, including evidence of vacancy and continuous marketing. An exception may be made where the proposal secures major planning priorities for which there is a demonstrable need, which cannot be achieved in any other way, for example local community or cultural uses, or the restoration to its original use of a listed building.
41. LLP Policy E12 supports the provision of hotels in the CAZ and VNEB Opportunity Area, provided it does not unacceptably harm the balance and mix of uses in the area, including services for the local residential community. The DRLLP includes a revised policy on hotels (Policy ED14) which supports additional visitor accommodation in Vauxhall outside of wholly or predominantly residential areas. Strategically important hotels should be located within the CAZ and will be supported where they are part of a mixed use development, do not result in a loss of office space, and do not cause unacceptable harm to local amenity or the balance of land uses.
42. LLP Policy ED11 provides support for the provision of leisure, recreation, arts and cultural facilities in the Borough.

Historic Environment

43. Policy HC1 of the LP (2021) part C states that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the asset's significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their setting should also be actively managed. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process. This Policy is unchanged from the LP (ITP).
44. Policy HC4 is concerned with the London View Management Framework. Development proposals should not harm, and should seek to make a positive contribution to, the characteristics and composition of strategic views and their landmark elements. They should also preserve and, where possible, enhance viewers' ability to recognise and to appreciate strategically important landmarks in these views and, where appropriate, protect the silhouette of landmark elements of World Heritage Sites as seen from designated viewing places. Development in the foreground, middle ground or background of a designated view should not be intrusive, unsightly or prominent to the detriment of the view. Where a silhouette of a WHS is identified by the Mayor as prominent in a designated view, and well preserved within its setting with clear sky behind, it should not be altered by new development appearing in its background.

Assessment and should take into account the effects of distance and atmospheric or seasonal changes.

45. Policy Q22 of the LLP requires proposals affecting conservation areas to preserve or enhance the character of the conservation area by respecting and reinforcing the established, positive characteristics of the area and protecting the setting of the conservation area. Demolition will only be supported if the structure does not make a positive contribution to the character or appearance of the area, a suitable replacement has been granted permission and arrangements are in place to ensure a contract for a replacement building to be erected is let before demolition occurs. Policy Q23 resists the destruction of undesignated heritage assets included in a local heritage list. Policy Q24 requires that development proposals along the River Thames enhance the character of the river frontage and views from the opposite bank. Policy Q25 resists harm to the significance of Strategic Views defined in the LVMF. These policies have been carried forward to the DRLLP.

Housing Provision

46. Policy H1 of the LP 2021 requires Boroughs to optimise the potential for housing delivery on all suitable and available brownfield sites, particularly sites with a good PTAL rating. Table 4.1 sets out a 10 year housing requirement for Lambeth of 13,350 dwellings, an increase of approximately 11% compared with the adopted LLP requirement, giving an annual housing target of 1,335 homes. In his directions prior to the adoption of the LP 2021, the SoS expressed support for ambitious Boroughs seeking to deliver above targets.
47. The LP 2021 (Policies H4, H5 and H6) seeks to create mixed and inclusive communities by providing a range of choice and tenures. All schemes should maximise the delivery of affordable housing and make the most efficient use of available resources, subject to viability considerations and individual site circumstances. The strategic target is for 50% of all new homes delivered across London to be genuinely affordable, with public sector land delivering at least 50% affordable.
48. On housing size/mix, LP 2021 Policy H10 identifies that schemes should generally consist of a range of unit sizes and deliver mixed inclusive neighbourhoods. Regard should be had to robust local evidence of need where available. Where this is not available, the range of housing need and demand identified by the 2017 London Strategic Housing Market Assessment should be used. Policy H10 6) advises that a higher proportion of one and two bed units will generally be more appropriate in locations which are closer to a town centre or station or with higher public transport access and connectivity. Under Policy H10 9) regard should also be had to the need for additional family housing and the role of one and two bed units in freeing up existing family housing.⁵
49. LLP Policy H2 'Delivering affordable housing' states that the Council will seek the maximum reasonable amount of affordable housing, at least 50% where public subsidy is available. On sites of 10 units or more without public subsidy, at least 40% of units should be affordable. The policy requires affordable housing to be provided on site other than in exceptional circumstances. Part d of the Policy

⁵ Underlined section new in the LP 2021.

provides that a financial appraisal will be required if the affordable housing provision is less than the specified policy requirements. In considering the nature of the affordable housing to be sought in a particular case, the specific circumstances of the individual site, including development viability, the characteristics of an area and the impact on mixed and balanced communities should be taken into account. The policy also requires 70% of affordable housing units to be for rent and 30% to be intermediate.

50. LLP Policy H4 2 (e) and H4 (i) states that affordable housing should reflect the preferred borough wide housing mix of i) not more than 20% 1 bedroom units, ii) 20-50% 2 bedrooms units and iii) 40% 3+bedrooms units. Policy H4 (ii) states that 'For market housing, a balanced mix of unit sizes including family-sized accommodation should be provided'.
51. The London Affordable Housing and Viability SPG (2017) promotes the delivery of a range of tenures, including at least 30% low cost rent (social rent or affordable rent) and at least 30% as intermediate products (with London Living Rent and/or shared ownership being the default tenures) and the remaining 40% to be determined in partnership with the Local Planning Authority and the GLA (para 2.38-2.41). On public land where schemes comply with the tenure mix and meet or exceed a 50% affordable housing threshold, they can follow a fast track route. Below this level, schemes follow a viability tested route (para 2.3), which includes provision for early and late stage review mechanisms to increase delivery of affordable housing up to 50%, subject to viability.
52. Para 3.3 and Policy H1 of the emerging DRLLP refer to Lambeth's target of 13,350 homes, consistent with the target in the LP 2021. The housing requirements are expressed as minimum figures, with an ambition for them to be exceeded in areas of high accessibility. The Council expects all schemes to optimise the housing potential of suitable under-used or vacant sites consistent with a high-quality environment for all and the principles of sustainable development.
53. The DRLLP includes an amendment to the wording of H4 part i, so that it refers to low cost rented units and seeks the following ratios i) not more than 25% 1 bedroom units, ii) 20-60% 2 bedrooms units and iii) up to 30% 3+ bedrooms units. Part ii of the policy has also been amended to include intermediate housing but is otherwise unchanged.

Design Quality

54. Policy D3 of the LP 2021 requires that all development must make the best use of land by following a design-led approach that optimises the capacity of sites. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site⁶. Development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing street hierarchy, building types, forms and proportions. It should be street based with clearly defined public and private environments, provide active frontages, deliver appropriate outlook privacy and amenity and provide conveniently located green and open spaces for social and

⁶ Underlined section new in LP 2021

recreational interaction, amongst other things. Design should be of a high quality which responds to the existing character of a place, enhances and utilises the heritage assets, and aims for high sustainability standards.

55. LLP policies Q5 and Q7 seek to create high quality urban environments and state that proposals will be supported where the design of development is a response to positive aspects of the local context and historic character.

Tall Buildings

56. LP 2021 Policy D9 deals with the location and design of tall buildings. Policy D9 B 3) states that tall buildings should only be developed in locations that are identified as suitable in Development Plans⁷. Proposals should address a range of possible impacts, including on long- and mid-range views, immediate views from the surrounding streets, spatial hierarchy, harm to the significance of heritage assets and their settings, including the OUV of WHSs, and environmental effects, including wind, daylight and sunlight. Proposals resulting in harm to heritage assets will require clear and convincing justification, demonstrating that alternatives have been explored, and that there are clear and convincing public benefits that outweigh that harm. The buildings should positively contribute to the character of the area. Architectural quality and materials should be of an exemplary standard to ensure that the appearance and architectural integrity of buildings is maintained throughout their lifetime.
57. Paragraph 3.9.1 of the LP 2021 recognises that tall buildings can form part of a plan-led approach to facilitating regeneration opportunities, contributing to new homes and economic growth in order to make optimal use of the capacity of sites with good accessibility. Tall buildings that are of exemplary architectural quality, in the right place, can make a positive contribution to London's cityscape. However, they can also have detrimental visual, functional and environmental impacts if in inappropriate locations and/or of poor quality design.
58. LLP Policy Q26 (a) includes criteria for determining where tall buildings will be supported including where: i) they are not within areas identified as inappropriate for tall buildings in Annex 11. Other criteria address impact on views, design excellence, positive contribution to the townscape and skyline and avoidance of unacceptable impacts on microclimate, wind turbulence, noise and other environmental considerations. Annex 11 shows that the site is located within an area sensitive to tall buildings.
59. Policy PN2 (Vauxhall) of the LLP allows for a cluster of tall buildings up to 150 metres in the core area. Elsewhere, along the Albert Embankment, buildings of 80 to 90 metres may be supported, although variation in height will be sought to create a sloped/waved environment.
60. As set out above, Policy PN2 allocates part of the Appeal Site as Site 10, with a list of 13 Design Principles and Key Development Considerations. Point iv) states that '*the heritage sensitivity of the site makes it inappropriate for tall building development*'.
61. In the DRLLP Policy Q26 is proposed to be amended. Tall buildings will be supported where they are in locations identified as appropriate for tall buildings

⁷ Underlined section new in LP 2021

in Annex 11, subject to compliance with listed design criteria. Outside of Annex 11 locations the applicant will be required to provide a clear and convincing justification and demonstrate the appropriateness of the site for a tall building having regard to impact on heritage assets, the form, proportion, scale and character of the immediate buildings and the character of the local area. Proposals for tall buildings will only be considered acceptable in established low rise residential neighbourhoods where they are part of a comprehensive scheme which integrates well with the locality (Policy Q26 b i)).

62. In addition, the maps within Annex 11 have been updated in the DRLLP with the map of Vauxhall locations appropriate for tall buildings now only identifying 6 specific locations (V1 – V6) where tall buildings are appropriate. No part of the application site is included.
63. Part a) of DRLLP Policy Q26 identifies the international obligation to preserve the OUV of the Westminster WHS and the desirability of preserving the settings of heritage assets as matters of particular regard in the consideration of locations appropriate for tall buildings.

Residential amenity

64. LP 2021 Policy D3 states that proposals should deliver appropriate outlook, privacy and amenity and Policy D6 states that housing development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, while minimising overshadowing and maximising the usability of outside amenity space.
65. LLP Policy Q2 seeks to ensure that visual amenity is not unacceptably compromised, acceptable standards of privacy and adequate outlooks are provided and that adequate outdoor amenity space is provided. Para 10.5 of the LLP notes that the Council will use established industry standards when assessing schemes, including 'Site Layout Planning for Daylight and Sunlight' (BRE Trust, 2011). The Policy is largely unchanged in the DRLLP.
66. The LP Housing SPG notes that an appropriate degree of flexibility needs to be applied when using the BRE Guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. It recognises that BRE guidelines '*should be applied sensitively to higher density development, especially in opportunity areas... where BRE advice suggests considering the use of alternative targets*'. Such alternative targets should take account of '*local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time*' (para. 1.3.46).

Other material considerations

67. Other material considerations to which I have had regard include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this report are to the 2019 Framework.
68. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), requires decision makers to pay special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their

settings or any features of special architectural or historic interest which they may possess.

69. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act) requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

PLANNING HISTORY

70. An application was submitted by Native Land in December 2010 for *'refurbishment, alterations and extensions to the Grade II listed fire station, together with construction of seven new buildings to rear, ranging in height from 5 to 15-storeys, to contain a mixed-use development including a new fire station, 265 residential units, 8,554sq.m of commercial floor space, shops and retail uses, with associated parking, public realm and landscaping works'* with associated listed building and conservation area consent applications. The application was refused by LB Lambeth on grounds of unacceptable harm to the Grade II Listed 8 Albert Embankment, the existing townscape, the Thames Policy Area, and the Albert Embankment Conservation Area; unacceptable harm to levels of daylight and sunlight to neighbouring residential properties; and unacceptably low level of affordable housing (7%); and failure to relate satisfactorily to the adjacent townscape in terms of height, massing and scale. Native Land subsequently appealed and a Public Inquiry was held in 2013 (Ref. APP/N5660/A/12/2180815).
71. The Inspector dismissed the Appeal on the basis that the harm in respect of loss of daylight and sunlight to Whitgift House and 2 Whitgift Street represented a shortcoming in achieving a fully sustainable development that outweighed the benefits of the scheme. However, on the other main issues (effect on local employment objectives, provision of affordable housing, and the effect of the proposal on the character, special interest and settings of listed buildings and on the Albert Embankment and Vauxhall Gardens Conservation Areas) he found that the development would be acceptable. With regard to employment he concluded that the employment and wider economic benefits and the contribution the proposal would make towards regeneration and vitality in the local area, by way of an intensive mixed-use development with active street frontages, would justify departure from the objectives of KIBA policy. With regard to heritage matters he concluded that there would be *'less than substantial harm'* to the significance of a designated heritage asset. He considered that this harm would be outweighed by the public benefits of the proposal, including securing an optimum viable use, bringing 8 Albert Embankment back into use, the provision of a modern fire station as a public benefit, meeting of land use objectives and provision of economic benefits consistent with the development plan and Government policy.

THE PROPOSALS

72. A detailed description of the proposed development alongside a breakdown of the proposed housing mix is provided in section 5 of the SoCG (CD N1).
73. In summary, the applications propose the redevelopment of the site to provide 443 residential units, along with more than 25,000 m² of non-residential floorspace (GIA) within buildings of up to 26 storeys in height. This includes the following:

- 2,203 m² Fire Station (Sui Generis);
 - 1,434 m² London Fire Brigade Museum (Use Class D1);
 - 6,270 m² hotel of up to 200 bedrooms (Use Class C1);
 - 10,766 m² of business floorspace (Use Classes B1 (a)/B1 (b)/ B1 (c));
 - 628 m² of flexible retail floorspace (Use Classes A1-A4 / D1 / D2/B1(a)/ B1(b) / B1 (C));
 - Gym of 2,849 m² (Use Class D2);
 - 865 m² restaurant (Use Class A3); and
 - 2,084 m² of new public realm (20% of the site)
74. The location of these uses is illustrated on page 83 of the Design and Access Statement (DAS) Addendum iii (CD D3).
75. The proposal would provide a new and improved fire station within the refurbished northern part of the ground floor of 8 Albert Embankment. A three storey modern extension is also proposed to the north. The new fire station would include four appliance bays, a public reception, community room, offices and equipment stores, with wash-down and practice areas behind. The new fire station has been designed to be flexible and adaptable and will house 24 firefighter gender-neutral restrooms; a gym; lecture/TV area; kitchen; reception area and meeting room. A community room is proposed that will provide community engagement facilities adjacent to the pedestrian access to the fire station in line with the London Safety Plan 2017 which promotes a community ethos for all stations.
76. The Grade II listed Drill Tower would be refurbished to enable its continued use by the Fire Brigade for training purposes.
77. A new purpose-built home for the London Fire Brigade Museum is proposed to be located in the southern part of the restored existing ground floor of 8 Albert Embankment and in the New Building at basement and ground level. The London Fire Brigade Museum would be a significant cultural asset and is needed by the London Fire Brigade to deliver its fire safety education, as well as providing opportunities for learning and exploration, and would also preserve the history of the London Fire Brigade and its extensive collection of artefacts and archives.
78. The proposed residential development comprises 443 dwellings with a mix of studio, 1, 2 and 3 bedroom homes. The affordable housing provision is 172 units, with 271 units being private, which equates to 40% affordable homes when calculated on a habitable room basis and 39% affordable when calculated on a unit basis. The proposed split between social rent and shared ownership is 62% and 38% respectively (calculated on a habitable room basis).
79. On the West Site, the CMC Building is proposed to be demolished, to be replaced by a 10 storey L-shaped hotel with up to 200 bedrooms (Building A3, The New Building). The Grade II listed building (Building A2) would have partial demolitions at the rear and roof level, construction of a double-height glazed rooftop restaurant linked to the hotel via a tenth-floor footbridge, with flexible

- ground floor space for retail or hotel use, and internal alterations and extension to facilitate the fire station, LFB museum, and 95 residential units.
80. The Fire Station building and Grade II listed Drill Tower (Building A1) would be refurbished to enable its continued use, whilst the Obelisk would be relocated within the Public Realm of the Central Site. A public space (South Square) is proposed at the corner of Lambeth High Street and Black Prince Road.
 81. On the Central Site, the Workshop building is proposed to be demolished, and 4 buildings constructed providing a range of office and workspace units, a gym, flexible retail units, and 318 residential units. The buildings comprise:
 - Building B1 = Central Square Building, 88.62m AOD and 26 storeys
 - Building B2 = The Office, 40.66m AOD and 8 -10 storeys
 - Building B3 = Eastern Garden Building, 81.64m AOD and 24 storeys
 - Building B4 = Whitgift Street Terrace, 23.82m AOD and 5 storeys
 82. On the East Site an 11 storey building is proposed, the Newport Street Building (Building C1), providing a flexible retail/ commercial unit at ground floor level and 30 residential units above.
 83. Proposed new public space includes 'Central Square', fronting on to Lambeth High Street; linking to a 'Central Garden', including the Obelisk, connecting to the north to Whitgift Street and Old Paradise Gardens, and to the south to the 'Eastern Garden' and 'Eastern Link', which fronts onto Black Prince Road. In total 2,084 m² of ground floor public realm is proposed compared to less than 600 m² in the 2013 Native Land appeal scheme.
 84. The development would be secured as parking free, with the exception of 44 basement disabled parking spaces proposed for the residential units, 5 disabled bays proposed on the service road within the site and 10 operational car parking spaces proposed for the fire station. Electric vehicle charge points are to be provided for all car parking to meet London Plan standards (and draft New London Plan standards). Provision of three years Car Club membership is proposed for all residents from first occupation of the development to be secured via s106 legal agreement.
 85. In total, 933 long-stay and 139 short-stay cycle parking spaces are proposed. The total number of cycle parking spaces proposed is 1,072, meeting both the current London Plan standards and the emerging London Plan standards (set out in Table 10.2 of draft Policy T5).
 86. The access arrangements for the Fire Station are proposed to remain as existing with minor changes. Fire appliances would continue to exit the site onto Albert Embankment, returning (in forward gear) to the rear via Lambeth High Street.
 87. Vehicular access to the Central Site is proposed via the internal service road, providing access to 3 x loading bays and the ramp to the basement car parking. The internal service road is proposed to operate one-way, with entry from Lambeth High Street and exit onto Whitgift Street. Access to the internal service road is proposed to be controlled by retractable bollards.

88. The planning application is accompanied by an application seeking Listed Building Consent for works to No. 8 Albert Embankment, including the demolition of the existing extension (CMC Building) and Obelisk and part redevelopment, restoration, conversion and extension of the former Fire Brigade Headquarters building to provide a new fire station, a LFB Museum, 95 residential units, and a ten storey hotel with up to 200 bedrooms, and a rooftop restaurant with ancillary bar. Further details on the proposed LBC works are set out in CD A10.4.2 (Volume III: i Heritage Renewal & Restoration Strategy).

THE CASE FOR U + I LIMITED AND THE LONDON FIRE COMMISSIONER

Introduction

Key points

89. The applications before the Secretary of State seek his authorisation for a major project of regeneration and improvement across the three parcels of previously-developed land that collectively make up the application site. It is rightly ambitious, given the scale of the brownfield opportunity, the allocated status of the site, and the prevailing policy designations.
90. There is a compelling case for the grant of permission and consent:
- 1) The scheme would ensure that critical fire infrastructure is improved and remains fit for purpose into the future, where it is needed in the heart of London;
 - 2) It would provide 443 new homes, including 172 affordable homes (40% by habitable rooms) in the VNEB Opportunity Area;
 - 3) It would increase the number of jobs on the site to 1264 in the CAZ and partly on a KIBA site;
 - 4) It would assure the conservation in the long term of a notable and prominent listed building on the Albert Embankment;
 - 5) It would achieve these objectives in part by creating excellent townscape both at ground level and in the wider context, and enriching the mix of development with shops, the London Fire Brigade Museum and a well-positioned hotel.
91. These substantial benefits ensure that key tenets of national policy would be met and the Government's planning aims would be furthered.
92. By contrast, the harms it would cause would be real, but very modest. There would be a set of limited heritage harms to the main Listed Building, the Albert Embankment CA, the Lambeth Palace Gardens (and CA) and the setting of Lambeth Palace. There would be some worsening of daylight and sunlight conditions for a number of nearby properties. There is no dispute as to the level of benefits or harm, between the Applicant, the local planning authority or the GLA. Allowing for the due weight to be given to the negative aspects of the scheme, the balance remains strongly positive.
93. Most of the debate at the Inquiry has centred on arguments that the agreed position on the degree of harm to heritage, townscape, sunlight/daylight, employment land and policy objectives is underestimated, and the benefits

overestimated. Detailed scrutiny has revealed that these arguments are unfounded, and that permission should be granted to permit the benefits to be realised as speedily as possible.

Procedural points

94. There are no procedural issues outstanding at the inquiry. The Inspectorate confirms the adequacy of the Environmental Assessment following its review and submission of clarification. A completed section 106 obligation is before the inquiry⁸. No changes to the scheme are sought, and the full set of drawings for which consent is sought is set out in the draft conditions⁹.
95. The detailed submissions that follow summarise the main points which the Applicants bring to the Secretary of State's attention; the full case is contained within the Applicant's evidence; at the close of the inquiry the position is that there are no material changes to the case advanced in that set of documents.
96. The submissions are organised broadly in accordance with the Secretary of State's matters¹⁰: housing; heritage and townscape; other (principally residential amenity; the Beaconsfield Gallery; Industrial Land); adopted and emerging policy; benefits and balancing exercise(s).

Housing

The scope of the issues

97. The Secretary of State asked to be informed about the scheme's consistency with Government policies for delivering a sufficient supply of homes. The residential development proposed is in line with NPPF ('Framework'), and the Secretary of State's directions in relation to the Intend to Publish ('ITP') London Plan. It is also in line with the London Plan¹¹, as the GLA's support for the scheme makes clear, and with the policies of the LLP, evident from the support of the local planning authority.

Compliance with the Framework on housing need and delivery

98. Starting with the Framework, the scheme's 443 new homes would clearly accord with the primary injunction to "significantly boost the supply of homes"¹².
99. It would also accord with the principle that a "sufficient amount and variety of land can come forward where it is needed", and that "the needs of groups with specific housing requirements are addressed"¹³.

⁸ CDX36.

⁹ A few minor typographical corrections to the Drawing Issue Sheet have also been picked up (CD X38). This document supersedes the earlier versions. For the avoidance of doubt, these are typographical changes only and do not change the drawings in any way.

¹⁰ Call-in letter 11 June 2020 (LBC call-in 5 August 2020).

¹¹ At the close of the Inquiry, the current London Plan was the London Plan 2016. It has since been replaced by the London Plan 2021.

¹² NPPF 59.

¹³ Ibid.

Compliance with London Plan and Lambeth's housing policy

100. The Framework guides the achievement of these objectives firstly through plan-making. The London Plan includes the Site within the VNEB Opportunity Area, a part of London identified for the optimisation of residential land uses and a significant intensification and increase in housing ... capacity"¹⁴. The GLA confirm that the scheme accords with the VNEB policy and guidance, as well as with the housing policies of the current London Plan, which were adopted against the backcloth of the then Framework¹⁵.
101. Significant weight should be given to the provision of 443 new homes in this location:
- 1) London, as a single housing market area, has a substantial housing need¹⁶. The Secretary of State has made it plain that in the medium term, there will need to be a much more ambitious approach to delivering the homes that London needs, and has noted that "Sites like ...Nine Elms ... provide opportunities to deliver homes on significant brownfield sites"¹⁷; the Site at 8 Albert Embankment is one of the few significant brownfield sites in Lambeth and is of particular importance in the light of this policy direction.
 - 2) Even as things stand, the VNEB is identified as having capacity for 18,500 new homes, and its planning strategy, the VNEB Opportunity Area Planning Framework ('OAPF') provides that the area in which the Site is located is suitable for high-density mixed-use housing-led intensification¹⁸. The ITP¹⁹ gives equal weight to residential and other CAZ strategic functions within the VNEB opportunity area, underscoring its vital importance to the delivery of housing in London.
 - 3) Lambeth has of course recognised the importance of the site, allocating it for housing, crafting the only residential exception test with the KIBA areas to enable residential to be optimised by bringing forward the right scheme – a theme to which these submissions return later – and identifying it within its Annual Position Statement on Housing Supply and Delivery (September 2019). The delivery of homes on the site also forms part of the schedule within the Housing Provision Topic Paper for the emerging Lambeth Plan.
102. Some attempts were made at the inquiry to suggest that the housing proposed is of limited importance due to Lambeth's overall delivery performance²⁰. That ignores the huge London-wide need, and the need for Lambeth to optimise its

¹⁴ London Plan Annex One, page 372; CDP1.

¹⁵ CDK6, GLA Stage 2 report 16 March 2020, "*The re-development of this long vacant/under-used Opportunity Area/Central Activities Zone site will contribute significantly to Council and GLA's aspirations for the site, particularly residential uses...*".

¹⁶ We note the content of the Secretary of State's 16 December 2020 statement on calculating the housing requirement.

¹⁷ Ibid final paragraph

¹⁸ The proposals are supported by the GLA in line with OAPF policies: see CDK1, Stage 1 letter, paragraph 23.

¹⁹ CDP6 draft policy SD5C.

²⁰ Mr Ball XX Mr Goldsmith; the figures for delivery are at Mr Goldsmith's paragraph 7.10 CD T6 page 37.

scarce brownfield housing sites to ensure delivery; that suggestion is furthermore completely out of kilter with the emphasis that the Secretary of State gives nationally – and in London – to optimising housing in areas such as this. The failure to recognise the enormous importance of residential development on the Site (in the optimal configuration across all of its three parcels) remains a basic shortcoming of the Rule 6 party's objection to this scheme. In closing, the R6 party reveals the problem with its analysis – optimisation cannot, in its case, be consistent with any degree of harm for neighbouring residential amenity or heritage harm. Unfortunately that is not right – the correct approach is one of balance.

103. The mix of the market units is policy compliant in terms of sizes and type, again meeting Framework, London and local policy on mix.

Affordable housing

104. In addition to the force of the sheer numbers of homes proposed for the Site, the scheme brings forward 40% affordable housing. The affordable housing offered has been the subject of rigorous viability testing²¹, and the position is fully agreed²². There was no dissent to the methodology or outputs of that exercise at the inquiry by any party.
105. Indeed, Ms Dickinson's evidence was unchallenged. She explains²³ that in line with policy the scheme brings forward 40% affordable housing by habitable rooms, in tenures which provide homes both to rent and to buy, with a tenure split of 62:38 social rent/affordable rent to intermediate. A mix of 1, 2 and 3 bed affordable units are proposed; there is, in addition, an early and late review mechanism.
106. The overall amount was viability tested against the 50% target for publicly-owned land, and there is unanimity that 40% by habitable room represents the maximum reasonable amount of affordable housing in line with the Framework (which seeks a wide range of high-quality homes for a range of needs²⁴), in accordance with the London Plan²⁵.
107. There is no question about the compliance with the GLA's *Affordable Housing and Viability SPG*²⁶. The GLA confirms the position in its Stage 2 report²⁷.

²¹ For a summary, see Ms Dickinson's evidence, CD T4, pages 21-24.

²² See the Supplementary Statement of Common Ground on Viability, Appx 1 to Ms Dickinson's evidence at CDT4; Dr Lee's evidence, CDU13 and the Lambeth Closing Submissions.

²³ See CDT4, page 6-7.

²⁴ NPPF 8(b). See also paragraph 20(a), 61 and 62. The affordable housing all complies with the definitions in Annex 2 of the NPPF.

²⁵ Within the London Plan (CDP1) see in particular policies 3.9 (seeking to bring forward a more balanced mix of tenures, particularly where social renting predominates and there are concentrations of deprivation); policy 3.11 (the affordable housing targets across London); and 3.12 (negotiating affordable housing targets). The GLA's agreement that the 40% offer represents the maximum reasonable amount of affordable housing that the scheme can support is set out in the Stage 2 report (CDK6) at paragraph 16.

²⁶ CDP8.

²⁷ CDK6, paragraphs 15-19 and 74.

Lambeth similarly agrees that its affordable housing policies are met²⁸. As Mr Ball accepted²⁹, a scheme on public land which brings forward 40% affordable housing with an agreed viability assessment is in accordance with policy, notwithstanding the strategic target of 50% on public land³⁰.

108. Very considerable weight should be given to the affordable housing provision within the scheme. The level of unmet need is sadly unsurprising, despite its enormity: 30,000 households registered on the Lambeth housing waiting list in 2019³¹. Affordability is a major challenge in this area of London – in line with all of Inner London - with entry levels for housing being very high in relation to average household incomes³².
109. Against that background, the availability of intermediate housing options is recognised to be of importance³³. The 2011 Census figures revealed that only 4% of homes in Princes Ward (where the Site lies) comprised intermediate tenures. The housing need evidence discloses the need for all types and tenures of affordable housing in Lambeth.
110. No substantive challenge was made to the complete policy compliance of the affordable housing provision³⁴. It is of particular importance to note that the affordable housing proposals have been informed by discussions with Notting Hill Genesis (NHG) who have highlighted the need for the smaller 1 and 2 bed units in Lambeth³⁵, and whose detailed understanding about levels of affordability partly informed the shared ownership household income levels, in combination with the contents of the Lambeth Tenancy Strategy (June 2020)³⁶ on rental levels for social and target rents.
111. A theme of the Rule 6 party's case was how the scheme would allegedly not serve the community. Dealing just with the affordable housing provided first of all, that is patently not the case³⁷. Meeting genuine local housing needs is in the DNA of these proposals: 40% of the habitable rooms will go to those in need in the local authority area, and would be genuinely affordable. It would be a very considerable contribution towards meeting those needs, and ensuring its delivery is one of the key drivers for the scheme, a point to which these submissions will return later.

²⁸ See in particular: CDO1 Policy H2 and H4; as well as D4 (tenure blind design). The Council's SPD of 2017 is also complied with. Dr Lee sets out the position in detail: CDU13.

²⁹ XX Mr Reed QC

³⁰ The mistake about 50% being an absolute requirement was also made by Cllr Simpson, amongst other clear errors: see CDX36 paragraph 3.

³¹ See Ms Dickinson CDT4 pages 17-20 in general on this point.

³² CDO1, paragraph 2.57.

³³ Ibid paragraph 2.58.

³⁴ Cllr Simpson asserted that the affordable housing mix is not acceptable, but again she is mistaken: see the rebuttal in CDX36 paragraph 2.

³⁵ A point fully supported by the Council's officers: see CDK2, paragraph 8.1.61 of the Committee Report.

³⁶ See Ms Dickinson's evidence at CDT4 page 6-7, paragraphs 2.17 and 2.20

³⁷ Mr Ball also suggested at one point that the height of the towers was simply driven by the need for affordable housing (although at other times he alleged it was all about the receipt to the LFC); meeting those needs does drive an important aspect of the scheme, but of course the design of the scheme, including the towers and the residential on the KIBA site, is a product of numerous intersecting policy objectives.

112. For these reasons, the Applicant suggests that the scheme would accord with housing policy objectives at all levels, including of course within national planning policy.

Heritage and urban design

Scope of the issues

113. The Site contains several designated assets and its development as proposed would also engage the settings of several others as well as some non-designated heritage asset ('NDHA'). The Secretary of State wishes to be informed about the scheme's consistency with national policy for the protection and enhancement of the historic environment. The contested issues as between the Applicant and objectors are:

- 1) A couple of matters of policy emphasis;
- 2) The extent of harm and benefit in relation to the main Listed Building³⁸;
- 3) The extent of harm and benefit to the Royal Doulton building;
- 4) The extent of harm and benefit to the Albert Embankment CA;
- 5) The extent of harm to the Lambeth Palace CA (including Old Paradise Gardens, Palace Gardens, Garden Museum);
- 6) The extent of harm to Lambeth Palace's setting;
- 7) The extent or existence of harm to the LVMF views of Westminster WHS and the Palace of Westminster from Primrose Hill and Parliament Hill.

114. A theme in some of these analyses, particularly those relating to the main Listed Building and the Albert Embankment CA, is the extent to which the design of the proposed buildings and related townscape or public realm would represent a benefit.

Policy

115. In addition to the statutory duties (s.66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990), policy at the national level sets out that designated heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance³⁹. Great weight should be given to the asset's conservation⁴⁰. Where harm is likely to be caused to the significance of a designated asset, a clear and convincing justification is required⁴¹.

116. Paragraphs 194-195 of the NPPF refer to substantial harm to designated assets. That has been defined by the Court⁴² as 'serious such that very much, if not all, of the significance was drained away', or 'an impact which would have

³⁸ These submissions use that expression to refer to 8 Albert Embankment, the Former London Fire Brigade Headquarters and Lambeth Fire Station.

³⁹ Framework 184.

⁴⁰ Ibid 193.

⁴¹ Ibid 194

⁴² In *Bedford BC v SSCLG and Nuon UK Ltd* [2012] EWHC 4344 at 24-25 (CD L12).

such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced’.

117. Reliance is placed by Westminster City Council (WCC) and by the R6 party on the PPG guidance⁴³ in this respect. They stress the following guidance⁴⁴:

In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest.

118. That sentence is favoured by the objectors in this case because it refers to harming a “key element”, rather than affecting the significance of the asset overall, as the judgment in the *Bedford* case does. Dr Miele was correct to say in response that (a) the correct approach is in the case law, and (b) the reference to “key element” is an example given in the PPG rather than a test for interpreting and applying paragraph 194-195 of the Framework.
119. Dealing with the points made by Mr Ball in the R6 party’s closing, it is wrong that *Bedford* has been superseded by PPG. The case relates to the actual national policy (not the lower order guidance in PPG) which has not changed since the 2012 Framework. Therefore *Bedford* still applies to the Framework (now paragraph 194 and 195). The PPG is not the place for the Government to signal that it does not agree with the view of the Court on the meaning of an expression which has not changed, and that is not what it does.
120. The reason for the R6 party⁴⁵s misplaced keenness on this argument is pretty clear - if one can now focus on harming one feature – a “key feature” – then it will be rather easier to argue that a scheme causes substantial harm.
121. In the end, the point raised by objectors must collapse into the simple proposition that substantial harm is a very serious level of harm as defined by the *Bedford* case; it might be caused by harming a “key element” of a Listed Building in a particular case, as long as harm to that element harms the whole to the relevant degree in *Bedford*. Clearly, the harm of any degree to a “key element” may also not give rise to substantial harm. An overall judgement applying *Bedford*’s concepts of vitiating or very much reducing significance must be reached.

The Main Listed Building

122. There is some agreement between the parties as to harm that would be caused by the scheme; it is generally agreed that some degree of harm would be caused directly due to (a) alterations to the rear of the building including the removal of the pole house, and the filling in of some of the open terrace; and (b) the moving of the obelisk⁴⁶ and ‘loss’ of the remnant space of the WWII

⁴³ CDS31

⁴⁴ Ibid paragraph 01

⁴⁵ This point also applies to WCC, though they did not make the erroneous legal point Mr Ball does.

⁴⁶ Which may or may not require its disassembly, or indeed loss and re-provision in facsimile, as Dr Miele said.

- bunker/control room⁴⁷; and indirectly due to removal of the workshop building which is a positive feature in its setting⁴⁸.
123. Similarly, there is agreement that the removal of the CMC extension from the 1980s, which is currently attached to the rear and side of the listed building, would be a benefit. Importantly, it is also agreed that there is no harm from the residential re-use of the building and the conservation and in part restoration of the building (for instance the appropriate replacement of the Crittal windows, which lend important character and interest to the listed building) is of real significance.
124. The building's upper floors have been redundant for a considerable period, and the conservation of the building as a whole is – it is agreed – dependent on a viable long-term plan for its re-use.
125. The re-use of the Memorial Hall as a centre piece in the museum, with substantial public access, is a major benefit to significance in the building⁴⁹, as is the continued Fire Station use⁵⁰.
126. Significant weight should be given to the identified harms, as well as to the identified benefits.
127. Turning to aspects of the effect on the Main Listed Building which are disputed, the first concerns the extent to which the placing of a new glazed extension on top of the building would cause harm. It is right to say the Inspector in the Native Land appeal in 2013 found a degree of harm arising from the positioning of a smaller glazed extension on the roof of the building, due to its diminution of what he called the "architectural purity" of the existing building⁵¹. However:
- 1) The current design, whilst taller than the Native Land glazed extension, would have a different relationship with the roof level of the building, permitting greater fabric retention⁵² and visual permeability⁵³ (it will be recalled that the glazed area in the Native Land scheme was to be private residential flats).

⁴⁷ Despite the fact that the space is devoid of any historic features or fittings and simply comprises an underground room. It will in fact be filled with plant so there is a question mark over whether the space will be lost in any event.

⁴⁸ See Dr Miele's summary table. CDT2, pages 74-75.

⁴⁹ And represents another major distinction between this scheme and the 2013 scheme- see CD L1 paragraph 58. In passing, we note that the 2013 DL is plainly material in multiple ways; it is not a precedent, obviously, and as long as the Secretary of State has some regard to it, it cannot as a matter of law bind what he thinks or finds about it in any way.

⁵⁰ Ibid paragraph 51.

⁵¹ CDL1, paragraphs 53-55.

⁵² It would not, for instance, require the demolition of the tank room, instead retaining its outward face and rebuilding it structurally to play an important role in the function of the area – as the arrival or landing place into it from the hotel.

⁵³ Mr Pilbrow set out the glazing specification, and there is no force in the suggestion that the restaurant area would require blinds, given its orientation and the ability to deal with the sunpath through internal configuration of the dining area.

- 2) There would be a countervailing heritage benefit⁵⁴ - public access to the top floor, allowing for the first time a dramatic and valuable experience of the role the top of the building played in the Fire Brigade's role in WWII.
- 3) The effect of the glazed extension would also mitigate the loss of prominence that the Main building has suffered vis-à-vis the frontage building group along the Albert Embankment itself – it would add to its prominence as part of that plane of view, and not just at night⁵⁵.
- 4) It would be a high-quality modern element, readily distinguishable from the original fabric, and represent a visual expression of the building's regeneration.
- 5) The presence of the main listed building would of course remain very strong in views towards it from Lambeth Bridge, the Westminster side of the river, and at close quarters along the Albert Embankment; it has an architectural robustness about it which means it is relatively insensitive to the proposed addition⁵⁶. When asked by Mr Ball whether the prominence of the building was in part due to its being now the shortest of the Albert Embankment buildings in this stretch, Mr Foxhall of Historic England said no, drawing attention to the width of the frontage and the character of the architecture as giving rise to its presence in the townscape – both would be unaffected.

128. For Dr Miele, the judgement on this element of the proposed changes is a fine one; he does not find overall harm due to the glazed element. Mr Black finds a small degree of harm to arise⁵⁷; Mr Velluet's judgement (that the change would itself cause *substantial* harm to the significance of the main listed building) is not tenable when one applies *Bedford*, or simply thinks for a moment about the extensive set of architectural and historic components which make up the building's significance.

129. The works to the side and rear of the main building would (as set out earlier) cause some harm, due to loss of original fabric and occlusion of the design. However, there is a clear and convincing reason for every intervention Mr Pilbrow proposes, based on effecting a workable residential layout⁵⁸. In addition:

- 1) The removal of the CMC building would be an agreed benefit;
- 2) The hotel would represent a subservient addition to the main listed building. Although as high as the main building, the hotel building would

⁵⁴ Though it was clear that little attention had been paid by most of the objector witnesses to the heritage significance of access to the top level during the Blitz.

⁵⁵ See for a similar conclusion, albeit in relation to a smaller proposed extension, the 2013 Inspector at paragraph 54

⁵⁶ Ibid paragraph 74 for a similar view in 2013 of the building's robustness and monumental or landmark qualities.

⁵⁷ Mr Foxhall said that there would be a low level of harm because you would "still be able to read the profile" albeit that its value was "somewhat diminished" by the extension.

⁵⁸ His evidence, it will be recalled, dwelt as an example on the need to remove the pole house and the diagonal infills to the north to enable proper movement, and to infill the open galleries to the minimum necessary to ensure that they were a working, properly-used element of the residential re-use of the building.

be a very modest and low-key presence in key views from the Embankment and at close quarters on Black Prince Road. That is due to the fact it would be subtly articulated vertically at the 'seam' between the buildings, quietly reflecting the materiality of the main block but with simpler, modern windows which would not compete or clash with the main building's. It would be a polite adjunct, sweeping away recessively in oblique views due to the way Mr Pilbrow's design cuts off the corner of the junction between Black Prince Road and Lambeth High Street.

- 3) In addition, the hotel would on balance provide a better setting than the CMC for the rear of the building – against the visual clash and intrusion of the CMC, one would have ground floor activation on the High Street, and a narrower framing of the drill yard and the rear of the main building⁵⁹.

130. To describe the changes relating to the hotel and the rear of the building as giving rise to substantial harm, as Mr Velluet does, is again a notable exaggeration. There would be some, limited and less than substantial harm caused, along with some benefits to go in the balance.

131. As to the setting of the listed building – the retention and improvement of the Drill Tower⁶⁰ would marginally enhance it, as would the improvement to Lambeth High Street. The loss of the workshop building would cause a small amount of harm, principally because they are not listed for group value, and despite some clear family resemblance, the workshop is simply not important enough for the significance of the main building for its loss to be more than a minor impact⁶¹.

132. It is argued that the two taller elements of the scheme would detrimentally affect the significance of the main listed building. Here there is a marked difference of opinion. Mr Pilbrow has designed the towers to stand away from the main listed building, framing rather than intruding directly on full-frontal views, and angled away due to their rhomboid plan form. They would clearly have a distinct and distinguishable presence in views of the listed building, but whether they would harm its setting due to their greater height is a moot point:

- 1) The main building will retain its monumental and landmark quality when seen from the bridge, from Millbank or Victoria Tower Gardens – it is far from the largest, most imposing or visually dominant building in those views now, and yet its striking front façade with its grey colouring and ranks of 1930s windows, and the sense of stepping at the top levels, all mean it is capable of holding its own in a mixed and varied townscape – that would remain unaffected.

⁵⁹ Mr Pilbrow's scheme would be a more successful design than the Native Land scheme, which was found in 2013 to have overall a positive effect on the designated assets it attached to and faced: CDL1 paragraph 62.

⁶⁰ Separately listed – some fabric loss but retained and improved operationally, so on balance a betterment to its significance as a result of the scheme: see Dr Miele page 75, CDT2.

⁶¹ A conclusion consistent with the way the loss of the workshop building was treated by the Inspector in 2013/I see CDL1, paragraph 63. Although, it is true, the parties agreed in 2013 that there was no objection in principle to the removal of the workshops (and its status in terms of the CAA has changed from 'neutral' to 'positive' since that time) it is striking that its loss was greeted with equanimity on all sides in 2013 – the contribution it makes, even if not to be considered positive for the CA, a marginal one.

- 2) Part of the reason for that is the very distinct architectural and spatial qualities of the two towers in the view, as Dr Miele explained – they will not “clash” with the main listed building because they will read to the viewer very much in the background and occupying a place of difference in the scene, distinct and apart. That is the nature of the evolving London townscape and the listed building will not lose any of its significance as a result.

133. There is certainly no sense that these particular towers, spaced to the edges of the central site, and angled in a way that gives them a separateness in views, would harm the heritage sensitivity of the main building (and therefore the role that it might play in the CA) to any great extent. Mr Ball did not agree that the towers would be slender – but in a sense that is less a matter of judgement and more one of proportion. It is clear that they would appear to be relatively tall and thin, given the absolute dimensions, and the angling of the four main lateral parts of the facades. There was almost no criticism of the architectural qualities of the towers – they would be very high-quality, carefully detailed and clad, and well-proportioned; in other words (a term now sitting squarely in the centre of Government thinking about design), they would be beautiful⁶².

Tall buildings on the Site

134. It is at this point that one recalls that the site allocation policy’s reference to the Site being unsuitable for tall buildings is expressly tied to “heritage sensitivity”. Mr Pilbrow’s scheme shows that one can design a tall building scheme on the Site in such a way that the main listed building’s setting, or its significance, is not harmed. It is manifestly therefore not the kind of “fundamental policy constraint” that Mr Velluet confirmed had in fact given rise to his view as to the acceptability of the proposed relationship between old and new⁶³.

135. Mr Black’s judgement also shows that the ‘unsuitability’ point in the allocation policy needs to be looked at with some care when designing and appraising an actual scheme on the Site – the 2015 Lambeth Plan did not, it appears, proceed to adoption on the basis of any track record or assessment of a scheme anything like Mr Pilbrow’s⁶⁴, which Mr Black now finds acceptable on balance⁶⁵.

⁶² It is instructive to recall not just the absence of any real criticism of the way in which the towers would appear – but the kind of objection to them that the inquiry heard. Ms Weiss, for instance, and her campaign Skyline, simply object to the idea of tall buildings – there was not a word of proper analysis in what was in effect a high-level diatribe about tall buildings in general (see Weiss XX RWQC).

⁶³ Mr Velluet’s page 41, and XX RWQC.

⁶⁴ Other than the Native Land scheme, there was no evidence at the inquiry which showed that Lambeth had assessed any particular scheme as in principle unacceptable when the policy was drafted and adopted.

⁶⁵ WCC are wrong to yolk paragraph 10.79 of the Local Plan (CDO1) to the site allocation point, and Mr Goldsmith was quite right to resist such a strained interpretation of the plan, describing it as a “quantum leap”. There is in fact nothing in the allocation which indicates that the sensitivity of the site (or indeed “unsuitability”) stems from concerns about potential impact on views from Primrose Hill. That is unsurprising since at no point prior to adoption of the plan had that connection, concern or sensitivity been ventilated (it did not appear, for instance, in the 2013 inquiry). The obvious interpretation is that the site allocation policy, when referring to heritage sensitivity, was referring to the potential impact on the main Listed

136. It is also perhaps worth reflecting on the plan-led approach to tall buildings. The Site is within an area in general ear-marked for up to 80-90m tall buildings within the VNEB. It is not within an area which is said to be “unsuitable” for tall buildings in the Tall Buildings Study, rather it lies in an area said to be “sensitive” for such structures. What this illustrates is a fairly fine-grained approach by Lambeth, albeit one which (to be fair) might have been a little clearer when one reads the plan as a whole. The Site is clearly in a location which the plan potentially earmarks for tall buildings.
137. The allocation reference to the site being unsuitable for tall buildings clearly does not prevent the Council, or the Secretary of State, from finding that the scheme is of sufficient quality to rebut that presumption by reference to the policies for the site in the round. That is a local level determination looking carefully at the site’s location in the VNEB as well as the precise scheme in question. It is what has been done here. Allowing the local planning authority to set up indicators of suitability or otherwise in their plan, and then to reach a case-by-case judgement about the merits of particular cases sits comfortably with the general guidance that the Secretary of State would like to see embedded in the London Plan⁶⁶.

The Conservation Area (Albert Embankment)

138. The CA is a large, mixed area and it is obvious that most of it will not be harmed in any way. That immediately discredited Mr Velluet’s judgement (again, that the scheme would cause *substantial* harm). Mr Ball had forgotten that Mr Velluet had formed that view⁶⁷, and even when reminded of it, simply disagreed with Mr Velluet on the common sense basis that the CA was so large that it simply couldn’t be said that this scheme would have such a serious impact on it. Mr Ball was right about that⁶⁸.
139. It is in the loss of the workshop building, and the changes to some views of the rear arrangement of the main listed building, that there would be a degree of harm. But against that there would be a positive overall effect on the CA due to the high quality of spaces that would be created, the active ground floor uses, the mix of employment and residential which to an extent characterises the area.

Building. WCC’s point is probably a sterile one, in any event – what matters is whether there would be harm. But the Applicant rebuts it because it was part of the general over-engineering of the WCC case to suggest that the potential visibility of tall buildings on the Site in long range views was always a cardinal negative issue for the development . It was not.

⁶⁶ See the Direction in December 2020: “*Second, I am issuing a new Direction regarding Policy D9 (Tall Buildings). There is clearly a place for tall buildings in London, especially where there are existing clusters. However, there are some areas where tall buildings don’t reflect the local character. I believe boroughs should be empowered to choose where tall buildings are built within their communities. Your draft policy goes some way to dealing with this concern. In my view we should go further and I am issuing a further Direction to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas, as determined by the boroughs whilst still enabling gentle density across London*”

⁶⁷ Ball XC and XX RWQC

⁶⁸ It is not accepted that the *Irving v Mid Sussex* case relied on by Mr Ball establishes that substantial harm as defined by *Bedford* does not apply to Conservation Areas.

140. The positive effect would be very marked in some locations – particularly the edges of the Site (around South and Central Squares, for instance, where Lambeth High Street would be re-activated for the first time in many years, and around the listed South Bank House) – and slightly less elsewhere (i.e. in the middle of the Site, where the character would be largely created by the scheme itself).
141. There was some suggestion that the east site proposed building, at 11 storeys, would be out of place and harm the CA. The difficulty with that point of view is that the CA character is fragmented in that sub-area, with remnant industrial or fire service use sites (eg the eastern site itself), parts of much older Lambeth (the pubs within the CA), and the remnant of the Ragged School (now the Beaconsfield Gallery); the edge of the CA is proximate and housing and other uses that lie just beyond it are undistinguished. There is no obvious datum for acceptability, and one must try to bring forward a positive scheme that will improve the area.
142. The eastern building (C1) would be a very high-quality addition to the street scene. Mr Pilbrow has combined a palette of contextually appropriate materials and colours with echoes of the rounded forms one finds in the windows at the nearby Gallery, and richly detailed elevations⁶⁹. The building would be larger than those in the immediate vicinity, but not larger than certain buildings to the south, which lie to the east of the railway viaduct. Furthermore it has been designed to draw the eye in glimpsed views from the Albert Embankment, and to signpost the development and the way to Newport Street.
143. In views from the east, north and south, it would create a strong impression of quality, and read well as part of the overall scheme. There is little detectable in the significance of the CA that would be harmed by it – the buildings in the CA are of limited value excepting the pubs and the Gallery; they have strong characters of their own, and do not require a new building on the eastern site to be subservient to them or to step down. A juxtaposition of scale and quality would be in keeping with the CA character and appearance and would add to, rather than detract from, the significance of the area.

Lambeth Palace, its gardens and Old Paradise Gardens

144. Dr Miele accepts there would be a limited degree of less than substantial harm to the Palace and its garden as a result of the scheme's taller elements being visible from within. However, the significance of the assets is overwhelmingly contained within the assets themselves and their immediate surroundings. As Mr Foxhall said⁷⁰, there would be a very low degree of harm as a result of some glimpsed views. Like Dr Miele and Mr Black, Mr Foxhall was not impressed by the argument⁷¹ that there would be any harm to the setting of Lambeth Palace from Lambeth Palace Road – "this is not a view where setting is contributing to the significance" of the asset, as he rightly put it.

⁶⁹ That includes interesting details at ground floor, fenestration throughout, and the blind detailing to the north facing towards Beaconsfield.

⁷⁰ XX Ball

⁷¹ Partly based on the SAVE document, which could not regrettably be the subject of XX due to its author's indisposition.

145. Therefore whilst the Palace, its gardens and the CA are all high-value assets and the small degree of harm must be given significance and weight, one cannot rationally escape from the degree of harm found.

WHS, Palace of Westminster

146. Through Mr Burke, WCC says that a moderate level⁷² of less than substantial harm would be caused to the WHS site due to the effect of perceiving the proposed towers behind and next to the Victoria Tower in LVMF view 4a (summit, Primrose Hill), and 2b (Parliament Hill), eroding their silhouette and making it harder to appreciate the Palace of Westminster's silhouette, which is an aspect of the OUV of the WHS.

147. Obviously the WHS and Palace of Westminster are hugely important⁷³, and protected in the most rigorous fashion. However, visibility is not equated in the LVMF with harm; and of course the importance of the assets certainly should not be confused with whether the scheme would cause them harm or anything more than the most minor of harms. There is an uncomfortable sense in the WCC case that the huge importance of the asset and the approach adopted by WCC to it has exercised a certain warping effect on the assessment of the harm.

- 1) From either view, it would be very difficult, though not impossible, to pick out the Palace of Westminster's silhouette with the naked eye, which Mr Foxhall of HE confirmed is the primary way of assessing these views⁷⁴.
- 2) In zoomed in images – one could see the scheme, sitting behind the Victoria Tower (in view 4a) and next to but outside the Elizabeth Tower (in view 2b). However, the use of the zoom makes it much easier to recognise and appreciate the Palace of Westminster itself from those vantage points, and so there would be a powerful countervailing effect.
- 3) The WCC concerns about ICOMOS, Unesco and the high level of perceived threat to the Westminster WHS through tall buildings in its setting is exaggerated: on their last reactive mission, the members of the Unesco party did not even go up to these long-distance views. If there is a tall building threat it is from those which are near at hand and can readily be seen from within Parliament square; the scheme does not fall into that category⁷⁵.
- 4) In assessing degrees of harm on the WHS, WCC fall into the trap of over-valuing the long-distance views as critical to the 'cityscape' aspect of OUV to the extent that any visibility of new buildings in them must be presumed against, and ignoring the huge set of aspects which contribute to OUV. Hence when Mr Burke comes to reach his 'moderate harm' conclusion, it is radically out of sync with the ICOMOS guidance on assessing degree of impact⁷⁶ where minor harm equates to the setting being 'noticeably

⁷² Mr Burke's paragraph 10.9 page 42 of CDV1.

⁷³ Dr Miele – "top of the tree".

⁷⁴ The Inspector now has the Miller Hare 'real scale' images from these two viewpoints, which can be used to assess the effect even if one does not go the site.

⁷⁵ There is no basis for suggesting that there is any ICOMOS intention to identify the Westminster WHS as 'in danger',

⁷⁶ CDS3, page 16.

changed' and negligible – which is more apposite here – meaning 'hardly affect it'. Mr Burke's view was that the scheme would 'considerably change' the setting of the WHS, which is simply wrong as a matter of judgement, and self-evidently so.

- 5) Mr Burke's assessment is also inconsistent with the LVMF guidance, which effectively sets out to protect the cityscape view of the WHS, and therefore that element of its OUV. One has to read the management guidelines in the LVMF document with care to identify clearly what it is that is said to be important, rather than (as WCC asks the Secretary of State to do) in effect to write into the LVMF guidelines all sorts of other principles⁷⁷. In relation to view 4a, the focus in the guidance is on whether one can 'recognise' and 'appreciate' the silhouette of the Palace of Westminster. Mr Burke accepted that one would still be able to recognise the Victoria Tower with the scheme in place, and still be able to appreciate it, clearly seeing its shape, edges and with its most important finials unaffected.
- 6) He also accepted that there is nothing in the LVMF guidance which suggests that there is any importance in the relationship between the Victoria Tower and the hills behind. He had of course sought to make much of that, but the focus is solely on being able to see the Palace in its city context, not being able to see it against the hills of South London⁷⁸.
- 7) As for view 2b, leaving aside the famous oak tree, one also has a very distant view in which one struggles to pick out the Elizabeth Tower, except with magnification. At that point the Elizabeth Tower's outline – something that is universally well known and recognisable – would be perfectly distinct. Mr Burke's over-exaggerated assessment of impact fails to grapple properly with the fact that the LVMF guidance⁷⁹ simply requires anything in the background (because building there is not forbidden by the management guidelines) should not "dominate" the Elizabeth Tower, or harm the spatial relationship between the three towers (Elizabeth, central fleche, and Victoria). Mr Burke acknowledged⁸⁰ that the scheme would not 'dominate' the tower, and lying as it does outside the silhouette of the three towers, that it did not interrupt the relationship.

148. It might be going too far to say that WCC are making a mountain out of a molehill. The WHS and Palace are very important. But the evidence has shown that the degree of harmful impact on the significance and OUV of the Palace of Westminster has been exaggerated.

⁷⁷ A good example is the spurious importance WCC gives to the sense of treed hills behind the Palace of Westminster (the Inspector will recall – though this to be fair did not appear in the WCC closing the sudden addition in XX of 'views of the Surrey AONB'). The backdrop is just that. It doesn't matter if it is green hills, or the green backdrop of buildings forming part of the WHS setting in the heart of the capital city.

⁷⁸ In closing, WCC reeled off a list of criteria against which to measure any changes in this view and view 2b; but the Inspector and Secretary of State should stick to the points identified in the LVMF document rather than novel criteria that have not been thought important enough to publish.

⁷⁹ CDP3 paragraph 110

⁸⁰ XXRWQC

149. Historic England's position is more moderate. They do not, as Mr Foxall noted, object to the scheme⁸¹. This is more than merely semantics, because (unlike those of WCC), the views of HE as chief heritage consultee at the national level necessarily attract a degree of weight. The absence of a HE objection goes directly to the points WCC makes about the engagement of ICOMOS – there is no sense in which Unesco would be concerned in cases where HE did not object. Indeed, all of the Unesco and ICOMOS background that Mr Streeten dwells on in WCC's closing was in the forefront of HE's mind throughout this process and yet, notwithstanding that, they did not object or advise the Secretary of State at any time to refuse permission on the basis of the WHS point.
150. The same is true of the points WCC makes about the formal communications between the Applicant and HE and its LAC. The full suite of communications are before the inquiry; it shows how carefully Mr Pilbrow and Dr Miele engaged with HE on the scheme. The fact that HE professed themselves disappointed that the height of the towers was not reduced in the latter part of scheme development does not mean, of course, that HE was likely to object on that basis; given that many other matters were in play and there are expert judgements to be formed, the Applicants did not, having carefully considered the points, consider that it was necessary to reduce the heights of the buildings. The lack of consequential objection by HE rather illustrates the area of judgment into which this point falls.
151. Mr Foxall explained further⁸² that HE only objects where the degree of harm is significant, in its view, and does not appear to be capable of justification. Here, the opposite is the case: HE does not object, and does not say that the harm is incapable of justification. They were kept closely informed throughout the development of the proposals, and there is no sense in which the scheme came forward – as WCC appear to suggest – without very careful assessment being made of HE's views.
152. Having said that, a note of caution about Mr Foxall's evidence in general – he accepted that it was an officer view (as opposed to the formal HE view – for which see the response to Lambeth⁸³), had not been back to the London Advisory Committee, and was in some respects a different view. Also:
- 1) It did not purport to carry out a thorough assessment of either harm or benefits to the assets⁸⁴;
 - 2) In the case of the glazed addition to the roof of the Listed Building, about which HE through Mike Dunn and the LAC had always been very positive, Mr Foxall found a degree of harm but failed to take into account the revealing/reuse of the high level watch location;
 - 3) In the case of LVMF view 4a, he agreed that the contrast between the green colour of the scheme and the Victoria Tower would ensure that one would not get confused between the two – i.e. they would remain

⁸¹ That is the position, despite the enjoyable attempts by Mr Streeten to persuade Mr Foxhall to accept that the scheme was "not entirely unobjectionable"! Even if that were in some sense true, it only serves to underline how far from an objection HE's position is.

⁸² XX Ball

⁸³ Appx TF09, 24 June 2019

⁸⁴ Mr Foxall XX RWQC

distinct⁸⁵. HE had not before raised harmful impact to view 2b in any event.

- 4) His overall conclusion is that less than substantial harm would be caused to the WHS/Palace of Westminster at the lower end of the scale; however, one should review that degree of harm bearing in mind the concessions Mr Foxhall gave in cross examination.

Heritage – interim conclusions

153. For these reasons, there would be less than substantial harm at the lower end of the spectrum to the main Listed Building, the Drill Tower, the Albert Embankment CA, Lambeth Palace and gardens. If one disagreed with Dr Miele on the WHS/LVMF impacts, the harm would still be negligible or very minor indeed. All of these harms are of significant importance and ought to be given great weight. Similarly the benefits are also palpable and should be given similar weight at the point in the exercise that benefits are weighed.
154. Amongst the benefits is the fact that the scheme represents, in Dr Miele's view, the OVU for the listed building. The scheme would be deliverable, and it would on balance conserve the main listed building, despite that coming at some cost in terms of different elements of harm. The use of the building as residential accommodation with the LFC uses is the optimum viable use. There is no alternative presented, a theme to which I shall return in due course.
155. Not that it matters particularly in this case, but the R6 party is wrong to define the OVU as a policy requirement – that is simply contrary to the wording in paragraph 196. There is no policy to demonstrate that a scheme is the OVU, especially where, as here, there is no alternative viable scheme before the decision maker⁸⁶. Weight should therefore also be given to the fact that the scheme represents the optimum viable use of the site.

Townscape and urban design

156. Closing submissions are not the best vehicle for analysing the architectural and urban design benefits of a scheme like this. The Inspector and Secretary of State have Mr Pilbrow's presentation, including the four model runs – they are worth a thousand words. The Inspector will make his own judgement of the design.
157. Mr Ball, unaided by any expert judgement, metaphorically wanders the scheme, casting unrelated aspersions about the design of the scheme. The Inspector is strongly urged to prefer (for his own further consideration) the analysis set out by Mr Pilbrow, an extremely eminent architect, and Dr Miele, one of the country's most experienced townscape experts.
158. Despite the scattering of criticisms in closing by Mr Ball, most of the greatest successes of the scheme have barely been touched on at the inquiry because they are not in dispute – the excellence of the detailed design of all the buildings which make up the scheme; the articulation, handling of contextually appropriate

⁸⁵ This is clear from the realscale image before the inquiry.

⁸⁶ The facts in the *Bramshill* and *Gibson* cases are quite different from this one, given the complete absence of any actual alternative scheme in this case. That is not the Applicant's fault, as Mr Ball cheekily seeks to argue. T

materials, and enlivening of both the street scene (revolutionising it, really, given the current situation) and the upper levels – these would be a fine set of buildings to add to London’s rich collection. For a tall building scheme, there has been very little discussion of the design of the towers themselves – they would be elegant, confident additions to the local area and the skyline in this part of the capital⁸⁷.

Other issues

Residential amenity of neighbours

159. The Applicants have given careful consideration to the fact that, even with huge care in the design, the scheme would give rise to a number of negative effects in terms of daylight and sunlight for neighbouring buildings. This was the issue which led to the dismissal of the 2013 Native Land appeal scheme, and as the evidence has shown, that has led to a radically different approach to the design of the scheme on this occasion. Instead of large slab blocks, Mr Pilbrow, working with Mr Bolton’s firm, Point 2, has used taller slimmer blocks set at an angle within the site to minimise the reduction in daylight to neighbours.
160. As Mr Bolton sets out, the policy test at all levels is whether the scheme would have an acceptable or unacceptable effect on living conditions⁸⁸. In order to make the judgement, one begins by assessing the effects accurately by reference to the BRE Report levels for Vertical Sky Component (VSC), No Sky Line (NSL) and, if relevant, Average Daylight Factor (ADF).
161. However, the 2011 BRE guide⁸⁹ makes it clear that it is purely advisory, containing target values that are not expressed as minima or as limits of acceptability; and which may be varied to meet the needs of a development or location⁹⁰. The guidance is not mandatory or an instrument of policy, it tells us⁹¹, and its numerical values are to be interpreted flexibly. As a result, as Dr Littlefair (the author of the BRE Guide) acknowledged, an exercise which started and finished with a BRE assessment would not be sufficient to enable the relevant policy judgement to be made⁹².
162. That is why the emphasis in both Court decisions on daylight and sunlight⁹³ and appeal decisions⁹⁴ proceed on the basis of a two-stage test – BRE assessment followed by contextual judgement as to acceptability. That is what both Mr Bolton and Mr Dias of Schroeders Begg (expert auditors in this field brought in by the Council) carried out. They both identify a range of adverse effects, all of which in the context of the scheme they consider to be acceptable.

⁸⁷ The Inspector will form his own view about these matters but clearly the views expressed by Mr Ball that the towers would be “fat” “look like the main building turned on its side and extrapolated upwards” are to be given little weight.

⁸⁸ Framework paragraph 123; PPG (see Mr Goldsmith paragraph 6.67, page 33); London Plan Policy 7.6, 7.7; Lambeth local plan Policy Q2(iv).

⁸⁹ CDS12

⁹⁰ Ibid page (v);

⁹¹ Ibid page 1 (paragraph 1.6)

⁹² XXRWQC; and see his paragraph 3.27 – alternative target criteria, expressly countenanced in the BRE guide.

⁹³ Eg *Rainbird v LBTH* [2018] EWHC 657

⁹⁴ CDL3, Whitechapel Estate decision

163. An important benchmark they both employ is retained VSC values in the mid teens which are increasingly held to be reasonable in inner urban locations. Mr Bolton gave the Whitechapel Estate decision from February 2018 as an example⁹⁵ of this practice; the Inspector's reasoning is compelling – having identified the area of that appeal site as one where higher density developments were sought as a matter of policy, he agreed that “the blanket application of the BRE guide optimum standards, which are best achieved in relatively low-rise well-spaced layouts, is not appropriate in [that] instance”. Dr Littlefair acknowledged that it would not be appropriate to take a “blanket” approach in this case, either.
164. Lying as it does in Inner London, in an opportunity area earmarked for intensification and a higher density development, and with tall buildings already in close proximity (ie on Black Prince Road and next to the Site on Albert Embankment at Westminster Tower), the Site is a prime candidate for the use of the mid teens benchmark for VSC.
165. Dr Littlefair accepted that he had not carried out any form of contextual appraisal, although he ventured to assert in his oral evidence that the Whitechapel case was “not so relevant” and⁹⁶ he said that the mid teens benchmark was something that developers “try to get away with” but – and here he was refusing to answer directly the question posed by Mr Ball as to whether it was a common benchmark – “it is not used by local authorities.”
166. There are all sorts of things wrong with the Rule 6 party's case on this point. First, as already submitted, the mid teens benchmark is a clearly-established test which applies to areas of Inner London like the appeal site within the VNEB⁹⁷. Second, it is a common approach, as Mr Bolton and Mr Dias both said. Third, Dr Littlefair's main response – ‘it's not in the BRE’ is of little assistance. The BRE guide has not been updated now for 9 years, and things have moved on in this field of practice, if not in the more rarified world of academic daylight study.
167. Fourth, Dr Littlefair had not applied the mid teens retained VSC benchmark and had no evidence to give as to whether, if it was applied, the scheme would be seen as giving rise to acceptable effects on daylight. Fifth, pressed to identify where the BRE provides guidance on acceptability of impact on neighbours, he said that the mid teens VSC would tend to result in poor daylight, referring to paragraph 2.1.6 of the BRE Guide. However, as he accepted, that guidance is about the design of new buildings, not about the judgements about impacts on existing buildings, which are set out in section 2.2 of the BRE. There is, as he acknowledged, nothing in the BRE that is expressly equated with the point at which retained levels become unacceptable. As a result, relatively little weight ought to be given to his evidence on the key judgemental point of acceptability.
168. If one looks at the levels which Point 2 have modelled, and in respect of which there is no methodological challenge, it is clear that the effects of the proposal, whilst material, would not be unacceptable:

⁹⁵ Ibid paragraphs 107 to 118.

⁹⁶ In RX

⁹⁷ In addition to the Whitechapel example, see for recent examples in relatively close proximity, CDX24 and X25. The latter is a decision of this Council which involves the use of the mid teens benchmark, It is not a “myth” – it is the current balanced approach to the issue of daylight and sunlight in inner London.

- 1) Whitgift House was unsurprisingly a focus of attention, given the nature of the housing and role it played in the 2013 decision. Retained levels are on average 17.8% VSC on the ground floor, with the worst 16.6%. The average across the entire face of the building towards the Site is 19.2%⁹⁸, with averages by floor ranging from 17.8% on the Ground Floor to 21.5% on the Third Floor⁹⁹. These results are acceptable; they are also materially better than the equivalent value given by the Native Land scheme, as one would expect from the change in orientation and form of the proposed buildings¹⁰⁰. The Point 2 analysis is also bolstered by the relatively high retained levels of NSL at Whitgift House¹⁰¹. It is recognised that some vulnerable people live in the building, but the retained light levels are not such that weight can be given to the suggestion(s) made that they would be materially harmed by the effects of the scheme¹⁰².
- 2) A similar picture emerges at 2 Whitgift St¹⁰³: all twenty two windows on the front elevation facing the site would retain VSC in excess of 15.28%, including all nine windows underneath the deep projecting balconies. If one discounts the balconies as existing features¹⁰⁴, the average jumps to 23.56%¹⁰⁵. The NSL results for the building are satisfactory¹⁰⁶.
- 3) 9 Albert Embankment¹⁰⁷ would also suffer some daylight loss, but it would all be within acceptable limits for an area such as this – it is itself a tall building of course. Building B would retain 16% VSC on average facing the scheme, a percentage point more, if one removes the balcony effect. Building A, East, would retain an average of 20%, rising to 26% without the balcony effect¹⁰⁸, and Building A, West, would retain average VSC of 23% across the 191 windows. Yes, in all cases there would be some moderate to major adverse impacts measured by reference to the BRE Guide, but the resulting retained levels would be acceptable in this location.
- 4) The same is true of 73-79 Black Prince Road, which currently has an unobstructed outlook over a vacant site¹⁰⁹.

169. As for the Beaconsfield Gallery, the inquiry was presented with a comprehensive set of figures to guide a judgement on acceptable impact. Understandably, the proprietors, clients and friends of the Gallery were very keen that it is not lost, or seriously harmed by the daylight or sunlight effects of Block

⁹⁸ See Mr Bolton CDT3, paragraph 5.9-5.10.

⁹⁹ Ibid Table 2, page 34.

¹⁰⁰ Ibid Table 06 page 73.

¹⁰¹ Ibid paragraph 5.19 page 36.

¹⁰² Dr Littlefair in particular accepted that he gave no evidence about health-related aspects of daylight and sunlight results in this case; nor is there anything other than a handful of anecdotal remarks to which no weight can be given.

¹⁰³ Mr Bolton CDT3 pages 38-44.

¹⁰⁴ An exercise which the BRE Guide suggests is a way of assessing daylight in such cases.

¹⁰⁵ Mr Bolton's paragraph 6.6 page 42.

¹⁰⁶ Ibid paragraph 6.7 page 42.

¹⁰⁷ Ibid pages 45-52.

¹⁰⁸ Ibid page 48.

¹⁰⁹ Ibid pages 53-57.

C1 (on the Eastern site); many, it is fair to say, clearly felt that the daylight impact would be far worse than the analysis actually shows – the objection from Mr Crawforth, for instance, included the assertion that the upper main gallery space would “lose half its light”.

170. These fears are exaggerated¹¹⁰ and they misread the evidence. As Mr Bolton detailed (supported by Mr Dias), the main gallery space is served by four very large windows and one small oculus. The assessment does not bear out the fear that the 57% reduction in VSC for the large south-facing window would equate to a dramatic loss of light overall in the room. The three equally-large east facing windows cast a considerable amount of light into the space and would be entirely unaffected by the scheme. The numbers are compelling – the average retained value would be 20.84% and the main space would achieve nearly 100% of NSL (ie sky visibility).
171. The lower space is already rather more compromised in terms of daylight; but it would remain a serviceable area for both artistic display and the other food and drink or flexible uses¹¹¹.
172. Its outside spaces would be largely unaffected – the roof garden and space to the north would not be affected at all¹¹². The sitting space (often itself shaded by an adjustable sunshade) would continue to receive adequate levels of sun on the ground¹¹³.
173. There is therefore no basis to fear that the valuable work of the Gallery would be detrimentally affected, let alone that anything more serious would befall it.
174. A final set of points on daylight/sunlight:
- 1) The daylight/sunlight on the ground in the scheme itself would be good – as Mr Pilbrow said, it is only the garden walk in the middle of the Site (more an activated movement route than a public open space) which would be relatively shady – the rest would all receive good sunlight.
 - 2) There is no basis for the suggestion made that Old Paradise Gardens would be cast into shadow (in combination with the consented scheme to the north east). It would not¹¹⁴: the position of the relevant buildings would lead to shadows at different times of the day on different parts of the open space – there is no evidence that they would coalesce for any length of time; indeed their relative positions vis-à-vis the sun path make that highly unlikely¹¹⁵.

¹¹⁰ Eg “Massively overshadowed” (Ms Weight)

¹¹¹ See CDT13, pages 43-44 (NB replaced so images match the correct times of year).

¹¹² Ibid – see the sun on ground diagrams. Ms Gregory’s concerns about the effect on greening the Beaconsfield Gallery outside spaces are not well-founded.

¹¹³ BRE sun ground drawings.

¹¹⁴ We were shown rapidly some images of the transient sun path information but there was no attempt to assess what the cumulative effects would be on a relevant day.

¹¹⁵ There is also no substance to the concerns expressed by Ms Wallis whose walking of traumatised dogs is not going to be affected in any way by the scheme. There may be more activity in Old Paradise Gardens with the scheme in place, but that is a positive not a negative.

- 3) There is no evidential basis for the far-fetched claim¹¹⁶ that one or two species¹¹⁷ in the Garden Museum's garden would suffer terminal decline due to the exiguous impact of the scheme (20 minutes diminution of sunlight on 21 December).

175. The effect of the scheme would be perceptible in numerous places around the Site, but the impacts would all be acceptable in terms of the prevailing policy tests. There would be no overlooking or loss of privacy¹¹⁸. Pedlars Park, one notes, to the south of the Site, would not be affected materially.

176. For these reasons, the Secretary of State is asked to find that the scheme would not unacceptably affect the amenities of existing residents of the area. Whilst not wishing to double-count any points, it is worth pointing out that there are around 30,000 households whose residential amenity is very severely sub-standard at the moment, because they are in housing need in Lambeth – their voices, as always when it comes to affordable housing need – have not been heard at the inquiry¹¹⁹, but should not be overlooked when thinking about what the scheme on balance would do for local people in Lambeth.

Industrial land

177. The central and eastern parts of the site fall not only within the Opportunity Area but within the KIBA. As Ms Carpenter for the Council indicated, this KIBA is the only one which contains a degree of flexibility. It allows for residential uses within the site if necessary to achieve a scheme that would be acceptable in all other respects¹²⁰.

178. That approach to industrial land is fully consistent with the Secretary of State's desired approach to making the best use of such land in London¹²¹. There is a much broader point, raised by Dr Ferm in her evidence, about the movement of industrial land between land uses, but that is quintessentially a matter for the

¹¹⁶ Advanced in the notable absence of any evidence by Mr Woodward; his presentation was in general characterised by rather over-enthusiastic hyperbole and should be taken (perhaps was intended to be taken) with a pinch of salt.

¹¹⁷ In Mr Ball's words "the famous dahlia". Similarly, no evidence was presented that any planting or horticultural activity in Old Paradise Gardens would be affected in this way either.

¹¹⁸ The claim made by Dr McFarlane (resident in 73-79 Black Prince Road) that she would suffer impacts from a 44m tall building (building C1 on the eastern site) was misleading: the dimension is on the very end corner of the proposed building, but the proposed built form would sweep away obliquely from the Dr's flat to the north east; it has been very carefully designed to avoid any impact on privacy or overlooking. See paragraph 8.3.14 of the report to Committee, CDK2.

¹¹⁹ They are not in the fortunate position of having articulate advocates like those running the TRA in Whitgift House; they rely on the correct planning decision being made to have their voices heard.

¹²⁰ CDO1 page 163.

¹²¹ Secretary of State's 13 March 2020 letter to the Mayor contains the following: **Industrial land: Planning clearly requires a judgement to be made about how to use land most efficiently, enabling sufficient provision for housing, employment and amenity. The Inspectors considered your industrial land policies to be unrealistic; taking an over-restrictive stance to hinder Boroughs' abilities to choose more optimal uses for industrial sites where housing is in high demand. I am directing you to take a more proportionate stance - removing the 'no net loss' requirement on existing industrial land sites whilst ensuring Boroughs bring new industrial land into the supply.** (Emphasis added).

- London Plan and then local plans. It does not comprise a material consideration which indicates that a different approach should be taken to the policies in the adopted plan for the Site, and Dr Ferm was careful not to say as much.
179. As for the KIBA, the general policy (ED2)¹²² clearly includes office use in its definition of business uses¹²³. There is no injunction against larger office uses in a KIBA¹²⁴. However, it should be read together with the site allocation policy, which allows for flexibility.
180. In order to understand whether residential uses would be acceptable (because it is necessary to ensure an acceptable scheme), one must undertake the iterative exercise of assessing all the other policy objectives for the Site. Before one understands what might go towards making an “acceptable scheme”, one has to understand the policy requirements, the opportunities and constraints.
181. These, as Mr Ball acknowledged, include treating the Site as a whole (rather than dividing it up into KIBA and non-KIBA); and maximising the amount of affordable housing in line with the London Plan policy. They also include the importance of dealing with the heritage assets in a positive way, and creating excellent townscape and public realm; they include trying to engender more employment on the Site.
182. The scheme does all of those things. It needs residential on the KIBA site to achieve a powerful contribution to housing in line with policy, and to produce the maximum reasonable (40%) affordable housing – that is clear from the agreed viability work.
183. A persistent misunderstanding, or mischaracterisation, of this process infected the R6 party’s questions and submissions on the KIBA point. There is nothing circular about relying on the affordable housing or overall quantum of housing to justify residential in the KIBA – the point is that the scheme is the optimum way to deliver the range of prevailing policy objectives.
184. Mr Ball rightly recognised that in order to dispute this judgement it would be necessary to produce evidence that these policy objectives could be achieved by a different scheme, one which (in the context of the KIBA designation) did *not* require residential on the KIBA sites. That has proved an impossible task and no party to the inquiry has done it.
185. There is nothing surprising about that. The Design and Access Statement sets out the various iterations of alternative approaches to the development of the Site, and it is crystal clear from the viability work that a dynamic balance has to be preserved between the cash flow of the scheme, and the viability of affordable housing. There is no alternative scheme here which can be relied on to suggest that the KIBA exception is not made out:
- 1) Mr Turner’s late evidence based on the BPS/accord work for Lambeth was expressly denied by him to represent any form of alternative scheme. That

¹²² CDO1, page 59.

¹²³ See part (a) of the policy wording itself.

¹²⁴ Mr Reed QC pointed out to Mr Ball (XX) that Policy ED3 restricts larger offices other than in the CAZ.

was wise, given that Ms Dickinson and Dr Lee show that none of the schemes referred to in that work is remotely viable¹²⁵.

- 2) The AUV scheme is not an alternative scheme in this sense. It forms part of the FVA, setting the benchmark land value on the agreed basis that it would be an uncontroversial policy-compliant scheme to bring forward office space on the KIBA part of the Site. It would be deliverable. However, it would not, clearly, achieve the policy objectives already identified. In a sense, this is a glimpse of the obvious – the very reason why there is an exception to enable a scheme ‘acceptable in all other respects’ to recognise that it may be necessary to introduce residential uses to enable those outcomes – in terms of policy, housing needs, delivery of overall scheme benefits through a viable scheme – to be realised¹²⁶.
- 3) The Native Land scheme is not, despite Mr Ball’s suggestion¹²⁷ to the contrary, an alternative scheme. It was refused permission and not taken forward; there is no work produced by Mr Ball to show how it could be amended to deal with the daylight and sunlight issues without becoming unviable or unacceptable in some other way – one recalls that it was only able to produce 7% affordable housing, even with all its floorspace.
- 4) Nor is the sketch scheme by Delancey an “alternative”¹²⁸. It was part of a failed bid for the developer of the Site, and there is absolutely no evidence as to its viability, whether as the scheme was actually consulted upon and drawn up, it would have changed in one or more fundamental ways. It is not a reliable template for a scheme.
- 5) Nor is the suggestion of a ‘land value’¹²⁹, or a mysterious allegation that the land value sought by the LFC somehow an ‘alternative scheme’.
- 6) In closing Mr Ball speculated about all sorts of different schemes including how many homes might be fitted on site “without difficulty”, and made comments about the affordable housing and viability¹³⁰ in some other scheme – at this point the essential vacuity of the R6 party’s case was staring us in the face. It is a series of fairly naïve – often completely misguided – objections to tall buildings, loss of industrial, hotels¹³¹; it fails fairly to assess the benefits of the scheme, and airily says that the benefits could be achieved in some other non-harmful way. The trouble is that they can’t, let alone viably.

¹²⁵ See CD X20. Plainly, despite Mr Turner’s unfounded suggestion to the contrary, one cannot infer from that document that any variant or version of those schemes would be viable either.

¹²⁶ The claim that this is ‘circular’ fails to appreciate the iterative, pragmatic way that planning policy has to be applied. The *Parkhurst Road* case is of no relevance to this issue – the ‘circularity’ there was something completely different within the field of market valuation. The R6 party has the wrong end of the stick.

¹²⁷ See his proof, CDW8, paragraph 7.22-25.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Which included yet again misrepresentations about the affordable housing offer along the lines we heard from Cllr Simpson.

¹³¹ There is no hotel no monoculture point here, no policy direction and no moratorium – the hotel is a benefit.

186. The Secretary of State will note the contrast with the Native Land appeal in 2013, where the Council advanced a series of more or less evidenced “alternatives”¹³² with the Optimum Viable Use notion in mind. These were drawn out, and assessed by reference to their viability and so on. None of them was near to being accepted by the Inspector in 2013, by the look of the decision letter; but on this occasion, the matter has become even more clear cut: such is the complexity of the overlapping policy objectives for the Site, that there is no reasonable basis for concluding that there is a better alternative scheme.
187. Of course, the background is that the requirement to show an absence of better alternatives in planning cases are always exceptional – here it arises in two ways, (1) in the context of Dr Miele’s argument that the scheme represents the OVU for the main designated asset, and (2) the broader argument under site P10 that this scheme is needed to pass the KIBA exception test. Nothing said or put in evidence at the inquiry could be said properly to cast any doubt on those points.
188. There are some less strategic KIBA points –
- 1) There is no sense in which the KIBA at Newport Street would be left hopelessly fragmented if this scheme were to take place, as Ms Carpenter confirmed at the round table session on this topic.
 - 2) There is no basis for believing that the operation of any existing KIBA occupier would be detrimentally affected by the scheme – Mr Tiernan was concerned about James Knight of Mayfair’s operation, for instance, but there is no need: the noise and odour impacts on nearby proposed residential units is easily covered by appropriate ventilation systems and windows.
 - 3) There is no policy requirement to market the KIBA part of the site before advancing a scheme of this kind.
 - 4) The jobs that the scheme would produce would be considerably more than one would expect from an industrial use; they would fall within the KIBA policy definition and would not necessarily all be the same kind of (to the R6 party, anyway) objectionable homogenous office jobs. On the contrary, the scheme would foster a range of occupiers including SMEs, in line with KIBA policy. These jobs would be a real benefit of the scheme.

Compliance with the development plan

189. The policies of the development plan must be viewed as a whole when assessing the first part of s.38(6) of the 2004 Act. All of the housing, VNEB and employment policies of the London Plan would be met. The GLA were content with the application of design policies, including (importantly) policy relating to Tall Buildings; they were also content with the application of the Urban Greening factor policy.

¹³² See CDL1 75ff.

190. The local planning authority referred the application as a departure from the plan¹³³ due to non-compliance with the site allocation policy. However, the checklist of points within the allocation policy¹³⁴ is very largely satisfied¹³⁵; the main point – the presence of tall buildings – I have made submissions about above. This particular scheme amply justifies the tall buildings which Mr Pilbrow has designed, and their impact on heritage assets is either negligible or at worst limited (ie, the reason underlying the policy issue is not offended by the design of the scheme)¹³⁶.

191. Overall, the scheme is in accordance with the development plan.

Benefits and planning balances

Benefits

192. These submissions have not dealt with the Commissioner's evidence in great detail because it was unchallenged. But there is something compelling about the operational benefit that would accrue to the Fire Brigade from updated and new facilities. These are sorely needed, as the Commissioner says, and will ensure that Lambeth and the central Westminster Government area is also protected for the foreseeable future by the station. Significant weight should be given to this benefit, because the development would deliver it¹³⁷.

193. Similarly the new Museum would be a significant benefit – it would, as the Commissioner said, enable the Fire Service to get some of its key fire awareness and safety messages across as well as being a remarkable facility for locals, Londoners and visiting tourists. It would also allow the significance of the site to be understood more readily, or be better revealed; and it would underpin some of the footfall in the new quarter that the scheme would create.

194. Without repeating matters unduly, the other benefits of the scheme would be substantial: housing where it is much needed in London; genuinely affordable housing, at 40%; a very significant number of jobs on the KIBA site; a hotel in the CAZ; active frontages, excellent public realm and character improvements¹³⁸

¹³³ Under Article 15(2)(b) of the Town and Country Planning (Development Management Procedure)(England) Order 2015 – see the report to committee.

¹³⁴ The allocation is the answer to Mr Ball's 11th hour argument about the application of Lambeth Policy S1. It is a general policy which clearly needs to be read in the light of the site specific allocation of the Site, which does not make any mention of "community use" or seek its retention or replacement – it treats the KIBA site and indeed the *sui generis space* in the main building as employment use (albeit in *sui generis*).

¹³⁵ With the exception of the curious prohibition of GF residential, which is a flooding point (not in issue here).

¹³⁶ See for confirmation, the evidence of Mr Black and Mr Traves on this point.

¹³⁷ There was no demur from any witness to the inquiry on this point. Mr Ball toyed briefly in XX with saying that the improvements were not really needed, but in the end accepted the point. There is also a strong argument, given the London Plan infrastructure policy, that the receipt from the sale of the site (which would be spent on LFC obligations in London) is a material planning consideration in this case; if there is any doubt about the planning policy connection with the receipt, then clearly it would be prudent for the Secretary of State not to take the receipt into account; but the Applicants are content for him to decide this point.

¹³⁸ It is perhaps worth recording Mr Pilbrow's and Dr Miele's views that the re-casting of Whitgift St as a quieter residential street with well-designed terraced buildings facing Whitgift

and very high quality architecture. The conservation of the main Listed Building and Drill Tower, with certain improvements to both, also deserve significant weight, as do the improvements to the CA, and to the setting of the former Royal Doulton building.

Balances

195. In terms of paragraph 196 of the Framework, we would invite the Inspector and Secretary of State to form the view that these benefits considerably outweigh the collective harms to heritage assets.
196. As to the s.38(6) test, we would urge the Secretary of State to find that the scheme is in accordance with the development plan as a whole, and needs no justification beyond that. Having said that, the weighty set of benefits go beyond mere policy compliance and would outweigh a degree of non-compliance with the plan.

Overall conclusions

197. It is notable that a complex scheme such as this has support from the GLA and the LPA, and that there is no objection from Historic England. A balance still needs to be struck within the development plan and within the Framework, because there would be some harm; however, it would be relatively limited.
198. Objections to the scheme have focused on very local issues, which may well have been responsible for the narrowness of the vote to support the scheme at planning committee. Objectors argue that given that the towers would reduce some daylight and sunlight, and the KIBA site would have a significant amount of residential on it, the application is wrong-headed, fundamentally flawed, and there must be a better way or preferable alternative. There isn't. This scheme has been worked on exhaustively for a number of years, and has reached a point where it balances the maximum planning benefits against the minimum harms.
199. It would be a proud moment for the London Fire Brigade to have their new fire station and museum, and for the HQ to be conserved and secured for the long term on this strategic site.
200. It would also be a genuine planning success to be able to give to London and to Lambeth the full set of planning benefits that make up the scheme.
201. A strategic number of homes and affordable homes and jobs, optimising the re-use of a centrally-located brownfield site with good sustainability connections.
202. A scheme which conserves a really important London building, at a cost of only limited harm to heritage assets and residential amenity.
203. For these reasons, and subject to the conditions and s.106 agreement, the Applicants respectfully request the Inspector to recommend, and the Secretary of State to grant, both Planning and Listed Building Consent for the 8 Albert Embankment scheme.

House would be a benefit, as would the increased permeability and connectivity across the site.

THE CASE FOR THE COUNCIL OF THE LONDON BOROUGH OF LAMBETH

Introduction

204. The evidence which has been presented to the inquiry by the Applicant's and the Council's witnesses are closely aligned. The Council draws support from the Applicant's evidence and relies upon it, but, in order to avoid repetition, reference will not be made to that evidence in these submissions save where necessary.

Design and Heritage

The Albert Embankment Conservation Area ("the AECA") and Listed Buildings.

205. The Council has carefully considered the scheme; its position has been set out by Mr Black.

206. Mr Black concluded¹³⁹ that less than substantial harm would be caused to 8 Albert Embankment ("8AE"), the Drill Tower and Lambeth Palace¹⁴⁰ as a result of the changes to 8AE itself, the introduction of the tall towers on the Middle Site and the effect of the 11-storey building on the East Site. He has also concluded that less than substantial harm would be caused to the AECA¹⁴¹. The Rule 6 Party's suggestion¹⁴² (made in closing and in XX) that Mr Black considered there was substantial harm is just wrong.

207. However, he has recognised that the scheme brings with it benefits to the AECA in terms of the demolition of the 1980's control room, the restoration of the listed buildings, the securing of their long-term future, the activation of Lambeth High Street, a much-improved public realm, the high quality of the new architecture (which is far superior to the appeal scheme¹⁴³) and the delivery of a fire station which reinforces the historic use of 8AE. He has also concluded that there would be a positive effect on Southbank House¹⁴⁴.

The Lambeth Palace CA (LPCA) and City of Westminster CAs.

208. Mr Black concluded that there would be a low level of harm to the LPCA which would be less than substantial, principally arising from the views of the tall buildings on the Middle Site from within Old Paradise Gardens¹⁴⁵. As for the Smith Square, Westminster Abbey and Millbank CA's, Mr Black considered no harm would result¹⁴⁶.

209. I address the effect on the World Heritage Site (WHS) separately below.

210. Mr Black's assessment of these heritage assets was carefully considered and reasonably arrived at. Attempts have been made in this inquiry to undermine his professional judgment, quite unfairly. Mr Black's different view from his previous

¹³⁹ CD U4, para. 6.76

¹⁴⁰ Para. 7.3

¹⁴¹ 8.23

¹⁴² Closing, pg. 12, by reference to what Mr Black said in his PoE at para. 13.9.

¹⁴³ DB XX, MB.

¹⁴⁴ Para. 7.4

¹⁴⁵ Para. 9.4

¹⁴⁶ Paras 9.5 – 9.14.

view on the Appeal scheme¹⁴⁷ confirms his professionalism, it does not undermine it.

211. He explained¹⁴⁸ that his view on the present scheme was different because (a) there was further guidance as to what is meant by substantial harm from the Court in the *Bedford* decision¹⁴⁹ after the Appeal decision was issued; and, importantly (b) his view of what amounts to substantial harm has changed in the 7 years since the Appeal decision – as he said, “I had to move on” with the changes in guidance and “could not be dogmatic”¹⁵⁰. That Mr Black was willing and able to ensure that his judgments reflected up to date guidance and were revisited over time is a testament to his abilities. His professionalism was reflected in the praise he has received in this inquiry by other experts¹⁵¹. The suggestion by the Rule 6 Party that *Bedford* is now out of date against the NPPG¹⁵² is obviously wrong; there is nothing in the NPPG to indicate that this is the case and the height of the ‘substantial harm’ test is indicated in the NPPG where it requires consideration of whether the proposal ‘seriously’ affects a ‘key’ element¹⁵³ of an asset’s significance.
212. Mr Black’s judgments were measured, correct and can be followed with confidence.
213. The assessment of harm to heritage assets has been undertaken by the Council on the basis that the harm to the relevant heritage assets should be initially assessed without reference to heritage benefits, which should be included in the balancing process under (in the case of less than substantial harm) paragraph 196 of the NPPF. While there is a debate at the present time as to whether the balance of harm and benefit to a listed building may be assessed at the outset to arrive at a net effect (which approach was adopted in the *Palmer* case¹⁵⁴ by reference to development plan policies) before considering the balance under paragraph 196, the Council suggests that the approach which it has taken (and the Applicant has carried out) should be followed. This is in accordance with the decision in *City and Country Bramshill Ltd v Secretary of State*¹⁵⁵ as that decision currently stands, although the decision is subject to appeal.
214. While this issue may need to be revisited should *Bramshill* be overturned, the practical effect in this case will be small. Having considered the various harms which have been identified by Mr Black, Mr Traves concluded that the public benefits of the scheme (including the heritage benefits of the proposal) outweighed the heritage harm.
215. Whether the heritage benefits are front-loaded to the assessment of harm or assessed at the end of the process, the conclusion would ultimately be the same. I return to that balancing process further below.

¹⁴⁷ The 2013 appeal scheme, referred to as “the Appeal”.

¹⁴⁸ EC and XX.

¹⁴⁹ CD L12.

¹⁵⁰ XX, MB.

¹⁵¹ Mr Pilbrow and Dr Miele both in EC.

¹⁵² Page 10, Closing.

¹⁵³ S31, reference ID: 18a-019-20190723.

¹⁵⁴ CD L5.

¹⁵⁵ [2019] EWHC 3437

216. Mr Velluet's assessment of substantial harm to 8AE and the AECA should be rejected. Even a cursory assessment of Mr Velluet's analysis establishes that his judgments were wrong.
217. With regard to the effect on 8AE, Mr Velluet made no adequate attempt to calibrate his views against the Inspector's conclusions in the Appeal. And this led him into error. As Mr Black pointed out, there are many similarities between the Appeal scheme and the present scheme – the addition of a glazed element at roof level, internal works, the introduction of a building directly to the east of 8AE, the erection of a floor over part of the open space to the rear of 8AE and works to the rear balcony. Despite the finding of less than substantial harm by the Appeal Inspector in respect of these aspects, Mr Velluet considered the current proposal caused substantial harm to 8AE. Indeed, Mr Velluet went so far as to conclude that certain aspects of the development, in and of themselves, amounted to substantial harm, like the hotel building and the glazed element¹⁵⁶. There was just no support for that conclusion.
218. This extreme assessment was carried through into Mr Velluet's views on the effect of the works to 8AE on the AECA. This harm, again, amounted to substantial harm in his view. The Rule 6 Party's case came apart on this point when Mr Ball indicated¹⁵⁷ that his view of less than substantial harm to the AECA should be regarded as the Rule 6 Party's case, rather than Mr Velluet's - in effect, abandoning Mr Velluet on this issue. It is not surprising to see why: it is inconceivable that works to 8AE itself - which would not have the effect in any way of eviscerating or having a significant effect on the building's significance – can be regarded as causing substantial harm to such a large CA with multiple character areas¹⁵⁸. Notably, Mr Velluet provided no real explanation as to why such harm would have a substantial effect on the AECA. In Village's closing submissions, the *Irving*¹⁵⁹ case is relied upon¹⁶⁰ to suggest that harm to 8AE is capable of leading to substantial harm to the whole. However, *Irving* made clear¹⁶¹ that the fact that harm is done only to a part is relevant to the extent of the harm. As a result, the effect on only part of the AECA patently is relevant to whether substantial harm is caused to it.
219. Mr Velluet concluded that the loss of the workshop building on the Middle Site also caused substantial harm to the AECA¹⁶²; the loss of just that building would have such an effect in his view. It is not credible to reach this conclusion when the building had been assessed by the Inspector in the Appeal as having¹⁶³ a neutral contribution to the AECA and it was, even on Mr Velluet's analysis, only positive in respect of the front range of the building to the west¹⁶⁴. The fact that

¹⁵⁶ XX, MRQC.

¹⁵⁷ XX, RWQC.

¹⁵⁸ CD O6, para. 2.103.

¹⁵⁹ [2016] EWHC 1529

¹⁶⁰ Closing, pg. 14

¹⁶¹ See para. 58.

¹⁶² CD W14, para. 9.2, 9.4 and 9.5.

¹⁶³ It was stated to be agreed between the parties but the Inspector did not demure from the agreement.

¹⁶⁴ XX, MR.

it had been identified as having a positive effect on the AECA in the Character Appraisal cannot translate its loss into substantial harm to the AECA.

220. Mr Velluet went so far as to say that the development of the East Site with the proposed building would cause substantial harm to the AECA's significance¹⁶⁵. The development of a site which has been called a gap site in the conservation area appraisal¹⁶⁶ covering a tiny part of the AECA could not feasibly be regarded as substantially harming the CA.
221. Mr Velluet's conclusions on the heritage and design effects of the scheme should be rejected.
222. In terms of design, I touch upon the assertions of Mr Woodward as to the effect of the scheme on the Old Paradise Gardens and the Garden Museum. Mr Woodward's belief that Old Paradise Gardens would become a 'shoebox'¹⁶⁷ by virtue of the tall buildings on the middle site should be rejected. I return to the question of daylight and sunlight further below, but the important point here is that, as Mr Black considered, there will be some effect but this would not be substantial harm. The visual effects of the towers on the Museum itself can be wholly discounted.
223. I address a particular policy aspect relied upon by the Rule 6 Party, namely, the Site 10 allocation criterion (iv) which states that tall buildings are inappropriate on the site¹⁶⁸. 'Inappropriateness' does not mean that, if tall buildings are proposed, the application should be refused. It means, of course, that the policy emphasis is against tall buildings but that their effects should be considered from a heritage and visual/townscape perspective in the context of a particular proposal. The statement of policy – while it justifies the scheme being regarded as a departure application – cannot have any determinative weight in the balance of considerations as to whether this particular scheme is acceptable. Given that the policy did not derive from some specific form of development, paragraph (iv) could only be general in its terms.
224. As a result, Mr Black's judgments on the listed buildings and CA's should be followed.

The Effects on the World Heritage Site (WHS).

225. Mr Black's assessment of the effects of the development on the WHS mirrored those of Dr Miele: there would be no harm caused to the OUV or the setting of the WHS from any of the views identified as most relevant in this case (principally, views 2 and 4 of the LVMF). His conclusions are not repeated as they are a matter of judgment for the Inspector. It is a simple point of judgment ultimately and Mr Black's view was right. It is just not possible to discern any effect on the WHS, even with a zoomed image¹⁶⁹.
226. It is important to observe, of course, that no policy prevents development behind the Westminster towers. The LVMF itself does not preserve the views in

¹⁶⁵ CD W14, para. 10.2.

¹⁶⁶ CD O6, para. 2.58.

¹⁶⁷ EC

¹⁶⁸ CD 01

¹⁶⁹ DB XX, CS.

- aspic. Under view 2B.1, the guidance indicates¹⁷⁰ that development should not dominate the towers or diminish the spatial relationship between them. As to view 4A.2, there should be preservation of a viewer's ability to recognise or appreciate the WHS within the panorama¹⁷¹. As Mr Black concluded, it just would not be possible to discern such effects from the distances involved in these views.
227. Westminster's case, presented through Mr Burke, had a distinct air of unreality about it. It became clear that the judgments on harm really derived from an assessment of the relevant views through binoculars or other magnification aids. Not only was this a particularly specialised effect, but it had the obvious flaw that if one went to these views with a pair of binoculars to seek out particular landmarks, one could not but fail to appreciate the towers.
228. Underlying Westminster's case was its stance, in truth, that any development in a view of the WHS would necessarily be harmful. This became apparent from the Council's use of the Shell Centre decision to establish the harm which ICOMOS considered would be done by that development to the WHS¹⁷². In that case, of course, the Inspector (and the Secretary of State) rejected Westminster's and ICOMOS' view.
229. Perhaps more importantly, Westminster's case to this inquiry relied heavily upon the concerns raised by ICOMOS/UNESCO in its mission report on the state of the WHS¹⁷³. However, it is notable that the particular viewpoints relied upon by Westminster in this case did not feature in the report as ones which particularly needed to be protected¹⁷⁴, they were not visited during the mission, and there is no evidence that Westminster asked the Mission to see the WHS from these views¹⁷⁵.
230. Westminster's views became even more surprising when it was alleged that the proposal would affect views of the WHS from Hungerford Bridge¹⁷⁶, despite the very large number of existing tall buildings in the view. The suggestion of harm from that location is fantastic.
231. Again, what the above matters show is that Westminster's view of harm to the WHS is overly protective and skewed, identifying harm whenever something can be seen in a WHS view. It is this which has led Westminster into error; its case should be rejected.
232. As for Westminster's submissions in closing¹⁷⁷:
- a) There is no evidence for the point floated in XX of Mr Black that the Site 10 allocation's statement as regards the inappropriateness of tall buildings derived from the effect on the WHS. The WHS is identified within the heritage section of the allocation but that does not mean it informed the conclusion of inappropriateness.

¹⁷⁰ CD P3, para. 103 and 110.

¹⁷¹ Para. 133, LVMF.

¹⁷² CD X11.

¹⁷³ CD S8.

¹⁷⁴ See page. 28 where the significant views were identified.

¹⁷⁵ XX Burke, MRQC.

¹⁷⁶ Para. 9.10, Burke PoE, CD V1.

¹⁷⁷ Paras. 37 – 39.

- b) The omission of reference to HE's view on the effect of the OUV in the Council's Committee Report made no difference to the Council's decision: Mr Black's clear position - which had been reached having taken into account HE's view¹⁷⁸ - was that there would not be harm.
- c) The submission that, on the basis of the limited number of concessions identified in Mr Streeten's closing (dealt with above anyway) at paragraph 37, no material weight should be given to Mr Black's view is extraordinary – none of the points raised get close to substantiating that submission.
- d) The contention that the Council's view set out in the Committee Report on the effect of the development from view 2B.1 was determined solely by the screening of a tree is wrong – it is obvious (see 8.2.77 – 8.2.79¹⁷⁹) that the analysis was not solely based on this issue; and existence of vegetation is not immaterial; the LVMF does not state that vegetation should be ignored – indeed, it refers to the need for management which recognises that it might have an effect.
- e) The suggestion¹⁸⁰ that Mr Traves had not weighed public benefits against heritage harm is obviously wrong: he had considered the position specifically in his evidence¹⁸¹ and confirmed that position¹⁸².

The Paragraph 196 Balance

233. The Council concluded that the benefits of the scheme outweighed the heritage harm when considered as a whole. These benefits comprise:

- a) The heritage and design benefits I have referred to above¹⁸³.
- b) The provision of a new fire station and emergency base.
- c) The provision of a museum.
- d) The provision of new housing and 40% affordable housing. The significance of this aspect is returned to under the housing section further below¹⁸⁴.
- e) New and diverse employment opportunities.
- f) Public realm improvements¹⁸⁵.

234. During the course of this inquiry, the merits of these factors have not been seriously questioned.

235. The Council also concluded in this case that the proposal comprised the optimum viable use (OVU).

¹⁷⁸ RX.

¹⁷⁹ CD K2.

¹⁸⁰ Para. 39(b) closing.

¹⁸¹ POE, para. 4.1.1.

¹⁸² RX.

¹⁸³ Paragraph 4 above.

¹⁸⁴ Paragraph 41.

¹⁸⁵ Para. 3.2.17, Mr Traves' PoE, CD U10.

236. The process by which this conclusion had been arrived at was described by Mr Traves¹⁸⁶ as an iterative process which ultimately led to a scheme that officers considered was the best option for the site considering the various local and strategic policy requirements, aims and objectives. This was a matter of judgment which the Council was plainly entitled to reach.
237. The Rule 6 Party has sought to argue that the decision in *Gibson*¹⁸⁷ presents a valid objection to this proposal. In *Gibson*, the court held that if there is another optimum viable use which the grant of permission would prevent, this would be a factor telling against the development¹⁸⁸.
238. Aside from the questionable legal basis for such an approach in circumstances where, as a matter of policy, the OVU is only identified in paragraph 196 of the NPPF as a benefit, any such contention entirely falls down on the facts in this case: there is, in short, no competing OVU scheme which is less harmful in conservation terms than the present scheme which the present scheme could prevent - that is a critical test for assessing what amounts to the OVU¹⁸⁹.
239. First, no alternative scheme has been presented which has been shown to be viable and deliverable.
240. Second, no expert evidence has been produced by the Rule 6 Party (or anyone else) to establish that any of the tentative suggestions put forward by it would amount to a scheme which is, in conservation terms, better than the present scheme¹⁹⁰.
241. Third, even a cursory assessment of the Rule 6 Party's possible alternatives (as opposed to vague assertions that the land value in the site is enough to produce a less harmful scheme - which does not get close to amounting to a proposed alternative¹⁹¹) establishes that they could not feasibly be regarded as producing a less harmful scheme in conservation terms:
242. The Appeal Scheme¹⁹² was found to cause less than substantial harm. It would not, therefore, be less harmful in overall terms than the current scheme; Mr Black concluded¹⁹³ that the Appeal scheme and the current scheme had overall the same effect. In a development scheme of the present scale, it is completely inappropriate to start comparing alternative schemes on a graded basis within the overall less than substantial harm category. The Rule 6 Party has not, in any event, sought to assess the Appeal scheme and the current scheme on such a fine-grained basis.
243. Aside from the lack of any evidence as to deliverability, the Delancey scheme¹⁹⁴ included a large block to the east of 8AE wrapping around the listed

¹⁸⁶ EC.

¹⁸⁷ *R (on the application of Gibson) v Waverley Borough Council & Anor* [2012] EWHC 1472 (Admin).

¹⁸⁸ Para. 7.21, MB PoE, CD W8.

¹⁸⁹ See the PPG, para. 15, CD S31.

¹⁹⁰ Agreed by MB, XX – MR.

¹⁹¹ 7.25, MB proof, CD W8.

¹⁹² 7.23, MB proof, CD W8.

¹⁹³ EC.

¹⁹⁴ Appx 1, MB proof, CD W8.

building, a slab over the open space to the rear, works to the balconies on the east side of the building and very sizeable blocks on the Middle Site; all aspects which are not dissimilar to the present scheme. Again, it is inconceivable that this scheme would cause anything less than less than substantial harm.

244. As for the BPS/accord scheme which was presented in Mr Turner's further submissions to the inquiry¹⁹⁵, this was confirmed by him as not amounting to an alternative¹⁹⁶. That is not surprising given the unopposed conclusions of the viability witnesses that the scheme is wholly unviable¹⁹⁷. Moreover, even on the indicative proposals presented by Accord, they include aspects which, again, could not lead to any different conclusion but that the scheme would cause less than substantial harm to heritage assets¹⁹⁸.
245. Given the above, there is no other scheme which has been presented which could be regarded reasonably as the OVU in competition to the present scheme.
246. Finally, Mr Black has considered the effect of the proposals on non-designated heritage assets. The effect on these would not reverse the above conclusions.
247. As a result of the above matters, the Council has concluded that the less than substantial harm caused by the scheme would be outweighed by the public benefits, including the OVU. This is so even once great weight is given to the harm¹⁹⁹ and the relevant statutory heritage tests have been applied.
248. Further, the Council has also concluded that, even if there is harm to the WHS, these public benefits were nevertheless sufficient to outweigh the inclusion of this additional harm²⁰⁰. The suggestion²⁰¹ that this assessment was adopted "on the hoof" was outlandish, given the considered nature of Mr Traves' evidence.

Housing and Affordable Housing

249. The scheme will contribute a substantial amount of market and affordable housing.
250. The details of this will no doubt be dealt with in the Applicant's evidence; these submissions concentrate on the policy context for considering the market housing and the importance of delivering affordable housing.

Housing

251. The provision of some 443 units would make a marked contribution to Lambeth's housing provision. Ms Carpenter's evidence was clear that without the delivery of this housing, there is a high risk that the Council will not meet its 10-year housing figures²⁰². The site is identified in the Council's housing provision

¹⁹⁵ CD Y1.

¹⁹⁶ GT XX, RWQC.

¹⁹⁷ CD X20.

¹⁹⁸ See the massing drawing at pg. 71 pdf, CD Y1 – a building to east of 8AE, building on the parade ground, works to the rear of the building, significant, blocky development on the middle site.

¹⁹⁹ Under *Barnwell Manor* [2015] 1 WLR 45 [23].

²⁰⁰ JT PoE, para. 4.1.1, CD U11

²⁰¹ XX, JT, CS

²⁰² CC PoE, par. 3.1.7.

statement dated October 2020²⁰³, in years 9 and 10 of the housing trajectory. The Rule 6 Party's attempts to suggest²⁰⁴ that the Council's record of delivery is such that there is no need for this site was wholly un evidenced. In any event, the Council's ability to meet its targets shows the success and realism of its housing assessments; that supports Ms Carpenter's conclusions, rather than undermines them. While headroom is built into the trajectory, that does not allow the removal of the site. As Ms Carpenter explained, the headroom is important as a buffer²⁰⁵. The importance of the allocation is reiterated in two aspects: first, the Government's objective to significantly boost the supply of housing²⁰⁶ and the required optimization of land to achieve that²⁰⁷; and, second, the London Plan's requirement for boroughs to meet and exceed their minimum housing targets²⁰⁸, an aim reiterated in the Intend to Publish version²⁰⁹.

Affordable Housing

252. This can be dealt with shortly. The significant weight to be given to the delivery of affordable housing is unchallenged in this case. There is a significant unmet need²¹⁰. The viability tested affordable housing offer complies fully with the planning practice guidance on viability, the Council's supplementary planning document on viability and the Mayor's SPG on viability²¹¹. The use of an AUV was discussed at length between the GLA, the Council and the Applicant and was agreed to be an acceptable benchmark²¹².

253. As for the mix of units, it has been established that the mix of 62% shared and affordable rent and 38% shared ownership (as opposed to the H2 aim of a 70/30 split) is justified to deliver 40% affordable housing²¹³. It has been established that the proposals meet the Council's requirements for the rented element and the affordability criteria set out in the London Plan guidance for the intermediate element²¹⁴. The affordable element has been incorporated into the development so as to be indistinguishable from the market development²¹⁵.

254. For the above reasons, substantial weight should be given to the delivery of housing and affordable housing under the scheme.

Industrial Land and Related Issues

255. The scheme would provide space for approximately 1,264 on-site jobs across a range of sectors including through the delivery of offices. The provision of such employment opportunities should be given significant weight – it specifically accords with the site 10 allocation's requirement to 'maximise the amount of

²⁰³ CC PoE, Appx 3, CD U2.

²⁰⁴ Housing round table session.

²⁰⁵ Housing round table session.

²⁰⁶ Para. 59, NPPF.

²⁰⁷ Para. 127, NPPF and see policy 3.4 of the London Plan, pg 100, CD P1.

²⁰⁸ Policy 3.3. London Plan, CD P1.

²⁰⁹ Policy H1, CD P6.

²¹⁰ CC, housing round table session.

²¹¹ Para. 9.2, AL PoE, CD U13.

²¹² Housing round table session, AL.

²¹³ AL PoE, para. 9.3.

²¹⁴ Housing round table session, AL.

²¹⁵ Housing round table session.

- replacement employment'²¹⁶ on the site – this is not, as the Rule 6 Party contends, that the same form of employment space must be provided as the existing uses.
256. The delivery of such industrial provision does not come at the expense of the KIBA designation. The Rule 6 Party has sought to suggest that, in some way, the delivery of office accommodation on the site, as opposed to class B1(b)/(c), B2 and B8 uses, is contrary to the KIBA designation.
257. This is, however, entirely wrong (as Mr Ball, effectively recognised²¹⁷). The adopted Lambeth and London plans allow for office development within a KIBA²¹⁸. While it is right that the draft Lambeth Plan proposes that office development will not be permitted in KIBAs, the draft policy is subject to a number of objections on this specific issue which means that limited weight can be given to it; these objections were not criticised by the Rule 6 Party²¹⁹.
258. Further, the delivery of employment through the proposed hotel cannot be subject to any proper criticism. In spite of suggestions by the Rule 6 Party to the contrary²²⁰, the provision of a hotel in the CAZ is entirely compliant with development plan policy²²¹ and draft policy²²².
259. The Rule 6 Party has, however, criticised the inclusion of residential development in the KIBA. Any suggestion that the exception in the Site 10 policy should not be given weight stands flatly contrary to the history of this part of the policy which shows²²³ that the Local Plan Inspector assessed the need for this exception specifically and concluded it should be included in the policy. It is the only policy in the Local Plan which provides an exception to development in the KIBA²²⁴. The evidence presented by the Rule 6 Party²²⁵ of the need for KIBAs in the CAZ to provide for industry servicing the city is not disputed, but such evidence misses the point – in this case, there has been a specific allocation which has allowed for other uses in the KIBA if they are justified. The development plan process has led to a situation where, in spite of the needs of industry in the CAZ, an exception has been made. The evidence presented by the Rule 6 Party does not undermine the plan's approach.
260. Given that the Site 10 allocation allows for residential development if it is justified on the basis of exceptional circumstances to achieve an acceptable development, the central question is whether that exceptional case has been made out. It plainly has. The Council has specifically considered the relative merits of other proposals which would not entail residential development in the

²¹⁶ (xii)k

²¹⁷ MR XX, MB.

²¹⁸ Lambeth plan, policy ED1, CD O1; and the London Plan, policy 4.4 and paragraph 4.20, CD P1, as Locally Significant Industrial Sites.

²¹⁹ CC Rebuttal, CD U15.

²²⁰ MB PoE, para. 8.31.

²²¹ Policy ED12.

²²² Particularly, ED14 of the Local Plan and policy E10 of the London Plan and see paragraphs 6.10.1 and 6.10.3.

²²³ CC PoE, para. 3.2.4-5.

²²⁴ Ibid, para. 3.2.4.

²²⁵ Dr Ferm PoE.

KIBA and decided that they do not deliver the benefits which the current proposal does²²⁶. The 'exceptional' basis is to achieve a development which best meets the various aims and objectives of the Council. The evidence which has been presented patently establishes that.

261. The Rule 6 Party contends that the 'exceptional' element in the 'preferred use' paragraph requires it to be established that a residential use of the KIBA site is necessary on viability grounds; but that is obviously wrong - there is no such limitation in the wording of the policy itself. The Rule 6 Party has also argued that the word 'acceptable²²⁷' refers to aspects of the development which might cause harm, like the effects on sunlight and daylight. But, again, that is not what the policy says; in its ordinary meaning 'acceptable' refers to acceptability against all aspects of policy.
262. The Rule 6 Party's overall contention that an exceptional case has not been made out should be rejected; the exceptional basis for the provision of housing in the KIBA - that it would deliver a scheme whose benefits far outweigh a KIBA compliant scheme - is clear.
263. The Rule 6 Party has also relied upon the comment in the Local Plan's explanatory statement²²⁸ that KIBA policy takes precedence. However, the inclusion of this part of the statement has already been explained²²⁹ and cannot undermine the Site 10 allocation - as a written statement it cannot alter policy and to give it effect would necessarily turn the allocation policy on its head.
264. An additional, related, and late point was taken by the Rule 6 Party in relation to the scheme's alleged failure to comply with Policy S1 of the Local Plan. Although the policy applies to sui generis uses²³⁰, it is patently not contravened, as the Rule 6 Party ultimately appeared to accept²³¹. Policy S1 (part (a)) specifically indicates support for 'agreed strategies' to deliver certain sites. These agreed strategies are set out in Annex 2²³² and one is the 8AE/Site 10 proposal. Given that the Site 10 allocation is an agreed strategy which acknowledges the potential provision of other uses on the site, a development which is found to accord with the site 10 allocation in terms of the delivery of uses on the site in question cannot be objected to because of the "safeguarding" provisions of policy S1(b); otherwise, the framework of the Plan would be self-defeating. In any event, the 'safeguarding' within S1(b) does not prevent collocation or the reduction of floorspace on part of a site to ensure the continuation or safeguarding of the site for the relevant community use; this part of the policy would, therefore, not be contravened in any event.
265. For the above reasons, the delivery of the expected employment is a significant positive benefit of the scheme.

²²⁶ CD K2, para. 8.1.43-44.

²²⁷ MB XX NG.

²²⁸ Para. 6.10

²²⁹ CC Industrial Roundtable.

²³⁰ See para. 7.4, CD O1.

²³¹ MB XX MRQC.

²³² See the written statement at para. 7.3.

Transport

266. There can be no real transport objections to the scheme. As Ms Kingston has indicated, the proposal has been carefully assessed through the transport assessment. The scheme will have a positive effect on enhancing the delivery of Lambeth High Street and neighbouring streets as part of the Council's healthy routes network²³³; a financial contribution is provided to assist with this²³⁴. This will increase pedestrian footfall within the area, enlivening the surrounding area.
267. The scheme's traffic generation was misunderstood by one objector²³⁵. The suggestion that couriers/parcel deliveries will significantly increase the number of traffic movements is addressed by the use of a management scheme on the site²³⁶ and is something that is readily used in developments²³⁷.
268. Concerns have been raised²³⁸ about the fact that there is not yet an agreement between TfL and the Fire Brigade on the routing of fire tenders. However, this is dealt with in the section 106 by way of a memorandum of understanding and is plainly a matter which it is anticipated would be resolved²³⁹ - the issue is to ensure the achievement of TfL's Lambeth Bridge South proposals; it is not an in-principle difficulty with the scheme and the hiatus appears to be due in part to the current pandemic. In any event, Ms Kingston indicated that a route into the fire station via Black Prince Road would be capable of being accommodated subject to minor changes to kerbing arrangements²⁴⁰. This issue cannot, therefore, even possibly be regarded as amounting to a "significant" impact on the transport network for the purposes of the NPPF²⁴¹.
269. For the above reasons, there can be no sustainable objection to the scheme on transport matters; its positive effects are a benefit in support of the scheme.

Daylight and Sunlight Issues

The Effect on Existing Residents.

270. The critical issue in the present case is whether the proposal would have an 'unacceptable' effect on local residents²⁴². The relevant policies do not define 'acceptability' by reference to the criteria contained in the BRE guidance²⁴³. A judgment on acceptability needs to take into account other parameters, including, importantly, what the retained level of Vertical Sky Component (VSC) or Daylight Distribution (DD) would be, how particular premises are used, the effect of the inherent sensitivity of the building in question, and how the effects measure against guidance on the delivery of housing in London and other similar

²³³ EK, EC.

²³⁴ Section 106, Schedule 3, Low Traffic Neighbourhood Contribution.

²³⁵ Councillor Simpson, mistaking vehicular generation by a factor of 10, EK EC and XX, MRQC.

²³⁶ See the section 106 agreement, Schedule 17, para. 2.

²³⁷ EK, MB XX and NG, XX MB.

²³⁸ Mr Weighton's objection, MB XX, EK, and Councillor Simpson.

²³⁹ CD X28, Appx 3.

²⁴⁰ EK, EC.

²⁴¹ Para. 108(a).

²⁴² Policy Q2, CD O1.

²⁴³ CD S12.

typologies in the area. It is unsurprising that other factors should be taken into account in reaching this judgment since the BRE guidance, in terms, states that it is to be applied flexibly and is not a policy tool.

271. The Rule 6 Party's error was to concentrate only on the BRE guidance as the means of judging acceptability – Dr Littlefair did not consider the other factors bearing on 'acceptability' at all and accepted that his evidence did not judge the scheme against that test²⁴⁴. Consequently, the Rule 6 Party's case has failed entirely to establish a sustainable objection to this part of the scheme.
272. The Council did assess the question of acceptability and reached the conclusion that the scheme complied with its local plan policy. The evidence presented in support of that conclusion was compelling.
273. Mr Dias considered in detail the effects of the scheme from the perspective of the BRE guidelines and other attributes; his conclusions, in summary established the following.
- Whitgift House.*
274. The impact under the EIA classification criteria²⁴⁵ would be moderate/major adverse²⁴⁶. However, there would²⁴⁷ be significantly less impact than the appeal scheme in both the VSC and DD²⁴⁸. In terms of the VSC, the average VSC in the proposed scheme is 19.15% and in the appeal scheme it was 15.96% - this marked change has occurred because of the design and positioning of the tall towers and the tiering of the block facing Whitgift Street, in contrast to the blocky development proposed in the Appeal scheme.
275. Mr Dias considered that the retained values were reasonable for the area, both by reference to existing typologies (Eustace House) and the criteria contained in the Whitechapel Estate decision.
276. Dr Littlefair rejected the use of a retained value of 15% although not the use of retained values as a matter of principle. His criticism of the Whitechapel Estate decision²⁴⁹ should be rejected. It is an approach which is consistent with the Mayor's guidance that targets should be assessed "drawing on broadly comparable residential typologies" and that "Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm"²⁵⁰. Notably, Dr Littlefair indicated he disagreed with the first part of this guidance. The Whitechapel decision was supported by the expert evidence presented in the Graphite Square appeal²⁵¹.

²⁴⁴ XX, RWQC, PL.

²⁴⁵ See CD F10, pg. 8.

²⁴⁶ Ibid., pg. 15.

²⁴⁷ Dr Littlefair alleged that one window had been wrongly assessed by Mr Dias; this was rebutted by Mr Dias and Dr Littlefair provided no response, CD X22.

²⁴⁸ CD X19, pgs. 3, 5, 6 and 8.

²⁴⁹ CD L3.

²⁵⁰ CD P9, para. 1.3.46.

²⁵¹ CD F11.

277. Rather, Dr Littlefair relied upon the Sainsbury's Whitechapel²⁵² and the Peachtree decisions²⁵³. However, the Inspector in the Sainsbury's case did accept, in a positive way, the use of a 15% retained VSC²⁵⁴. As for the Peachtree decision, the Inspector in that case did in fact conclude that a residual standard was appropriate²⁵⁵; the use of a VSC criterion of 20% was, in that case, deemed appropriate, but this was chosen because of the 'domestic scale' of the housing in the area. That conclusion is patently distinguishable from the current location: aside from the significant number of tall buildings within the area, its urban nature and the fact that the site is within an opportunity area, the example of Eustace House makes clear that the use of the 15% criterion used in this case is entirely appropriate for the area. The retained levels are, Mr Dias considered, readily better than the existing values at Eustace House which is a reasonable indicator of the typology in this area. The criticisms of the use of Eustace House as a measure of retained values were misplaced; it was entirely appropriate to use the Lambeth High Street frontage of that building rather than the elevation facing Old Paradise Gardens.

278. Mr Dias pointed out that, while tree cover is not included in an assessment of effect under the BRE guidance, the reality is that the tree cover in front of a number of the properties in Whitgift House already limit daylight and sunlight.

279. Finally, the retained levels of sunlight to Whitgift House would continue to meet the BRE target criteria.

2 Whitgift Street.

280. This property has been assessed by Mr Dias as having a 'moderate' effect under the EIA classification, albeit that it has a 'minor' effect for the upper half of the building²⁵⁶. The proposal does, however, have a significantly better effect than the appeal scheme, with retained VSC levels at 19.35% compared to 16.75%.

281. The main affected windows in this property have a low level of existing VSC by virtue of the deep overhanging balconies which create an inherent sensitivity and so the actual reduction is generally no more than 5%²⁵⁷. Those windows not under the balcony generally retain VSC levels above 20% with the isolated exception of the ground floor, with a VSC value of c. 17%.

282. In terms of DD, all rooms except 2 bedrooms meet the BRE default criteria and these are also affected by the balcony restrictions²⁵⁸. While it is right that the DD is a separate test under the BRE guidance, the fact that a development does typically meet the DD is nevertheless relevant when considering the acceptability of the scheme.

²⁵² CD X21.

²⁵³ CD X24.

²⁵⁴ See para. 11.17: "The design has been informed by the effects on daylight from an early stage and, based on around 15% retained VSC, steps taken to minimise the impact while retaining a high density for the development".

²⁵⁵ CD X24, para. 445.

²⁵⁶ CD F10, pg. 20.

²⁵⁷ See F10, pg. 17, R3/51 – 6.51% to 1.66%.

²⁵⁸ CD X19, pg. 10.

283. Additionally, the living rooms receive BRE compliant levels of sunlight²⁵⁹.

9 Albert Embankment ("9AE"), Building A East.

284. Mr Dias assessed the EIA categorisation effect on this building as "moderate"²⁶⁰. However, the retained levels of the scheme are still on average 19.57%²⁶¹. In relation to the lower floors, where the impact is greatest, balconies restrict daylight as does the projecting wing of 9AE west. Once the balconies are removed (which Dr Littlefair agrees can be taken into account²⁶²), then in the lower half of the building, VSC reductions are typically just over 20% and in the upper half typically do not exceed a 20% reduction – it is clear, therefore, that adverse VSC results are substantially due to the inherent sensitivity of the relevant window designs with projecting balcony soffits.

285. In relation to DD, of the 63 rooms analysed, there would be 8 with a 'major' effect, 6 with a 'moderate' effect and 6 with a 'minor' effect²⁶³.

9 Albert Embankment, Building A West.

286. Mr Dias considered that the effect on this building would be 'minor' with only isolated areas of 'moderate' effects on VSC but in such instances, retained VSC levels would be above the mid-teens²⁶⁴. With regard to DD, the reductions typically meet the BRE guide target²⁶⁵.

9 Albert Embankment, Building B.

287. As with the previous building, the effects would be mainly 'minor' (except isolated windows below balcony soffits), and DD would be generally in accordance with the BRE target criteria except for some very isolated 'moderate' effects at lower levels²⁶⁶.

73 – 79 Black Prince Road.

288. There are 8 'moderate' and 8 'major' reduction effects on VSC. However, these effects are in respect of bedrooms and retained average values range between 17.5% on the ground floor and 22.4% on the third floor²⁶⁷. The living rooms all face away from the development and would be unaffected by the scheme²⁶⁸. The DD would meet the BRE guide target except for 1 top-floor bedroom which would experience a 'minor' adverse reduction²⁶⁹.

²⁵⁹ Ibid.

²⁶⁰ CD F10, pg. 22.

²⁶¹ CD X19, pg. 3.

²⁶² CD W12, PL PoE, pg. 27, para. 4.11.4.

²⁶³ CD X19, pg. 14.

²⁶⁴ CD F10, pg. 22.

²⁶⁵ Ibid.

²⁶⁶ Ibid, pg. 23.

²⁶⁷ CD X19, pg. 16.

²⁶⁸ ID EC.

²⁶⁹ CD X19, pg. 16.

15 – 17 Lambeth High St.

289. The effects on No. 15 would meet BRE guide target criteria. In relation to Nos. 16 – 17, the VSC would generally meet the BRE target criteria except for isolated 'minor' and 'moderate' effects (on 2 and 3 main studio windows respectively)²⁷⁰. The average retained VSC for this property would be better than the appeal scheme. In relation to DD, the effects meet the BRE guide except, potentially, for 3 galley kitchens.

44 Lambeth High St (the Windmill).

290. There would be 'moderate' or 'major' effects on the VSC to some windows. It is important to note, however, that, for habitable rooms served by windows in the front elevation, all but one small bedroom is served by at least 2 windows (and one living room is served by 5 windows). Further, all retained values are typically at mid-teens and above, and, in terms of reductions in DD and sunlight, these meet the BRE guidelines²⁷¹.

71 Black Prince Road (the former Queen's Head).

291. The adverse impact relates to 3 habitable rooms (at 'major') but the retained VSC would be c. 15%²⁷² - the average effect on VSC for the building as a whole would be over 21%²⁷³. DD would be significantly reduced to these rooms.

292. As for the remaining properties (*Parliament House, 81 Black Prince Road, 17 Newport St, 21 – 67 Newport Street, 69-71 Newport St, 61 Black Prince Road, 62 Black Prince Road and 204 – 238 Lambeth Walk*), the majority would meet the BRE target criteria and 1 (Parliament House) would experience a 'minor' change.

293. It is clear from the above that the effect of the present scheme on the VSC of Whitgift House and 2 Whitgift Street - which were the prime determinants of the Appeal Inspector's decision to reject the Appeal scheme - would be significantly better than the Appeal scheme. It is also clear that, where the effect would be worse, the average retained VSC level would be generally over 15% and, particularly in 9AE (predominantly Building A, East), it is due to the inherent sensitivity associated with balconies.

294. Dr Littlefair's assessment table showing that the number of windows failing the BRE VSC guidelines would be worse in the present scheme than the appeal scheme²⁷⁴ should be rejected as a measure of the effect of the scheme because it fails to assess the *extent* of any such reductions and their effects. Further, Dr Littlefair's reliance on the degree to which rooms would meet the ADF criteria (which he considered would result in 'conclusive' evidence of adverse effects²⁷⁵) should be rejected, if only because of Dr Littlefair's own acknowledgement of the

²⁷⁰ CD X19, pg. 19.

²⁷¹ Ibid, pg. 20.

²⁷² CD X19, pg. 20. ¹³

²⁷³ CD X19, pg. 3.

²⁷⁴ CD W12, para. 6.2

²⁷⁵ Para. 4.3.6, CD W11.

shortcomings of that measure²⁷⁶ and because his analysis failed to compare the existing ADF levels with the post-scheme levels²⁷⁷.

295. When looked at overall, there is a compelling basis for concluding that the scheme's effect in daylight and sunlight terms is acceptable in relation to its effect on local residents.

The effect on Beaconsfield.

296. The effect on Beaconsfield is clearly acceptable. There would be no material effect on the main gallery space on the first floor²⁷⁸. As for the ground floor, Mr Dias was clearly right that this is a secondary space; while there would be some effects on the ground floor, the actual usable space is limited. Looked at overall, it could not be said that the effect on Beaconsfield would be unacceptable.

The effect on the Garden Museum and Old Palace Gardens.

297. The alleged effect on the Garden Museum and Old Palace Gardens is patently misconceived. The sunlight results of the BRE test of one part of the Garden Museum's garden were not tied to any evidence that they would affect the growth of any plant, even assuming that the role of any such plant was so important to warrant its specific protection in that location. No further evidence has been presented of any such effect, despite the invitation²⁷⁹. The same is true of Mr Woodward's suggestion that there would be a dramatic effect on the growing conditions in Old Palace Gardens. Mr Woodward's threat that the Museum Trust would not pursue its renovation project for the Gardens should be given no real weight since the Trustees had not, in fact, reached any such conclusion²⁸⁰.

The Secretary of State's Issues

a) The extent to which the proposed development is consistent with the Government policies for delivering a sufficient supply of homes

298. For the above reasons, the proposal is fully compliant with chapter 5 of the NPPF. It optimises the use of the site. It delivers a substantial amount of market housing and affordable housing.

b) The extent to which the proposed development is consistent with the Government policies for conserving and enhancing the historic environment (NPPF Chapter 16)

299. The proposal is consistent with the NPPF's heritage policies. The less than substantial harm caused by the development is outweighed by the public benefits of the scheme, including the delivery of the optimum viable use.

300. *c) The extent to which the proposed development is consistent with the development plan for the area including any emerging plan*

²⁷⁶ Para. 3.6 and following, *ibid.*

²⁷⁷ XX, MRQC.

²⁷⁸ CD T12, JB Rebuttal, para. 4.3.

²⁷⁹ RWQC, Woodward XX.

²⁸⁰ XX, MRQC.

301. The length of these submissions will not be served by repetition of the scheme's compliance with each of the relevant policies in the adopted and emerging plans (some 38 and 60 respectively) already set out in Mr Traves' evidence, the content of which is commended to the Inspector and the Secretary of State²⁸¹.
302. What that analysis shows is that the scheme is compliant with the great bulk of development plan policies. The only policies which the development does not comply with is part (iv) of the Site 10 allocation relating to the inappropriateness of the development for tall buildings and policy Q26 relating to the effect of the tall buildings and the glazed extension on the silhouette of 8AE²⁸².
303. The provision of tall buildings in the scheme has resulted in the Council finding that the proposal is contrary to the development plan. That said, it is obvious that the effects of these, from a heritage perspective, is outweighed by the public benefits of the scheme. By the same reasoning, the scheme's benefits plainly amount to material considerations sufficient to outweigh these contraventions for the purposes of s. 38(6).
304. As for the draft development plan, while the KIBA draft policy (ED3) prevents office use within KIBAs, for the reasons given above, that draft policy should be given limited weight. More importantly, the Site 10 allocation remains in the draft Plan and so the delivery of office accommodation on the site (allowed under the allocation) would override the KIBA policy restrictions.
305. Aside from this, there are 2 other draft policies which would be contravened: Policy G5 on urban greening and policy SI2 on minimising greenhouse gas emissions. As for urban greening, Mr Traves has indicated why in his view the policy should not be applied rigidly to the scheme²⁸³, particularly as the GLA in its stage II report indicated that the urban greening opportunities had been maximised²⁸⁴. In relation policy SI2, the scheme does meet the draft London Plan policy²⁸⁵.
306. These additional draft policies do not detract from the conclusion above: they cannot neutralise the weight of the other material considerations which justify non-compliance with the development plan.
307. As a further policy matter, during the inquiry itself (not evidenced before) it was suggested that Beaconsfield's business could be affected by the introduction of a residential use near to its arches property which is used for metal work. Not only had this point not been raised before, but it was a bad point since there was no evidence of how often such works were carried out or the extent to which the business would be affected if the work had to be carried out elsewhere. It is notable that no other business has raised any such alleged effect in oral representations to this inquiry.

²⁸¹ JT PoE, paras. 3.3.5 – 3.3.12, CD U11.

²⁸² DB PoE, paras. 12.3-5.

²⁸³ JT PoE, para. 3.3.16.

²⁸⁴ Ibid, para. 3.3.16.

²⁸⁵ Ibid, para. 3.3.17.

Conclusion

308. For the reasons given above, the Council respectfully contends that there is a compelling basis for the proposed development and that planning permission and listed building consent should be granted for the scheme.

THE CASE FOR LAMBETH VILLAGE

309. At its heart the issue raised by this application is a simple one; it is whether buildings of these height, mass, bulk, and scale are in the right location and would fit in with the character and appearance of the many heritage assets and the area. The Rule 6 parties say that this is the wrong location for tall buildings, they do not fit in, and they would result in a dominant and out of scale juxtaposition with their surroundings, harmful to the heritage assets.

310. At the beginning of this Inquiry I drew attention to the repeated use of the word 'slender' in the context of the towers. It appeared many times. Also used were the terms 'diamond plan' and 'recessive'. All of these words were used by the Applicant to try to mitigate what even they acknowledged was harm caused by these proposals.

The 2013 Appeal

311. Consideration needs to be given firstly to whether the 2013 appeal on this site sets a material precedent for these proposals.

312. There is a disagreement between the parties as to the weight and relevance that can be placed upon the 2013 appeal decision²⁸⁶, and thus the extent (if any) of its materiality.

313. The Applicant and the Council say that it sets a precedent for various aspects of the proposed development and that the principle of consistency in decision-making means that you should follow them. But the Rule 6 parties say that there are two sound reasons against that. These are: firstly, that there has been a material change in planning policy circumstances; and, secondly, that the evidence before you is materially different because this proposal's design is so unlike that in 2013.

314. The courts have set out the factors to consider when deciding whether a previous planning appeal is a material consideration in a new appeal decision. At paragraph 29 in the DLA Delivery case²⁸⁷, Lord Justice Lindblom set out what he called the 'classic statement of principle' about this matter in the judgement of Mann L.J. in the 1993 North Wiltshire District Council case. Mann L.J. said that in order for cases to be decided alike it presupposes that the earlier case is alike and is not distinguishable. But if it is distinguishable then it usually will lack materiality by reference to consistency, although it may be material in some other way.

315. Mann L.J. said: 'A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in the previous case? The areas for possible

²⁸⁶ CD/L1

²⁸⁷ DLA Delivery Ltd v Baroness Cumberlege of Newick & Anor (Rev 1) [2018] EWCA Civ 1305

- agreement or disagreement cannot be defined but they would include interpretation of policies, aesthetic judgements and assessment of need. Where there is disagreement then the inspector must weigh the previous decision and give his reasons for departure from it.' Or, of course, vice versa.
316. Dealing first with the changes in policy interpretation, the PPG did not exist until 28 August 2013, after the issue of the 13 May 2013 appeal decision. Additionally, since 2013 a new version of the PPG has been published in 2019 which gives revised advice on the historic environment. Therefore, the 2013 Inspector did not have the opportunity to consider the Secretary of State's current PPG policy on what amounts to 'substantial harm' and 'less than substantial harm'.
317. Similarly, the development plan policy context has changed. The Lambeth Local Plan was adopted in 2015²⁸⁸, and it contains policies that directly affect development proposals on this site that the 2013 Inspector was not able to take into account. Policy Q25 protects the landmark silhouette of 8 Albert Embankment in the Millbank cross river view, and there was no such policy protection at the time of the 2013 appeal (see its paragraph 67). And, of course, one of the policy PN2 Site 10 criteria specifically states that the site is inappropriate for tall buildings. These two policies have been maintained in the 2020 draft revised Local Plan²⁸⁹.
318. Since the 2013 appeal the historic environment, industrial, amenity and strategic view polices which cover London have changed in the adopted 2016 London Plan²⁹⁰, and also in the 2019 (intend-to-publish) London Plan²⁹¹.
319. And there has been a whole raft of other policy documents published by the Council which directly affect this site, such as: the Albert Embankment Conservation Area Appraisal 2017 (CD O6); the Lambeth Palace Conservation Area Appraisal 2017 (CD O7); the Tall Buildings Study 2014 (CD O10); the Vauxhall & Albert Embankment Tall Buildings Assessment 2018 (CD O11); and Topic Paper 8: Tall Buildings 2019 (CD S18). The thrust of these documents is to say again that the site is not appropriate for tall buildings, and to formally set out the character of the localities and the listed and unlisted buildings in the two affected conservation areas. None of these were available for the 2013 appeal Inspector to consider.
320. Secondly, the plans for this proposal show significant and fundamental changes when compared to those in the 2013 appeal. Some key examples include: the two main central towers have increased in height from 13 and 15 storeys to 24 and 26 storeys; the eastern tower on Black Prince Road has increased from 5 storeys to 11 storeys; the glass roof addition on top of 8 Albert Embankment in 2013 was single storey and it is now proposed to be two storey; the rear balconies have been largely glazed in and the rear walls behind them have been removed; and the rear extension has a smaller gap between it and the front listed building. And the proportion of industrial and employment uses to residential has changed.

²⁸⁸ <https://www.bailii.org/ew/cases/EWCA/Civ/2018/1305.html> (see paragraph 29)

²⁸⁹ CD/O9

²⁹⁰ CD/P1

²⁹¹ CD/P6

321. Given these major differences, it is difficult to understand how anything that the 2013 Inspector opined about in considering the 2013 key scheme elements can be applied to the current proposals.
322. For instance, it is straining the sense and applicability of the 2013 decision to say as the Applicant does (CD T6 para 7.67) that its acceptance of a 15 storey block above the listed 8 Albert Embankment is a precedent now for the proposed 24 and 26 story towers. Or to say as the Council does (CD U4 paras 6.41 & 6.44) that its acceptance of a one storey glass addition to the listed 8 Albert Embankment sets a precedent for this proposal's much bulkier and taller two storey glass addition.
323. Moreover, both of these design precedent claims need to be considered in the light of adopted development plan policy changes stating that the site is inappropriate for tall buildings and that no development should harm the silhouette of the landmark 8 Albert Embankment.
324. Overall, the Rule 6 parties say that the 2013 Inspector's decision was primarily specific to that application; it is distinguishable from the current proposals; and it is not directly comparable. The 2013 Inspector's conclusions cannot be regarded as setting the precedents claimed by the Applicant and the Council for these current proposals.
325. The only materially relevant finding from the 2013 appeal is that on daylight and sunlight, because that is the reason the appeal failed. Therefore, any worsening of the situation on that issue would be a prime reason for dismissing these appeals.

Whether the proposed development is consistent with the development plan for the area, including any emerging plan.

326. The proposed development is not consistent with the development plan for the area, which is the London Plan and the Lambeth Local Plan, with respect to the following policies:

Lambeth Local Plan

- **PN2 Site 10** – a site specific policy which sets out the preferred use and 13 design principles, including that “the heritage sensitivity makes it inappropriate for tall building development”. Four new tall buildings are proposed, all of which cause some degree of heritage harm. As a result the application was treated as a departure application by the local authority. The application also conflicts with a number of other design principles relating to heritage, views and residential amenity.
- **Q2 Amenity** – development should not have an unacceptable impact on levels of daylight and sunlight on the host building and adjoining property
- **Q5 Local distinctiveness** – should be reinforced through development in terms of townscape, bulk, scale, height and massing and make a positive contribution to its local or historic context
- **Q20 Statutory listed buildings** – development should conserve and not harm the significance/ special interest and significance/ setting

- **Q21 Registered parks and gardens** – development should protect the setting, including views in and out
- **Q22 Conservation Areas** – development should preserve and enhance the character and appearance of conservation areas; demolition will only be supported if the structure proposed for demolition does not make a positive contribution
- **Q23 undesignated heritage assets:** local heritage list – the council will protect their settings
- **Q25 views** – the council will resist harm to the significance of strategic views including LVMF, WHS and (xvi) view from Millbank to 8 Albert Embankment
- **Q26 Tall and large buildings** – Proposals supported where they are not located in areas identified as inappropriate, and there is no adverse impact on significance of strategic or local views or heritage assets including their setting, and make a positive contribution to the skyline
- **ED1 Key Industrial & Business Areas (KIBA)** – development will only be permitted for business, industrial, storage and waste uses; in the case of Southbank House this takes priority over other policies in the plan
- **S1 Community premises** – protects land in former community premises and public service uses including D1 and sui generis

327. The Local Plan is currently being revised and has just undergone examination. We await the Inspector's proposed modifications. All of the policies listed above are retained in the proposed revised plan. Policy PN2 Site 10 is retained complete and unaltered. Policy Q26 is proposed to be revised in line with the London Plan changes. Policy ED1 is proposed to be revised to exclude B1a office from KIBAs, bringing it into line with the London Plan. Some weight should be attached to the revisions. Considerable weight should be given to the retention of PN2 Site 10 without alteration and with no outstanding objections.

London Plan²⁹²

- **Policy 3.4 Optimising Housing Potential:** taking into account local context and character, and other design principles, development should optimise housing output for different types of location within the relevant density range
- **Policy 7.4 Local Character:** development should have regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass, and allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area – the proposed development is out of scale proportion and mass for the local area and character

²⁹² At the close of the Inquiry, the current London Plan was the London Plan 2016. It has since been replaced by the London Plan 2021.

- **Policy 7.6 Architecture:** Buildings and structures should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate. This is particularly important for tall buildings – the four tall buildings have a widespread impact on the amenity of existing residential buildings with regard to daylight and sunlight
- **Policy 7.7 Location and Design of Tall and Large Buildings:** should be part of a plan-led approach, and should not have an unacceptably harmful impact on their surroundings, in areas whose character would not be affected adversely by the scale, mass or bulk of a tall or large building, relate well to the character of surrounding buildings, should not impact on local or strategic views adversely, conservation areas, listed buildings and their settings, registered historic parks and gardens, and World Heritage Sites
- **Policy 7.8 Heritage Assets:** development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.
- **Policy 7.10 World Heritage Sites**
- **Policy 7.11 London View Management Framework**

328. A replacement London Plan has been prepared and examined, and the Mayor has published a version he intends to publish. All of the policies identified above are carried through. The policy regarding tall buildings is strengthened into a fully plan-led approach, requiring local plans to identify sites appropriate for tall buildings, with a presumption against tall buildings elsewhere. The recent letter from the Sec of State suggested that policy was moving towards a more restrictive approach still. The policy regarding the release of industrial land have also become more restrictive, with a target of no net loss of industrial land across London. The Sec of State questioned this policy in his letter of March 2020 and again in his recent letter, so this policy should not be given so much weight.

Tall buildings policy and the site allocation 'inappropriate for tall buildings'

329. After the City and Canary Wharf, Vauxhall has emerged over the past 15 years as the biggest cluster of tall buildings in London. The policy was kick-started by Ken Livingstone and John Prescott, who backed the Vauxhall Tower in 2005, despite objections from Lambeth Council, Westminster Council, English Heritage, and contrary to the recommendations of the Inspector following an Inquiry.

330. Layers of policy have subsequently emerged for a cluster of tall buildings around Vauxhall Cross up to 150m high. The VNEB OAPF (2012) guidance states "*Other tall buildings will come forward on Albert Embankment (maximum threshold c. 80m)... where they will not impact on the protected silhouette of the Palace of Westminster*".²⁹³ Guidance in the subsequent Vauxhall SPD proposed variations in height along the Albert Embankment creating a sloped/waved environment with sufficient gaps, and tapering down towards Lambeth Palace.²⁹⁴

²⁹³ VNEB OAPF, Chap 8, Key Principles

²⁹⁴ LP 2015 PN2 (k) 1 and 2; Vauxhall SPD 4.97, 4.913, 4.916

331. While this policy and guidance were emerging, an Appeal inquiry was held in 2013 regarding proposals for tall and large buildings on the application site. Following refusal of the Appeal a site specific policy was adopted in the Local Plan 2015 which baldly states that, due to heritage considerations, this site was inappropriate for tall buildings – the only such site explicitly designated in the borough.
332. The site allocation and its detailed design principles should be the starting point for the consideration of the design and other aspects of the proposals. This is a critical point of difference between the main parties and the Rule 6 parties.
333. The Applicant contends that the Local Plan is contradictory, with the site allocation contradicted by Annex 11²⁹⁵. The Applicant proposes that the Policy explanation 'heritage sensitivity of the site' is an invitation 'intimating that taller buildings may be acceptable subject to heritage impact assessment.'²⁹⁶ The design development has been informed by this approach to questioning this critical element of the site allocation.²⁹⁷ The Applicant's heritage assessment claims to support the Applicant's 'intimation' that tall buildings may be acceptable, on the basis of the 2013 Appeal decision²⁹⁸ and the Vauxhall SPD 2013, which is considered by the Applicant to identify the site as suitable for a tall building.²⁹⁹ Of course, it does no such thing. The site allocation policy 'inappropriate for tall buildings' came subsequently, with the adoption of the Local Plan in 2015.
334. This mistaken approach has informed the heritage assessment,³⁰⁰ and informed the assessment that the tall buildings don't harm the setting of the listed building.³⁰¹ Mr Goldsmith adopts this assessment and, unsurprisingly, finds the impediment of adopted policy in the development plan is removed: 'Notwithstanding this minor inconsistency... I consider that the site is suitable for buildings of the height proposed'.³⁰²
335. Adopted policy in the development plan cannot be eviscerated so easily. The adopted LLP policy PN2 Site 10 is clear that the heritage sensitivity of the site makes it inappropriate for tall buildings. The same wording is proposed to be carried forward in the emerging DRLLP. It cannot be explained away as a mere 'inconsistency' as implied by the Applicant.
336. The Council's planning evidence³⁰³ relies upon the Planning Committee report.³⁰⁴ But that report simply lifts wholesale the Applicant's words that in fact the site allocation 'inappropriate for tall buildings' is an invitation 'intimating that taller buildings may be acceptable subject to heritage impact assessment'.³⁰⁵

295 CD T6, paras 7.66, 7.76 and xx by CS

296 Ibid.

297 Pilbrow Proof 3.32

298 Miele Proof [CD/T2] 5.30

299 Miele Proof [CD/T2] 5.31

300 Miele Proof [CD/T2] 1.30

301 Miele Proof [CD/T2] 1.49

302 Goldsmith Proof [CD/T6] 7.77

303 Traves [CD/U11] 3.3.3

304 PAC report [CD/K2] 8.2.13-44

305 PAC report [CD/K2] 8.2.27

337. This is the only paragraph in in the Committee report where the policy which has triggered the departure designation is substantively covered. This critical policy is never mentioned again in 120 pages. The Council's position fails as a result.
338. It is the Rule 6 party's case that the proposed development is not consistent with the site allocation policy, and thence with the range of other policies listed above.
339. It is our further contention that there are no material considerations which justify the failure to comply with the development plan.

Whether the proposed development is consistent with the Government policies for conserving and enhancing the historic environment (NPPF Chapter 16) including their effect on the host building (Lambeth Fire Station) and the other neighbouring and surrounding heritage assets

General Approach to Heritage Harm

340. The Inspector said that he would be considering very carefully the consequences of the Bedford case³⁰⁶ on the assessment of 'substantial harm' and 'less than substantial harm' to the significance of heritage assets as set out in the NPPF at paragraphs 194 to 197.
341. There is a disagreement between parties as to the correct approach to take. The Applicant's approach is that the test for when substantial harm occurs is that set out in the Bedford case. The Applicant says that the Bedford test sits within the PPG as 'binding' law, and that 'there is no reason to adopt a different approach to the one the Judge took in Bedford'.³⁰⁷
342. But the Rule 6 parties consider that planning policy has moved on with the subsequent publication of the national PPG in 2013 and its latest version in 2019. Thus, the Bedford test is no longer binding because the relevant point of law decided in it - what in planning policy terms constitutes 'substantial harm' - cannot be applied here because the two cases do not contain the same material facts on the planning policies considered.
343. It is apparent the PPG adds further context to the NPPF and the Government intends that the two policy documents should be read together. Indeed, the PPG, together with the NPPF, has been held by the courts to be 'par excellence a material planning consideration'.³⁰⁸
344. The PPG says that substantial harm to the significance of a heritage asset is a high test which can arise where the adverse impact of a development 'seriously affects a key element of [the asset's] special architectural or historic interest'. That is the correct test, and not Bedford's.
345. All the parties agree that no definition or test is set out in the NPPF as to what it means by 'substantial harm'. At the time of the decision in Bedford (July 2012)

³⁰⁶ [CD/ L12] Bedford Borough Council v Secretary of State for Communities and Local Government [2012] EWHC 4344 (Admin)

³⁰⁷ [CD/ T12] Applicant's Rebuttal 2.3

³⁰⁸ Cemex (UK) Operations Ltd v Richmondshire District & Anor [2018] EWHC 3526 (Admin)

- the PPG was not yet published. Therefore, the Judge, when making his decision about 'planning policy in relation to the impact of development on the setting and significance of heritage assets' (paragraph 9), did not have the benefit of the Secretary of State's own policy guidance as to what is meant by substantial harm. The Judge only had before him the blunt and simple policy in the NPPF which lists the categories of harm with little explanation.
346. The relevant PPG advice is in section 018 on the historic environment. It can safely be assumed that the 2019 PPG was prepared and published in the knowledge of the outcome of the Bedford case, especially given that it has been frequently cited in heritage appeal decisions, not least by Dr Miele himself in 2013³⁰⁹. To assume otherwise is straining credibility and is unproven.
347. The PPG does not directly, or indirectly, or even by implication, adopt or endorse the test for substantial harm set out in Bedford. Had the Secretary of State intended to endorse that approach he would have done so in the PPG, either explicitly or by implication. He did not do so. Instead, the Secretary of State set out in the PPG an 'example' together with other explicit guidance on how to assess substantial harm.
348. That listed building 'example' is directly applicable to this case. The PPG says that substantial harm can occur where 'the adverse impact seriously affects a key element of its special architectural or historic interest'. This is obviously not the much higher Bedford test for substantial harm which requires that 'very much if not all of the significance is drained away', or that the asset's significance is 'vitiating altogether or very much reduced'.
349. Moreover, the PPG's other guidance goes on to say, as Dr Miele accepted, that its provisions for substantial harm 'may arise from works to the asset or from development within its setting'. It is the degree of harm rather than the scale of the development that is to be assessed. This means that 'even minor works have the potential to cause substantial harm'. This is all different from Bedford in its scope. And the PPG adds, as does Bedford, that whether a proposal causes substantial harm is a judgement for the decision-maker.
350. Although the example in the PPG refers to 'works to a listed building' that advice in Paragraph 018 falls under the general heading of 'harm to heritage assets', and thus it also applies to substantial harm to the significance of a conservation area, as occurs in this case. As the Judge said in Bedford, the 'yardstick' for different forms of impact on a heritage asset is essentially the same.
351. In summary, the Bedford test does not match the subsequent PPG policy published by the Secretary of State clarifying what he considers would be substantial harm to the significance of a heritage asset. The Bedford decision was based solely on the policy material before the Court in July 2012, which is now out-of-date. Therefore, the Bedford test is no longer applicable because it is not consistent with the PPG. Bedford is distinguishable because its decision and legal reasoning do not form a precedent due to the materially different facts between it and this case. It cannot be directly applied here because the foundational planning policy facts on which it is based are different.

³⁰⁹ APP/V5570/A/13/2199042 - Land to the South of Chadwell Street, London EC1R 1YE

352. It follows that the Applicant's statement that Bedford represents 'binding' law is wrong. The judgement of any court is only binding on a planning decision-maker if it remains relevant and up-to-date, and thus applicable. The Bedford test is none of these. It has been overtaken by the PPG advice.
353. The Applicant's general approach to substantial harm, and also its assessments of the categories and levels of harm caused by this proposal, are also wrong. The Rule 6 parties do not suffer from this shortcoming.
354. If the Rule 6 parties are wrong on this, then the question asked by the Inspector of Mr Black from the Council is entirely relevant to this case: can a large number of 'less than substantial harm' findings to a series of heritage assets amount cumulatively to substantial harm? The Rule 6 parties would answer emphatically that it can; it does; and it would.

Heritage Assets

355. The historic environment is particularly rich at this end of the Opportunity Area, and includes:

- London Fire Brigade HQ: Grade II listed, on the application site
- Drill Tower: Grade II listed, on the application site
- Southbank House: Grade II listed, adjacent to the application site
- Albert Embankment Conservation Area, covering the site
- Lambeth Palace Conservation Area, adjacent to the site
- Lambeth Palace: Grade I listed
- Lambeth Palace Gardens: Grade II registered garden
- Church of St Mary's: Grade II* listed
- Victoria Tower Gardens: Grade II* registered park
- Smith Square Conservation Area
- Westminster World Heritage site including the Grade I listed Palace of Westminster: the application site falls within the background of the protected view of the WHS from Parliament Hill and Primrose Hill

356. The starting point of heritage consideration in the planning policy for this proposal is the preservation of the listed buildings on the application site, including their setting and significance, as set out in the design principles of Policy PN2 Site 10, and Policies Q20, Q21, Q22, Q23, Q25 (xvi)

357. The significance of the London Fire Brigade HQ 1937 and Drill Tower is derived from their historic and architectural interest,³¹⁰ set out in their listing description.³¹¹ The elegant proportions of the 'streamlined Moderne' landmark building provides a distinct silhouette, as well as impeccable details on all sides. Along with the unlisted Workshop and Training building on the central part of the

³¹⁰ Historic England statement 6.3-9

³¹¹ CD/R2

site and the Drill Yard which lies between them, these buildings form the most complete ensemble of Fire Brigade buildings ever constructed in this country.³¹²

358. The proposals involve significant interventions and alterations including a 4m high glazed extension on the top, the addition of a bulky rear hotel building which is actually taller than the host listed building, and the removal of many features at the rear in particular. The Workshop and Obelisk are proposed for demolition, although a facsimile of the latter would be provided elsewhere on the site.

359. The 80m-90m tall buildings which replace the demolished workshop will have a significant impact on the setting of the main listed building. The Council's chief heritage officer considers that the proposed tall buildings would 'challenge its authority as a historic landmark building on the river... the building's architectural silhouette against the sky is lost and the commanding presence it has on the river frontage is diminished by both the roof-top extension and the towers behind... The tall buildings on the central site would harm its setting'.³¹³

360. Furthermore, regarding the listed building, the chief heritage officer (Mr Black) identifies multiple harm to the listed building by way of the

- glazed roof extension³¹⁴
- rear alterations and extensions³¹⁵
- loss of historic drill ground³¹⁶
- hotel height and footprint³¹⁷
- removal of the pole openings³¹⁸ and of numerous poles³¹⁹
- rear carriage wash subsumed by extensions³²⁰
- conference room removal³²¹

361. Apart from the removal of the 1980s CMC building, he identifies no heritage benefits whatsoever to balance against the heritage harm of the tall buildings or of the direct interventions to the listed building. He does not balance heritage harms against heritage benefits because he can find no benefits. His evidence on this point simply stops there.³²² He concludes '*Where I have identified harm to designated heritage assets paragraphs 194 and 195 of the NPPF should be used by the decision maker when reaching their decision. As I have identified harm to non-designated heritage assets, paragraph 197 of the NPPF should be used by the decision maker when reaching their decision.*'³²³

³¹² SAVE Britain's Heritage statement [CD/Y19] para 18

³¹³ Black Proof 6.74-6

³¹⁴ Black 6.41 [CD/U4]

³¹⁵ Black 6.45-62 [CD/U4]

³¹⁶ Black 6.65-6 [CD/U4]

³¹⁷ Black 6.73 [CD/U4]

³¹⁸ Black 6.17 [CD/U4]

³¹⁹ Black 6.27-8 [CD/U4]

³²⁰ Black 6.19 [CD/U4]

³²¹ Black 6.31 [CD/U4]

³²² Black 6.76 [CD/U4]

³²³ Black 13.9 [CD/U4]

362. We agree with this identification of harm. We consider the harm caused to the listed building to be substantial. It's distinctive and protected silhouette would be eroded by both the glazed roof extension, with the best view from Millbank (protected by Policy Q25) further undermined by the tall buildings appearing immediately behind. The double-height glazing stands at around 10% of the overall height and would wreck the proportions of the ziggurat. The bulk and overbearing dominance of this element, like the over-sized lid on a box, is best evidenced from the view at Millbank (outside Tate Britain).³²⁴ The glass would often appear dark, with blinds drawn in the sunshine. The Applicant suggests that being lit up at night it would signal the building's refurbishment; this is both wrong-headed and unnecessary.
363. The harm to the rear elevation ('it is only at the rear of the building that the true fire station use of the site is exhibited'³²⁵) would be equally distressing, with the loss of staircases, the glazing of the spectator balconies, the wholly insubordinate hotel extension building across the Drill Yard, as well as the details listed by the Council's chief heritage officer above.
364. The effect of all the interventions – including the demolition of the Obelisk and the Workshop part of the campus, to be replaced with the tall buildings – would be to eviscerate the significance of the listed building historically and architecturally, both close up and in views. Despite being 11 storeys, it has become the lowest building on this stretch of Albert Embankment, clearly outstanding, a landmark building it is possible to view with clear sky above and in the gap on either side.³²⁶ The interventions will render it the same height as its neighbours immediately north and south, just another glass-topped mid-sized building on the riverfront.
365. The harm would be unnecessary and unjustified. The glazed roof could be more proportionate (demonstrated with the 500mm glazing in the failed Appeal scheme); the hotel extension should be subordinate; the Drill Yard, balconies and external stairs retained (again demonstrated by the failed Appeal scheme) along with the internal features listed by the chief conservation officer. The proposed tall buildings would be wholly inappropriate and unsettling, as described by the council's chief conservation officer, and demonstrating the necessity of having proper regard to the PN2 Site 10 policy.
366. I now turning to consider the other heritage harms briefly. Besides the negative impact on the setting of the listed building, the complete demolition of the Workshop and Training building would cause substantial harm to a building which contributes positively to the Conservation Area.³²⁷ It's loss and the interventions to the listed building would cause less than substantial harm to the Albert Embankment Conservation Area; but, along with the harm caused to designated and undesignated heritage assets by the completely out of context 44m high building at Newport St, including the impact on the unlisted Ragged School 1851, the overall impact on the Conservation Area would be at the higher end of less than substantial harm.

³²⁴ Verified view [CD/A10.4.5] C7

³²⁵ Albert Embankment Conservation Area Character Appraisal [CD/ Y06] 2.94

³²⁶ Verified View [CD/ A10.4.5] C5

³²⁷ Albert Embankment Conservation Area Statement [CD/ O6] 2.98

367. The impact on Grade II listed Southbank House would be neutral, opening up one view from the west but closing down another from the north.
368. The impact of the tall buildings on the setting of the Grade I listed Lambeth Palace would be very considerable. The Applicant notes that *'the value of the group of listed buildings is exceptional. The susceptibility of Lambeth Palace to the Proposed Development is considered to be low having regard the existing setting of the Palace and separating distances and interposing development. Their sensitivity to change is moderate.'*³²⁸
369. The only publicly available area from where all of the Palace buildings can be seen as a grouping uninterrupted by any modern buildings whatsoever is for several hundred yards along Lambeth Palace Rd³²⁹ (views from Lambeth Bridge and Victoria Tower Gardens cannot capture all of the buildings, and other modern buildings are also present). This is not a protected view, but the Applicant was careless in failing to establish the impact of their proposed tall buildings (particularly given their reliance on the PN2 Site 10 policy not being triggered due to lack of harm to heritage assets). Nevertheless SAVE Britain's Heritage verified view³³⁰ illustrates that the flank of one of the tall buildings will come crashing through the medieval roof of the Palace, obliterating the clarity of the view of the gilded weather vane with ball and mitre finial, which rises from the timber lantern atop the roof of the Great Hall, and is currently set against clear sky. The harm to the setting of the Grade I listed buildings, while less than substantial, would be of a very high order given the national significance of the Palace. The harm is completely unjustified. There are no heritage benefits to weigh against the high order of harm.
370. As a result of this the Lambeth Palace Conservation Area would also be harmed, but so also would Old Paradise Gardens. Lambeth's chief conservation officer states *'I consider the two tall buildings proposed on the Central site of the application to have a stark and dominant effect on the setting of this historic open space (Old Paradise Gardens).'*³³¹
371. Lambeth Palace Conservation Area is tightly defined as Lambeth Palace and Gardens, Archbishops Park, and Old Paradise Gardens. This is a very precious oasis of magnificent low rise listed buildings and parks, a buffer zone located equidistant between the clusters of tall buildings at Vauxhall and Waterloo. All three gardens are impacted by the proposed tall buildings. As a result the harm to the Conservation Area would be at the high end of less than substantial.

General approach to conservation area harm

372. The Applicant during the Inquiry sought to lessen the harm to the two conservation areas directly affected by the proposals - Albert Embankment and Lambeth Palace - by claiming, firstly, that any impact on their character and appearance would be localised to part only; and, secondly, that the Bedford test of 'substantial harm' applied and that none of the impacts would fall within that category.

328 HTVIA [CD/ A10.4.4] 4.102

329 CD/ X35, slide 3

330 CD/ Y107

331 Black Proof [CD/U4] 10.3

373. On the Applicant's first claim, the Rule 6 parties accept that the Albert Embankment Conservation Area is extensive in its area and that it includes many different types and styles of buildings and open space. The Applicant said that this meant there would be no impact on the Conservation Area as a whole and that any harm would be limited to just one part of it. Whilst that might be true for some aspects of the harm caused (as Mr Ball accepted in XX), other identified harms are substantial and affect the whole Conservation Area, as set out in Mr Velluet's Proof and in his XX.
374. In the Irving case³³² at paragraph 58, the Judge held that harm to a part of a conservation area would, for the purposes of law (i.e. section 72 of the Planning [Listed Buildings and Conservation Areas] Act 1990) and national policy guidance, cause harm to the special character and appearance of the conservation area as a whole. The extent of that harm, the Judge said, has to be established. He went on to say in the next paragraph (59) that any harm (however assessed) 'must attract significant weight as a disadvantage of the development, as a matter of law'.
375. The harm that all parties have agreed would be caused to these two Conservation Areas by these proposals must be considered in this way, although there is disagreement as to the extent of that harm. The Conservation Areas cannot be chopped up into separate parts.
376. On the second claim, the Bedford test does not override the PPG advice because the Judge based his decision solely on the policy material before the Court in July 2012. This is now out-of-date with the publication in 2013 and 2019 of the PPG. Bedford's decision and legal reasoning do not form a precedent because of the materially different facts between it and this case. It is distinguishable and so cannot form 'binding' law.
377. The problem with applying the Bedford test to conservation areas is obvious: namely, if a conservation area has to lose most, or all, of its significance before substantial harm arises, then the practical effect would be that substantial harm could never arise for these particular heritage assets. This is contrary to the PPG advice which applies to all heritage assets, and which clearly says that 'even minor works have the potential to cause substantial harm.'³³³
378. The Applicant's approach would lead to the surprising result that the more significant an asset is, then the harder it would be for a development to substantially harm it. Taking that to its logical conclusion, these proposals could only cause substantial harm to the Albert Embankment Conservation Area if it were smaller and less significant.
379. Bedford is the wrong test for the assessment of substantial harm. The PPG test should be used.
380. Finally, the LVMF views from Westminster Bridge would be harmed considerably. There are two relevant assessment points at 18A.2 and 18A.3³³⁴.

³³² Irving, R (on the application of) v Mid-Sussex District Council & Anor [2016] EWHC 1529 (Admin)

³³³ Paragraph 018 on Historic Environment

³³⁴ LVMF [CD/P3]

The Applicant has only prepared a view of the former in the HTVIA/ Verified Views.³³⁵ The current view shows the line of tall buildings dropping down along the Albert Embankment from the high point of the Dumont tower (96m) down to Westminster Tower (60m) and down another step at 81 Black Prince Rd, and then down to the swirl of Parliament View and then the gap in development (with the campanile) before St Thomas' Hospital starts appearing. This is a legible composition. The view with the proposed tall buildings – one with a maximum width of 36m – would cause confusion, with the tall buildings appearing to rise upwards again just before the oasis of Lambeth Palace. Indeed the broad flank of the taller western building would appear to be the highest building along this part of the Embankment. There would be less than substantial harm to this view.

381. There would also be harm to Victoria Tower Gardens, as was set out by the London Gardens Trust.³³⁶
382. The Applicant's approach to the consideration of alternatives and the related Optimum Viable Use assessment in 'less than substantial harm' cases (NPPF 196) is confused, and runs contrary to the established legal position and to Government policies.

The need for alternatives

383. There is a dispute between the Applicant and the Rule 6 parties as to whether there is a requirement to consider alternatives to the proposals where - as all the parties agree here - harm to heritage assets would be caused. The Rule 6 parties say that the decision-maker is required to consider alternatives, both by statute and by Government policy in the NPPF and PPG.
384. The Forge Fields³³⁷ case says at paragraph 61 that the statutory duty in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 'implies the need for a suitably rigorous assessment of potential alternatives'. No such rigorous assessment has been provided.

Optimum Viable Use (OVU)

385. Paragraph 196 of the NPPF says that any "harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
386. The Applicant says that the NPPF phrase "where appropriate" means that so long as the heritage benefits are sufficient then there is no requirement to consider OVU as part of the NPPF paragraph 196 balance (Dr Miele Rebuttal³³⁸). But this is incorrect.

³³⁵ HTVIA/ Verified View 6

³³⁶ CD/Y139

³³⁷ CD/ L13 The Forge Field Society & Ors, R (On the Application Of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)

³³⁸ CD/ T12 2.7

387. The Government made clear in 2018 that it would set out in the PPG where OVU would be appropriate³³⁹, and this was done in 2019³⁴⁰. Nowhere in paragraphs 015 and 016 of that 2019 PPG historic environment section on OVU does Government policy support the Applicant's interpretation. None of the stated exceptions in the PPG apply to these proposals.
388. As an alternative, the Applicant said that the proposal itself is the OVU (Dr Miele Proof³⁴¹), yet there is no evidence to demonstrate this apart from various financial viability studies. These do not meet the evidential requirements of PPG paragraph 015 that 'the optimum viable use is the one likely to cause the least harm to the significance of the asset.'
389. It is the Applicant's responsibility to provide evidence to show that the proposals are the only 'alternative economically viable use'. Yes, the proposals are economically viable. But that does not exclude other economically viable uses which might cause less harm. All that the Applicant has shown is that the proposals are an economically viable use which would cause harm to heritage assets.
390. The PPG at paragraph 016 says: 'Where a heritage asset is capable of having a use, then securing its optimum viable use should be taken into account in assessing the public benefits of a proposed development.' Thus the decision-maker has to consider whether the OVU of a heritage asset has been secured. The OVU evaluation is not discretionary, as the Applicant suggests. It is not something that can be missed out of the public benefits assessment at the whim of an Applicant. Rather, it is a policy requirement, and it has not been done.
391. The only alternatives that the Applicant has suggested are not heritage harm alternatives for the purposes of satisfying the 1990 Act or NPPF 196. They are designed to satisfy the 'reasonable alternatives' requirement in the EIA Regulations 2017 in the Environmental Statement³⁴², and they are then redeployed in the Design and Access Statement³⁴³ for policy and employment assessment (the KIBA) - which they fail. None have been assessed by the Applicant to see if they are OVUs which would cause less harm to the heritage assets when compared to the proposed development.
392. It should be noted that in the Bramshill³⁴⁴ case (still current law) the Judge agreed that the Inspector was right to conclude that 'I have no compelling evidence before me that appeal 4 represents the optimum viable use of the site'. And that is exactly the situation in this case.

³³⁹ "Government response to the draft revised National Planning Policy Framework consultation":
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728498/180724_NPPF_Gov_response.pdf (page 53)

³⁴⁰ "Planning Practice Guidance (PPG): Historic Environment Historic England Briefing":
<https://historicengland.org.uk/content/docs/planning/ppg-historic-environment-he-briefing/>
(pages 1 & 4)

³⁴¹ CD/ T2 1.47

³⁴² CD/ A10.2.3 3.1.1

³⁴³ CD/A6 page 46 onwards

³⁴⁴ City & Country (Bramshill) Ltd v SSHCLG [2019] EWHC 3437

393. And in Gibson³⁴⁵ the Judge held that 'if one of the alternatives would secure the optimum viable use, and another only a viable use, not only does that have to be taken into account in determining an application but it provides a compelling basis for refusing permission for the non-optimum viable proposal.'
394. Neither the Applicant nor the Council have complied with the statutory duty in the 1990 Act or policy in the NPPF and PPG to provide a 'rigorous assessment' of possible alternatives to these proposals. That on its own is a compelling reason, given the strong statutory presumption in favour of preservation, to refuse permission and consent.
395. At the very least, if the same or similar public benefits could be achieved by a scheme which could avoid or reduce the harm caused by this proposed development, then the weight to be attached to the Applicant's claimed benefits is significantly reduced. The availability of alternative means of meeting the objectives underlying these proposals must be material to considering the weight to be attached to any public benefit of delivering them.

Heritage benefits

396. There would be heritage benefits to the listed LFB HQ. The foxes and buddleia would be removed, and it would be refurbished at no cost to the public purse. The re-purposing as residential use would establish a viable long-term solution for managing the listed building and maintaining it to a high standard. The retention and refurbishment of the Drill Tower would also be a benefit. The re-provision of the fire station is not a heritage benefit – it is not listed because it is a working fire station (although it is a public benefit which will be accounted for later). The museum would be a modest heritage benefit, not least allowing the public to access part of the listed building. None of these benefits come near to balancing against the substantial harm to the listed building.
397. There would be modest heritage benefits to the Albert Embankment Conservation Area with the new public realm on Lambeth High Street. There is no evidence of other surrounding streets benefitting from an upgrade, so these benefits are very limited. Some views of listed Southbank House would be enhanced – views through from the Albert Embankment – whilst other existing views along Lambeth High Street are blocked by the broad flank of the Western tower. None of these benefits come near to balancing the less than substantial harm to the Conservation Area from the evisceration of the Workshop building and development of 4 tall buildings in the CA, and the impact of the fourth tall building on Newport St in terms of undesignated heritage assets.
398. There are no benefits whatsoever to balance against the high degree of less than substantial harm to the setting of Lambeth Palace and the Lambeth Palace CA. There are no benefits to balance against the harm to the LVMF view, or of the protected view from Millbank of the listed building (Policy 25 Views).

³⁴⁵ Gibson, R (on the application of) v Waverley Borough Council & Anor [2012] EWHC 1472 (Admin)

<https://www.bailii.org/ew/cases/EWHC/Admin/2012/1472.html> (paragraph 36)

399. Paragraph 193 of the NPPF requires the decision maker to place great weight on the conservation of these significant heritage assets.
400. Paragraph 194 requires clear and convincing justification for the harm to heritage assets, including the complete evisceration of the Workshop building. The harm is not necessary, since there are plenty of ways of developing the sites and preserving the heritage assets without constructing tall buildings.

The effect of the proposed development on urban design and on townscape

401. London South Central has four Opportunity Areas in the CAZ, the highest concentration of Opportunity Areas in the capital. Opportunity Areas are London's major reservoir of brownfield land with significant capacity to accommodate new housing, commercial and other development.³⁴⁶ The Opportunity Area boundaries and capacity have been refined with layers of policy guidance.³⁴⁷ Development proposals within opportunity areas should seek to optimise residential and non-residential output and densities.³⁴⁸ Not every site warrants regeneration, and four sites in the Vauxhall/ Nine Elms/ Battersea (VNEB) OA have very detailed site allocation policies in the development plan, because of their complexity, including the current site.
402. The application site stretches from the river through a mixed area of taller market residential riverside buildings, mid-height and lower industrial buildings, and a wide scattering of mainly 5 storey social housing blocks on either side of the railway viaduct. There is a concomitant demographic range across the administrative ward, with considerable deprivation beyond the railway viaduct.
403. There is little to show that the Applicant has comprehended the context. The evidence presented misunderstood the extent of the Opportunity Area, the extent and geography of the Conservation Areas, and the whereabouts of Archbishops Park, the largest public park in the area (and also impacted by the proposed tall buildings). These mistakes were corrected during the inquiry. But presenting as evidence comparables (for daylight matters) the cluster of very tall buildings half a mile away at Vauxhall Cross, or the very dense Edwardian streets of Fitzrovia some miles away, could not be so easily corrected.
404. The application proposes a comprehensive development of all of the land apart from the listed buildings (the LFB HQ and the Drill Tower), introducing 5 tall buildings across the sites: two at 40m, 44m, 83m and 89m. The monumental landmark listed LFB HQ is shorter than all of these at 37m.
405. These are all tall buildings, both in terms of absolute heights and in terms of relative heights, that is the height of immediate neighbours and context. The Newport St building would be over three times the height of its neighbours on Black Prince Rd and Newport St. The Workshop site towers would be over twice the height of the existing listed building even with its 4m glazed extension, and approaching twice the height of the International Maritime Organisation building – a monumental building currently dominating its space – and 9 Albert

³⁴⁶ LP 2.58

³⁴⁷ VNEB OAPF (2012), the Vauxhall SPD (2013), the re-appraisal of the Albert Embankment Conservation Area (2017), the Vauxhall Tall Buildings study (2018)

³⁴⁸ LP Policy 2.13 Bb

Embankment, 48m and 45m respectively. At 78m, only the idiosyncratic Parliament House south of Black Prince Rd would be of a similar height to the proposals.

406. The proposed tall buildings would not step down from the tall buildings to the south along Albert Embankment. The tall buildings would not mark any significant point, such as a transport node, and would not reinforce the spatial hierarchy of the local, wider or civic context, and as such they would detract from legibility and permeability. The tall building on Newport St would jar badly with the surrounding 2-4 storey residential buildings, and its scale and bulk would be unacceptably close to the residential buildings across Black Prince Rd. It would appear a peculiarly over-dominant structure along Black Prince Rd and at the termination of Vauxhall Walk.
407. The impact of the proposed tall buildings on the listed buildings, Conservation Area and other heritage assets is dealt with elsewhere in this submission. The impact on Beaconsfield gallery would be to render it inoperable as a gallery. The successful sustainable re-use of the 1851 Ragged School building would be jeopardised.
408. The two taller buildings would not be slender. At 36m they would be only one metre shy of being as wide as the listed 11-storey LFB HQ is tall. It is as if the listed building has been tipped up onto its end and then extended upwards. They would be visible everywhere and anywhere. The result is that they would cast fat shadows, hugely compromise residential daylight and amenity, and be visible from 5 miles away on Parliament Hill, impacting on a plethora of heritage assets in-between.
409. They would be at odd angles to each other and to the surrounding gridded townscape. Only Lambeth High Street makes wayward turns – as a village high street should – but the tall buildings would not respond to this. They do not provide a frontage to Lambeth High Street, with just the snout of one building providing any sort of frontage. A second residential tower would land along the viaduct, ensuring conflict between the residents and the dirty, noisy anti-social industrial activities taking place below.
410. The 40m high office slab across the centre of the site would be more in keeping with the grain of existing built development, running along the listed Southbank House, but it would rise around 10m above it and would impact badly on nearby residential daylight.
411. The Applicant believes that the tall buildings and the glazed 4m high light box atop the listed building would provide unique ‘public’ views and would signal the area’s regeneration and the creation of a ‘new quarter’ which flags up the Opportunity Area. They hope that it would play a role in joining the two Opportunity Areas together. This is a misunderstanding of the purpose of the Opportunity Areas designations and their boundaries. The restaurant would join a number of other tall buildings along Albert Embankment which offer such ‘public’ views, from hotel windows or restaurants, and which, like the Ritz hotel, will be open to all.
412. Apart from the fireman’s yard and a narrow service road, all of the land unbuilt on is declared ‘public realm’. The proposed public realm would be around half the size of the land currently unbuilt on. The public realm would be insufficiently

green, failing the Urban UPG Greening test by a large margin, scoring 0.1 when the target is between 0.3-0.4.³⁴⁹

413. As a result of the massing of built development, much of the new public realm would be in shade much of the day. The 'Central Garden' wouldn't even meet the minimum BRE guidance of two hours sunlight per day at the equinox. It is not clear how the green wall proposed here would grow, nor how the light wells along the whole strip would function. The Applicant claims the central square would be enlivened with cafes, events, markets and programmed activities.³⁵⁰ But it is small, half the size of the National Theatre Square, for example, but with an 89m tower abutting. The architect referred to a raised podium off Piccadilly in central London as a comparable space. The Economist Plaza is part of a Grade II* listed building, surrounded by buildings of 4-11 storeys. This is very different from the 89m tower which would abut 'Central Square'.
414. The purpose of these tall buildings would be residential, providing 348 flats. 74% of all the development (GIA) above ground on the KIBA sites would be residential.³⁵¹ The 9,194m² (GIA above ground) of office space would be a major office development anywhere in London, but in this overdevelopment it is secondary.
415. The multiple adverse impacts are indicative of overdevelopment of the site. This isn't optimisation. It is not even maximization. It may be driven by other shortcomings of the design. The development is inefficient, with an overall net to gross of 65%, for example.
416. The impact of this overdevelopment on adjacent residential amenity would be profound.

The effect of the proposals on the living conditions of neighbouring residents with particular reference to daylight and sunlight effects

417. Any reasonable analysis of the effect of this development on local residents would conclude that it causes substantial harm. The Applicant's attempts to establish that these proposals are acceptable simply fails to withstand scrutiny.
418. Dr Littlefair gave evidence on daylight impacts for the Council at the 2013 Appeal. He has now done so at this inquiry against both the Applicant and the Council. In both inquiries his evidence has consistently shown that for real people there are real consequences and no mitigations proposed. In both he identifies 'major adverse' impacts. In 2013 the identification of 'major adverse' impacts on Whitgift Street alone was the key reason on which the scheme Appeal was refused.
419. Dr Littlefair's analysis uses the Applicant's data and correctly applies the BRE guidance 'Site Layout Planning for Daylight and Sunlight' of which he is the author. He demonstrates that the harm would be much greater than presented by the Applicant and challenges the acceptability of such harm.

349 UPG xxxx

350 DAS [CD/ A6] 4.4.2

351 Area Schedule in Application Drawings

420. All parties rely upon the methodology of 'Site Layout Planning for Daylight and Sunlight', which is referenced in the Lambeth Local Plan. This guidance gives a clear VSC target of 27% based on scientific data and recognised international standards. As Dr Littlefair made clear it is not correct to say that the calculations for this target are based on a suburban context. They are based on having an acceptable amount of daylight for the function of residential accommodation and not to have this level of light has consequences for people's health and well-being.
421. The 'Site Layout Planning for Daylight and Sunlight' guidance is also clear that it should be applied sensibly and flexibly. Dr Littlefair states in his evidence (as stated in the guidance) that where the target is not met then other measures are needed such as the enlargement of windows. The Applicant has made clear that they have no plans to mitigate impacts.
422. The Applicant has ignored paragraph 97 of the previous inspector's decision that the Whitgift Estate does not appear to differ significantly from other social housing estates in this locality and the assertion that Whitgift House enjoys unusually beneficial daylight is not established.
423. The Applicant set themselves the very lowest bar – to do just a bit better than the refused Appeal scheme on Whitgift Street. But on all of the metrics proposed by the Applicant in their Proofs and rebuttals, the overall impact of the current proposals would be far worse than in the failed Appeal scheme:
- How many windows would fail the BRE VSC guidelines? 221 under the failed 2013 scheme, 424 under the current proposals³⁵²*
- How many windows would lose more daylight under the proposed scheme than under the rejected Appeal scheme? The Applicant's own evidence admits that out of 1,430 windows, 1,375 windows would lose more daylight under the proposed scheme than the rejected Native Land scheme, with 55 windows having a greater than 20% loss beyond the impact of the rejected Appeal scheme.³⁵³*
- How many buildings would lose more daylight on average under the current proposals compared to the rejected Appeal scheme? 14 of the 18 buildings running around the perimeter of the development would do worse now.³⁵⁴*
424. It is not sensible to use average figures of light to all windows in a building as a measure of acceptability. 9 Albert Embankment Building B would have some of the worst daylight levels if this scheme were permitted, with an average VSC of just 15.78%. But some flats will retain 33% VSC, some less than 10%. All 3 of the lowest floors would be left with unacceptable daylight. Families living in those properties can take little comfort in the fact that the people at the top of the building are receiving adequate daylight!
425. The Applicant makes much of the fact that the social housing on Whitgift Street would do better under this scheme than the failed appeal scheme. The VSC in Whitgift House would have averaged 15.96% VSC under the rejected

³⁵² Littlefair Proof [CD/ W12] 6.2, Table 1

³⁵³ Applicant's Daylight Report [CD/A9] 6.3, Table 9

³⁵⁴ Applicant rebuttal of Littlefair [CD/ T12] 6.14 Table 01

- scheme, but is now proposed to average 19.15%³⁵⁵ if the application is approved. Given this social housing block currently has an average VSC close to 27%, the loss of some 40% across all the windows of habitable rooms (bedrooms and living rooms face the site), at twice the acceptable threshold remains a substantial harm.
426. Furthermore, 23 out of the 25 living rooms in the flats in Whitgift House would be left with substandard daylight, below the minimum values in the former British Standard BS 8206-2. This was withdrawn in 2019 and replaced with the more demanding EN 17037, which establishes the 'acceptable living standards' referred to in the NPPF paragraph 123 (c).
427. The Council's expert witness extrapolates a false conclusion by saying that since under his analysis the social housing on Whitgift Street would do marginally better than the rejected Appeal, therefore the impacts on all neighbouring properties are acceptable: "*for an urban scheme of this nature, it is considered that the adversity impact could be considered acceptable with the scheme also representing an improvement (lesser impact) when compared to the appeal scheme*".³⁵⁶
428. This sentence went directly into the conclusion on daylight in the report which was given to members of Lambeth's Planning Applications Committee on 3rd December 2019, who then resolved to grant permission (under the Chair's casting vote). But the sentence in the report was incomplete and extremely misleading, for when it arrived again in the SoCG it had nine words tacked on to the end: "...in reference to Whitgift House and 2 Whitgift St". Under examination Mr Dias said that one line in his multiple slide presentation at the Committee meeting should have corrected this misunderstanding. It is notable that, despite two published addendum, there was and has never been any reference to there being such a significant error in the conclusion of the report regarding daylight.
429. Among the impacts that have not been given sufficient weight are, for example, reductions of up to 60% of the daylight on bedsit dwellings with single windows at 71 Black Prince Road, and similar reductions at the Beaconsfield gallery. Again this is the result of the Applicant focusing solely on making marginal gains against the 2013 scheme rather than working to achieve good levels of daylight amenity (as required by policy) for surrounding properties.
430. The Applicant sought to argue that damage to the daylighting of the homes on the lower levels of 9 Albert Embankment did not matter because they already have low levels of daylight.
431. In fact the reverse is the case. The BRE guidelines set out when daylight losses are significant enough to be noticeable. These windows are already very poorly lit, and the new development would result in further, noticeable, losses to their daylighting. The already low levels therefore make the harm even more unacceptable.
432. The Applicant has sought to justify alternative targets by reference to other schemes. Firstly tower schemes: '*A number of tower schemes have been*

³⁵⁵ ibid

³⁵⁶ Dias Oct 19 [CD/F10] 4.3

consented in recent years which are broadly comparable to the proposed development'.³⁵⁷ Unfortunately two of the three schemes identified are within the cluster of tall buildings at Vauxhall Cross, where tall buildings stand close to tall buildings. The Vauxhall Cross scheme (recently the subject of a call-in) is surrounded by 6 lanes of traffic and the second largest bus station in London. The Sky gardens tower is approximately 40m to the north of the nearest residential housing. The third site, the Texaco site (36-38 Albert Embankment) is not in the cluster, but it's nearest residential and office neighbour is another tall building (Alembic House) set back across the 4 lane boulevard of Albert Embankment, with most windows facing the river. None of these purported comparables are remotely comparable. Fourteen streets in Fitzrovia are also proposed as comparable³⁵⁸ This is part of the densest part of our city, just off Oxford Street, with mansion blocks and terraces up to 7 storeys in well-designed buildings constructed over a century ago with particularly large windows and often bay windows, providing a fabulous quality of life in central London in every way possible. There is no social housing here. That the Applicant considers this remotely comparable strongly suggests a complete disregard for context.

433. The Council's expert attempts a similar justification by way of purported comparables close to the site. But he has done so selectively and without consideration of the particulars of those schemes. Furthermore they have sought to claim that there is an acceptable local benchmark in this range by selectively making comparisons with the East/West wing of Eustace House on the Whitgift Estate and not it's North/South wing which has the same orientation as Whitgift House, or indeed Gabriel House also part of the estate and closer to Whitgift House. He has chosen one side of Eustace House which has been made particularly gloomy by a 26m-37m high curved building developed in 2002. He has ignored the fact that half of the flats face Old Paradise Gardens and some are dual aspect. From this selective collection of failed windows he wrongly claims the averages for Eustace House, avoiding the parts which face the open space. But he also doesn't consider the very real impact on the health of residents. I was one of those ground floor residents. I became depressed and had to leave, making myself intentionally homeless as a result. This cannot be considered an acceptable outcome.
434. The Applicant and the council have attempted to perpetuate a myth that decision makers are gradually coming to accept lower daylight standards because of the need to accommodate more housing in a denser city. Such an approach would be completely contrary to policy on Optimising Housing. But their claim is also not sustained. They could point to only two cases (Whitechapel Estate and Monmouth Street) in recent years where decision makers accepted lower standards of daylight as a benchmark.
435. We need to return to the reality of here and now. The extent of the VSC breaches is stark. 424 windows would fail the BRE VSC guidelines compared to 221 in the rejected Appeal scheme; there would be 10 buildings affected; over 130 flats in total would suffer serious impacts. So on the Applicant's own meagre aspiration the scheme fails to improve the daylight impacts of the 2013 appeal.

³⁵⁷ CD/A9 3.36

³⁵⁸ Ibid 3.46 and Appendix 1

In fact it would cause very substantially more unacceptable harm in all directions, a clear indicator of over development.

436. Like its predecessor, this proposed development would be unacceptable in relation to its effect on the amenities of local residents. The figures bear that out. The reliance on the most minimum standards for new build developments simply cannot come close to representing the actual effect on real families living in these dwellings. On this aspect alone the application warrants refusal.

The extent to which the proposed development is consistent with the Government policies for delivering a sufficient supply of homes (NPPF Chapter 5)

437. The need for housing of all types in London has never been clearer. This is a key priority at all levels of government. It is a key priority of the NPPF and of the development plan. The London Plan sets minimum housing supply targets for boroughs. But even with these in place and every opportunity seized, it has been recognised since at least the Further Amendments to the London Plan (FALP) 2014 that demand will continue to outstrip supply. The tension is between meeting the pressing need, the limited land availability, the other land uses needed (such as industrial land) and the other things we would seek to protect, such as the Green Belt.

438. The key policies are:

London Plan³⁵⁹

- Policy 3.3 Increasing Housing Supply sets targets for boroughs to exceed;
- Policy 3.4 Optimising Housing Potential seeks to do just that;
- Policy 3.11 Affordable Housing Targets and
- Policy 3.12 Negotiating Affordable Housing seeks the maximum affordable housing provision to ensure mixed and balanced communities.

Lambeth Local Plan

- Policy H1 Maximizing housing Growth
- Policy H2 Delivering Affordable Housing flowing from the strategic plan.

439. Lambeth has just undertaken their annual exercise to demonstrate a 5 year supply with appropriate headroom for the Examination of their revised Local Plan. The exercise adequately demonstrates that it has a good supply.

440. Lambeth regularly exceeds their housing targets, and have a good track record on delivery: *'Lambeth has a good record of housing delivery over the past three years, as evidenced by the Lambeth's Annual Position Statement: Housing Supply and Delivery 2019. Lambeth's Housing Delivery Test result for 2019, published by MHCLG in February 2020, was 121% with no buffer required.*

³⁵⁹ At the close of the Inquiry the current London Plan was the London Plan 2016. It has since been replaced by the London Plan 2021

441. *'Therefore, for the purposes of the housing trajectory to be included in the Draft Revised Lambeth Local Plan, Lambeth will apply a 10% buffer to the first five years in order to be able to demonstrate a five year supply of deliverable sites through the examination and adoption of the Plan.'*³⁶⁰
442. Lambeth now claims that the 443 units would make a significant contribution to achieving their targets. In fact this is shown as being delivered towards the end of the 10 year supply, precisely because its deliverability remains uncertain. The site only joined the list after Lambeth's planning committee resolved to grant permission in December 2019. The application site has been on and off the list of deliverable sites for housing over the past decade. Policy PN2 Site 10 has never identified a specific number of housing units. At the Local Plan in 2015 the identified potential delivery of the site was of 147 dwellings on land within Site 10.
443. The figure of 147 units was in the 2014 Housing Implementation Strategy paper, following the refusal of an application for 265 units. The 147 units was Lambeth's best estimate of what could be delivered on the site given the constraints of the site – the need to protect resident amenity, the need to preserve and re-use the listed building, and the aspiration for KIBA uses on the KIBA sites.
444. It is therefore simply not credible that Lambeth are now relying on these 443 units to be delivered sometime towards the end of the next decade. This is an admirable aspiration, but not something to rely upon.
445. Furthermore, since there is a 5-year housing land supply, the presumption in favour of development set out in para 11 of the NPPF ('tilted balance') does not apply.
446. Nevertheless, this is a site in the VNEB Opportunity Area and the CAZ, so it is imperative that the housing opportunity is optimised. As the Housing SPG clearly sets out, 'optimising' is achieved after all of the other policies are considered, as well as the specific conditions of the site regarding these policies.
447. The Applicant is effectively arguing is that optimising *trumps* all other policy considerations, including industrial uses which would generate lower employment densities but 'would not allow optimisation of the site', as discussed in the DAS section on Design Evolution where a zoned and office and light industrial alternative was ruled out.³⁶¹ Similarly, arguments claiming optimisation have been used in considerations of residential amenity and daylight. Despite residents having enjoyed adequate levels of daylight since Whitgift House was built in 1936, for example, these residents are now being told that this is an unreasonable expectation, and that they need to consider losses of up to 40% in order to be able to 'optimise' housing on the central site in the form of tall buildings.
448. This same argument is then used regarding the heritage harm: effectively, tall buildings are necessary to optimise the site, and in securing optimised

³⁶⁰ Topic Paper 10a Housing LBL 2020 [CD/S9] 2.8-2.9

³⁶¹ DAS [CD/A6] 2.4.6

sustainable development it will secure the long term preservation of the listed building, a heritage benefit, which outweighs the harm.

449. Finally optimisation is used by the Applicant to justify departure from the policy regarding tall buildings itself: since there would be no heritage harm (wiped away by the benefits of optimisation), the tall buildings don't cause heritage harm: and thus the application is not in conflict with the 'inappropriate for tall buildings because of heritage harm' policy.
450. This is not optimization, this is maximization, a policy abandoned in 2011. And of course the argument is circular.

Alternative use value

451. The London Plan guidance on the use of Alternative Use Value as a viability benchmark is crystal clear: *"If an applicant seeks to use an 'alternative use value' (AUV) approach it must fully reflect policy requirements....the approach should only be used if the alternative use would fully comply with development plan policies, and if it can be demonstrated that the alternative use could be implemented on the site in question"*³⁶².
452. Lambeth's own Affordable Housing SPG is equally clear: *"Alternative Use Value (AUV) will be acceptable in limited circumstances and only if the alternative use would fully comply with development plan policies and it can be demonstrated that the use could be implemented on the site in question and there is market demand for that use."*³⁶³
453. The Applicant in this case cannot have it both ways. If the AUV scheme fully complies with planning policy, and could be implemented on the site, as it must in order to be used in the financial viability assessment, then the Applicant cannot meet the requirements of the development plan to demonstrate that the inclusion of housing on the KIBA is necessary. That is because the AUV scheme is more viable than the Applicant's scheme, and fully complies with KIBA policy and policy in all other respects.
454. If, on the other hand, the AUV scheme is not policy compliant, then the scheme should never have been used as a benchmark to input into the financial viability assessment. The Applicant has failed to meet their obligations under planning law and to provide evidence that the scheme provides the maximum reasonable amount of affordable housing.
455. Indeed, as was confirmed by the High Court in the Parkhurst Road case, in the absence of an acceptable AUV, an Existing Use Value benchmark should be used instead - even if, as was the case at Parkhurst Road, the existing use value is negligible.
456. This site has an Existing Use Value that was agreed in 2013 by the current adviser to Lambeth Council; the council and the current landowner signed a Statement of Common Ground submitted to the previous inquiry on that site. That EUV was zero: the site had no financial value. Precisely nothing has changed in the interim that would significantly affect that EUV. Why has the council

³⁶² GLA Affordable Housing SPG [CD/P8] para 3.5

³⁶³ [CD/ O2] 5.6

abandoned that figure and granted the developer an extra £40m in headroom on their viability assessment? No reasonable explanation has been forthcoming. No reasonable explanation is possible.

The effect of the proposal on the supply of land for employment use in Lambeth Borough

457. Two thirds of the site was proposed for designation as a central part of the KIBA in 2002, soon after the LFB had vacated the Workshop buildings and were considering the future of their estate. This wasn't a coincidence. The site has remained part of the KIBA, through the adoption of the UDP in 2007, the removal of some policies in 2011, the Local Plan in 2015, and the revisions to the Local Plan today – in other words throughout the period since 2008 when the LFB have been in discussion with Lambeth about redevelopment of the sites.
458. Again, this clearly is not a coincidence. It is in fact a strategy to safeguard the use of the sites for industrial uses, within an unusual flexibility, first demonstrated by the sites also being designated a Major Development Opportunity in the UDP, right up to today's Site allocation policy. The preferred use is mixed use, which could be achieved with the front listed and more valuable riverside site used for residential, and the central and back sites reserved for business and industrial uses. But the policy allows even more flexibility: *'exceptionally, configuration of the site to include some residential within the KIBA boundary may be considered, if it can be demonstrated that this is necessary to achieve an acceptable scheme in all other respects'*³⁶⁴.
459. The Applicant proposes a scheme whereby 74% of the development by floorspace of the KIBA site would be residential. This is to stretch the complex but flexible site allocation policy beyond any credible interpretation.
460. The facts of the need for the KIBA and this site within it are not disputed:
- Lambeth is the only borough in South London with no Strategic Industrial Land (SIL) whatsoever identified in the London Plan. It is solely reliant on 28 Local Strategic Industrial Sites (known as Key Industrial and Business Areas [KIBA] in the Lambeth Local Plan), identified locally by Lambeth, of which part of this site is one.
 - Lambeth has far less land for industry and transport than neighbouring boroughs, and less than 50% of the London borough average of 225 ha.
 - Lambeth lost around 25.5ha of industrial land between 2006 and 2015, including 25.5% of all KIBA land in Lambeth.
 - This is the only protected industrial land (SIL or LSIS) in the CAZ.
461. The CAZ requires a range of land uses within it or on its periphery to function, including light industrial uses. This KIBA has an example of that in James Knight of Mayfair. The ability of the CAZ to function would be undermined if these vital services are not accommodated nearby, and its sustainability would be fatally

³⁶⁴ PN2, Site 10, preferred use

undermined if all such low value uses were exiled to Coulsden or beyond the M25.

462. The protection of industrial land is also to accommodate the inevitable technological changes thrown up. Again, this KIBA has stunning examples: Brompton bikes in 2013, and the electric vehicle hub proposal in 2020. The world is at a tipping point with climate change; we are at a tipping point regarding transportation; the change to electric vehicles (including bicycles) has to be rapid and widespread; but we simply don't have the infrastructure in place to achieve this, nor the land to develop this infrastructure, unless it is safeguarded, as KIBA land is.
463. This application concerns itself not one jot with such matters. The argument about the KIBA safeguards have been sidestepped at this Inquiry by recourse to the misapplied 'housing optimisation' strategy. Never mind all that KIBA stuff, feel the benefits of all this housing, piled up even higher than before. Never mind the harms caused – to the sustainability and viability of the CAZ, or to the heritage assets, or to the residential amenity – because now we offer even more benefits than before, with double the amount of housing proposed in bulky damaging buildings which were rejected in 2013.

The loss of D1

464. There is currently a total of 17,714m² of floorspace (internal floor area) on the site. This is all in sui generis use. Or rather a part is in that use, the rest is vacant but has been in that use since 1937, and therefore this is its lawful use. The application form says that 6,980m² is in D1 use, the remaining 10,734m² remaining in 'other' use, i.e. sui generis. The 6,980m² is exactly the figure always stated as the size of the Workshop, so it would be reasonable to assume that that is the Workshop.
465. Sui generis use by the fire brigade is a land use covered by Policy S1 and S2 in the Local Plan, as we are told at paragraph 7.4: *'Policies S1 and S2 apply to facilities in the D1 and D2 use classes;... They also apply to other public services (such as fire, ambulance, policing, criminal justice, and community safety facilities), which are not in a given use class and are categorised sui generis'*.
466. Policy S1 Safeguarding existing community premises states that:
- (a) The council will support and encourage the most effective use of community premises to address different changes in the borough, in accordance with agreed strategies where relevant.
 - (b) Existing community premises, and land formerly in use as community premises, will be safeguarded unless it can be demonstrated that either:
 - (i) there is no existing or future need or demand for such uses, including reuse for other community services locally, and adequate alternative accommodation is available to meet the needs of the area; or
 - (ii) replacement facilities are proposed on or off site of the same or better size and quality to serve the needs of the area; or

(iii) Development of the site/premises for other uses, or with the inclusion of other uses, will enable the delivery of approved strategies for service improvements.

467. Mr Traves considered this in his Proof (CD U11 paragraph 3.3.1) and relied upon the Planning Committee report. The planning committee report is just plain wrong: *"The permanent use class of 'The Workshop' building is 'sui generis' ... It will revert back to the 'sui generis' use class in December 2019 when the temporary permission (ref. 16/03122/FUL) lapses. As such, it is not considered that the proposal would result in a loss of existing Class D1 uses on site, so there is no conflict in relation to Policy S1 of the Local Plan which seeks to safeguard existing community premises."*³⁶⁵
468. This is wrong by way of the Local Plan explanatory text at paragraph 7.4 quoted above. S1 is engaged. It is therefore a matter of fact that the case relied upon by the Council up to this point is wrong.
469. Mr Reed attempted to correct this during my xx. He argued that the policy cannot be supposed to frustrate the purposes of strategies for social infrastructure set out in Annex 2 of the LLP, and referenced in the explanatory text at 7.9.
470. But the wording of the policy is not to frustrate, it is to safeguard. That is clearly its purpose.
471. Annex 2 refers only to what is clearly an outdated 'Fire Service Asset Management Plan 2011'. Presumably there is an updated strategy, but we have not been shown one. I have looked for one on the LFC website, but cannot find one. Clearly any decision maker needs to see this, including the benefits which would flow directly from the disposal of the site into specified assets, in order to satisfy themselves the sui generis floorspace is no longer required. That is how safeguarding works. I have seen similar processes at work, for example, with the recent attempted disposal of Kennington police station: the community had the site designated an asset of community value and prepared to bid for it, at which point the police force abandoned the attempted disposal and change of use.
472. We accept that it is likely that what is proposed is as set out in paragraph 7.9, despite the fact that that paragraph has not been referred to in this Inquiry. But there is something deeply troubling in the local planning authority failing to properly address this policy, at Committee or in this Inquiry.
473. Moreover, this has a significant impact on the planning balance to be undertaken. Around 14,000m² of land in sui generis community use is proposed to be lost as the result of this application (the remaining fire station and museum will remain sui generis or D1). This is a very significant loss, and it needs to be included in the balance.
474. It is a matter we have struggled to understand, and have continuously asked the local authority questions about. It is regrettable that we have only received clearly wrong-headed answers, as provided in the Committee report and relied upon by the council's witness.

³⁶⁵ [CD/K2] 8.1.12

Financial Public Benefits

475. The Applicant says in the Public Benefits section of its Planning Statement (CD A4) that there are a number of financial matters which are public benefits. These include supporting 'LFB's [London Fire Brigade's] *Capital Programme, through which the Authority funds much needed improvements to fire stations, vehicles and equipment throughout London.*³⁶⁶ Brixton and Clapham fire stations are both identified as possible beneficiaries. In addition, the spending value of new residents, annual residents' expenditure, economic value, and business rates are listed as public benefits at paragraph 5.17.
476. The Council, however, does not show any of these financial matters as being public benefits in its three December 2019 Committee Reports (CD K2, K3, K4), and they are not considered there as being matters to balance against the harm caused by the proposal.³⁶⁷ Nor have they been included in the draft section 106 obligation Heads of Terms in the Statement of Common Ground.
477. I also do not consider these financial matters to be public benefits or material considerations for three main reasons.
478. Firstly, the courts have consistently upheld - most recently in the *Wright* case at the Supreme Court in November 2019³⁶⁸ - the three *Newbury* principles³⁶⁹ which set out what constitutes a material consideration. These are: 1] it must be for a planning purpose (not for an ulterior object, however desirable that object may seem to be in the public interest); 2] it must fairly and reasonably relate to the development; and 3] it must otherwise be reasonable.
479. As explained in the *Wright* case, the consequence is that these *Newbury* principles prevent a developer from offering to make payments, or to provide benefits, which do not have a sufficient connection with the proposed use of the land as a way of buying a planning permission (paragraph 39). Moreover, *Wright* says that government planning policy cannot vary this statutory concept as upheld by the courts (paragraph 45). None of the financial matters claimed by the Applicant as public benefits can be said to be for a planning purpose which is related to the proposed development.
480. Secondly, although Parliament has altered section 70(2) of the Town and Country Planning Act 1990 (as amended) to include any 'local finance considerations' as a material consideration, this does not apply to this proposal. That is because, as the PPG says³⁷⁰, such considerations are defined in section 70(4) of the 1990 Act as a grant or other financial assistance provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received in payment of the Community Infrastructure Levy - none of which is claimed in this case.

³⁶⁶ 5.18

³⁶⁷ CD/K2 8.2.29 onwards

³⁶⁸ *Wright, R (on the application of Wright) v Resilient Energy Severndale Ltd & Anor - [2019] UKSC 53*

³⁶⁹ *Newbury District Council v Environment Secretary [1981] AC 578)*

³⁷⁰ Paragraph: 011 Reference ID: 21b-011-20140612

481. And, thirdly, although the PPG says that public benefits can be anything that delivers economic objectives, that is limited to the definition of an economic objective in the NPPF at its paragraph 8³⁷¹. That definition seeks to build the economy 'by ensuring that sufficient land of the right types is available in the right places and at the right time.' The NPPF definition does not include the financial matters mentioned by the Applicant, and it is precluded from doing so by the *Wright* judgement.

482. Even if I am wrong, I consider that very limited weight should be given to the Applicant's financial public benefits because they could be obtained in large part by any development on the site which is designed to cause less harm, particularly to heritage assets.

The Planning balance

483. All the benefits claimed would be equally applicable to a development plan compliant scheme which would be more in keeping with the context and thereby not harmful to heritage and local amenity.

Housing

- The site could easily accommodate around 150 homes;
- The 443 unit proposal is not necessary for Lambeth's 5-year housing supply;
- The 170 affordable homes would be a potential windfall benefit which would be very welcome, but not at the cost of causing substantial harm to residential amenity of around 130 homes, as well as to the heritage assets;
- The affordable homes would nevertheless be an insufficient proportion as set out in policy, irrespective of any misguided financial appraisal arguments propounded. No evidence has been provided that a more appropriately scaled scheme could not generate the minimum 50% affordable housing sought in policy for public land or released industrial land.
- Only eight of the 443 dwellings are for social housing to accommodate the most needy. The affordable housing units are too small to provide genuine family accommodation.³⁷²

484. There would be significant harm caused by the sheer quantum of housing. This leads to building volumes which would be difficult to achieve without harm to daylight and heritage, whatever the built form, on such a relatively small and constrained site. Furthermore, the only way to accommodate so much housing on such a relatively small site and achieve satisfactory levels of daylight in the new flats is to build vertically, with the resultant heritage and daylight harms.

³⁷¹ Paragraph: 020 Reference ID: 18a-020-20190723

³⁷² This is demonstrated in the Area Schedule (with the application drawings in the original application – cannot find it in the CDs) which shows affordable housing as only enjoying 32.1% of NIA when the offer was for 35% affordable housing by unit. The affordable housing offer has been upgraded to 40% by unit, but I'm not clear that the Area Schedule has been.

485. The quantum of housing drives the overdevelopment. The proposal is way past the tipping point where the benefit of housing (including affordable housing) becomes a dis-benefit due to its inappropriate scale.

486. On balance the overwhelming quantum of housing would create considerable problems and cannot be seen as a benefit. The affordable housing would be a benefit, but its consideration is diminished for the same reason.

Offices

- The 10,000m² of offices can be seen to be merely a replacement for over 10,000m² sui generis employment-generating space in the form of purpose built LFB offices on the front site.
- The benefit is that the offices are modernized in a new building with appropriate floorspace, and with some smaller spaces and units included.
- Lambeth has no shortage of sites for major offices: there are many sites available in Waterloo, Vauxhall and Brixton for large office development, in better connected town centres, where services for offices are provided along with an attractive retail environment for employees.
- There is a good supply of office development in Lambeth, including a number of permissions in the implementation pipeline.³⁷³

487. Major corporate offices are not a benefit on this site – they would be in the wrong place.

Hotel

- There are 4 hotels close by in the area with over 1,000 bedspaces, and permission recently granted for a 600-bed hotel only a block away.
- The land uses in the Albert Embankment area are in danger of becoming unbalanced and a monoculture of hotels emerging.
- The building proposed to accommodate the hotel is overlarge and not subordinate, which is a function of providing a hotel of this scale.
- The site proposed for the hotel could provide residential units instead, in a more appropriately subordinate addition to the listed building.
- The hotel would provide some employment.
- The financing benefits of the hotel are essentially why this has been included in the proposal, thereby spreading the risk.

488. On balance the hotel is neither a benefit nor a disbenefit.

Refurbished Fire Station + some new offices – these offers are clear planning benefits (albeit not heritage benefits).

³⁷³ LBL Commercial Development Pipeline 2018-19 [CD/S21]

Small LFB museum – benefit, although questions as to its vitality and viability.

Over 10,000m² of community uses lost – this is a disbenefit which needs to be weighed against the benefits from the change of use.

Retail is a very minor benefit locally

489. The financial package to LFB cannot be a material consideration in the planning process.

Conclusion on benefits

490. In conclusion, there are some noteworthy benefits: restored listed building with sustainable future; re-provided fire station and LFB offices; small museum; new public realm; some affordable housing⁰ and some significant losses, including over 10,000m² of community space, and the loss of 6,980m² of land for CAZ KIBA uses. These need to be balanced against the heritage harm and other harms.

Heritage balance

491. Is substantial harm necessary to achieve substantial benefits? No. there are no substantial benefits, and it is evident that the identified benefits could be achieved without harm.

492. If the harm is considered less than substantial, do the benefits outweigh the harm? No for same reason: the benefits are not substantial and could be achieved without causing harm.

493. The harm to heritage and to amenity is significant, unnecessary, and not outweighed by benefits.

Conclusion

494. The application departs from the development plan. For the purposes of s.38(6) there is a conflict with the development plan, considered as a whole. It follows that a statutory presumption against the grant of planning permission arises.

- The application is a departure from the development plan.
- There are multiple conflicts with relevant and emerging development plan policy.
- There are other material considerations against this proposal, for example in the NPPF and PPG.
- There are clear and material harms to the amenity of multiple households.
- There is substantial and less than substantial multiple harms to a wide range of designated heritage assets and their significance.
- Even if the decision maker is of the view that the heritage harms are less than substantial, the benefits do not outweigh these harms or justify the departure from the development plan.

495. Planning and listed building consent should be refused.

THE CASE FOR WESTMINSTER CITY COUNCIL

Introduction

496. The Palace of Westminster (the Palace) is a symbol of London; the mother of Parliaments located at the very heart – conceptually and geographically - of one of the world's great cities. The extraordinary significance of the Palace and its setting is beyond dispute. Its iconic silhouette is instantly recognised across the globe. It is a World Heritage Site, by definition of Outstanding Universal Value, as well as a Grade I listed building; a designated heritage asset of the very highest order. This all parties agree. To use Dr Mielie's own words, in heritage terms, the Palace of Westminster is 'the top of the tree'.
497. Long distance views of the iconic silhouette of Barry and Pugin's masterpiece are a key aspect of its OUV. That is irrefutable. It is a matter of agreement between Mr Foxall (for Historic England), Dr Miele and Mr Pilbrow (for the Applicant), and Mr Burke (for WCC). It is also readily apparent from even a cursory inspection of both the WHS Statement of Outstanding Universal Value (SOUV)³⁷⁴ and from the terms of the London View Management Framework (LVMF)³⁷⁵. It is in these views, and only these views, of which there are just four (two from Parliament Hill, one from Kenwood, and one from Primrose Hill), that the Palace of Westminster can be appreciated in its wider cityscape context, located at London's core and set against the distant hills.
498. Lambeth's own development plan recognises that tall buildings on this site will adversely impact upon the strategic views identified above. Indeed, the site allocation in the development plan states specifically that the site is 'inappropriate for tall building development' because it falls within the background areas of strategic views from Primrose Hill to the Palace of Westminster and from Parliament Hill to the Palace of Westminster' (Policy PN2 – Site 10)³⁷⁶.
499. Notwithstanding this policy, and the accepted importance of the views identified above to the OUV of the Palace of Westminster, the proposed development involves the erection of two tall towers, rising to 88.72m AOD and 81.64m AOD respectively, in prominent positions behind the Palace of Westminster in two of the four long distance LVMF views that make such an important contribution to its OUV.
500. The Applicant's audacious attempts to argue that the presence of the towers in those views is harmless were unpersuasive. The reality is that they would impair a viewer's ability to appreciate the Palace and its OUV in those views. From Primrose Hill (LVMF View 4A.2) the bulk of the proposed tall buildings would shoulder up against the Victoria Tower, rising up to or above the roofline, and would appear interposed between the Palace's towers, obscuring the view of the tree-lined hills behind.³⁷⁷ In the Parliament Hill view (LVMF View 2B), the towers of the development would appear abutting and behind the iconic Elizabeth Clock Tower, obscuring the clarity of the tower associated with 'Big Ben' and a viewer's

³⁷⁴ CD S1

³⁷⁵ CD P3 paras 57, 105 -112, 126 and 130 - 135

³⁷⁶ CD O1 p.163

³⁷⁷ Conceded in XX Pilbrow, Miele, and Black

ability to appreciate it in this view. In both views, the prominence of the towers of the Palace of Westminster would be compromised.

501. Sadly, this was not properly recognised or responded to in the design and development process. Rather, in the course of 2018, additional stories were added to the towers. Following this, HE's London Advisory Committee ("LAC") reviewed the scheme and found harm to strategic LVMF views. HE advised both the Applicant and the Local Planning Authority of this, and recommended that the height of the towers be reduced.³⁷⁸ 'Disappointingly' (to adopt HE's word) the height of the towers was not reduced. The Applicant did not even consider making such a reduction or assess the impact of doing so³⁷⁹.
502. The outcome of the above is extremely unfortunate, a scheme involving tall buildings has been brought forward, in conflict with the allocation in both the up-to-date adopted and emerging planning policy, which both HE and WCC (perhaps the two public authorities with the greatest expertise in relation to the historic significance of the Palace of Westminster) regard as having a moderate adverse impact on the OUV of the WHS.
503. It is notable that these two independent public authorities, neither of which has any incentive to object to this development, have (without collusion) taken a consistent position on the level of harm to OUV the proposal would cause.
504. This harm to OUV cannot be wished away or ignored. It is not a trifling matter. As recently as December 2020, the Government made clear that any harm to the OUV of the Westminster WHS will attract "the maximum weight possible in decision making"³⁸⁰. There are very good reasons for this:
- a) Since at least 2006, UNESCO's World Heritage Committee ("WHC") and ICOMOS have expressed concern regarding the impact from development, especially tall buildings, upon the OUV of the Palace of Westminster.³⁸¹
 - b) Following a Reactive Mission to Westminster in 2017, ICOMOS indicated that if grants of permission for further developments having a harmful impact on the OUV of the WHS are permitted, this could lead the World Heritage Committee to consider placing the Westminster WHS on the list of WHS In Danger.
 - c) As recently as July 2019, the WHC has reiterated the risks posed by the proliferation of tall buildings behind the Palace's silhouette, the harm such development causes to its OUV, the need to protect the setting of the Palace in important and sensitive viewpoints, and the risk that failure to heed these warnings could result in an In Danger listing³⁸². Indeed, as Dr Miele agreed, the tone of the WHC is becoming increasingly urgent and insistent³⁸³.

³⁷⁸ Accepted WCC XX Pilbrow, Miele and Black See also HE letter (CD Y21 p 55) and He letter (CD Y21 p. 75ff)

³⁷⁹ XX Pilbrow

³⁸⁰ DCMS State of Conservation Report December 2020 (CD S32 p.2)

³⁸¹ WHC 39th Meeting (Bonn (CD S7 p.154)

³⁸² WHC 41st Meeting (Krakow) (CD S8 p.35_ and WHC 43rd Meeting (Baku) (CD S11 p.92)

³⁸³ XX Black and Miele

505. Against this background WCC strongly urges the Secretary of State to give the harm this development would cause to the OUV of the Palace of Westminster the greatest possible weight when determining the application.

The OUV of the Westminster WHS

506. All parties agree that, as a Grade 1 listed building, and part of a designated WHS, the Palace of Westminster is a heritage asset of the very highest significance³⁸⁴. Indeed, even amongst such assets, the Palace of Westminster is special. It sits along-side the Empire State Building in New York and the Eiffel Tower in Paris as a building the image of which has come to symbolise the city in which it stands.

507. The OUV of the WHS is defined by the 2013 SOUV³⁸⁵. It is remarkable, therefore, that neither the HTVIA produced in support of the proposal, nor Dr Miele's PoE make any reference to that SOUV³⁸⁶. Indeed, as Dr Miele accepted, the documents upon which he had relied in forming his assessment all pre-dated the 2013 SOUV.³⁸⁷

508. When taken to the SOUV³⁸⁸, Dr Miele agreed the following in XX:

- a) The iconic silhouette of the Palace is an intrinsic part of its identity, in particular the internationally recognisable Big Ben³⁸⁹. That includes the visibility of the roof profile in strategic views, such as from Parliament Hill and Primrose Hill.
- b) Part of the WHS's OUV is the fact that the Palace itself represents in its architecture the Parliamentary system. The legibility of the Palace at the centre of London in panoramic views of the city contributes to or enables the appreciation of that aspect of its OUV.
- c) Another facet of the Palace's OUV is its association with great historical events³⁹⁰. This includes the constitutional significance of the Gunpowder plot. It is therefore relevant that there is a historic association between the Plot and Parliament Hill, which Weinreb's London Encyclopaedia notes was reported to be the location where Guy Fawkes and his conspirators intended to gather to watch the destruction of Parliament³⁹¹. The name "Parliament Hill" makes this clear, and the interrelationship and inter-visibility of the Hill and the Palace contributes to its OUV.
- d) The SOUV specifically recognises the importance of the ability to appreciate the intricate architecture of the Palace against the London skyline including in key views into/ towards the Palace in terms of OUV, and notes the vulnerability of those key views to tall buildings

³⁸⁴ XX Black

³⁸⁵ CD S1

³⁸⁶ XX Miele – the only reference in either document is where the HTVIA sets out in full Policy Q19 of the Lambeth Plan (2015) which requires regard to be had to the SOUV.

³⁸⁷ XX Miele

³⁸⁸ CD S1

³⁸⁹ CD S1 p.2/8

³⁹⁰ CD S1 p.3/8

³⁹¹ PoE Miele para 10.37

development³⁹². Those views include LVMF views 2B.1 and 4A.2, in which this development will be visible.

509. In light of the above, Dr Miele agreed that:

- a) The distant silhouette of the Palace of Westminster is a main component of the WHS's OUV.
- b) The ability to appreciate the roof profile of the Palace of Westminster in the strategic views from Parliament Hill and Primrose Hill is an important aspect of the OUV of the WHS.
- c) If the development would diminish the ability to appreciate the Palace of Westminster in those strategic views, that would constitute harm to an important component of the WHS' OUV.

The WHS Context

510. The sensitivity of the Westminster WHS to harm resulting from the development of tall buildings within its setting is a matter which has received significant attention from the WHC in recent years. The WHC is the UN committee with responsibility for the implementation of the world heritage convention, consisting of elected representatives of the state parties to the convention. As Dr Miele accepted in XX, as the UN committee responsible for the implementation of the convention its expertise and official opinion should command respect and is an important material consideration³⁹³.

511. It is therefore significant that Dr Miele agreed the following in XX:

- a) At its 39th Session in Bonn, the WHC expressed concern about the cumulative impact of development on the Westminster WHS and stated that development is beginning to impact adversely on important views to and from the property, its OUV and its integrity. In light of that the WHC recommended that there be a reactive mission to the WHS by ICOMOS³⁹⁴.
- b) ICOMOS carried out that reactive mission and reported in 2017³⁹⁵. Amongst the notable findings of that report are:
 - i. That Historic England has a long knowledge and working relationship with the implementation of the WHC and as the national heritage advisor, is best placed to be able to provide balanced and useful advice in regard to decisions that have a potential to affect OUV³⁹⁶. As a result an ICOMOS recommendation was that 'the advice of the national heritage advisor, HE, should be given a much greater weight by all of the boroughs and other levels of decision making when evaluating projects and their potential impact on OUV,' and 'It is unlikely that if HE has an objection to a particular project, that the WHC and its advisory bodies would have a lesser concern. An objection by HE

³⁹² CD S1 p.4/8

³⁹³ XX Miele

³⁹⁴ See also CD S7 p.155

³⁹⁵ CD S8

³⁹⁶ CD S8 p.8

should already be a warning sign to the whole chain of decision-making that there will likely be issues at the WHC level’.

- ii. The WHS is vulnerable to “incremental changes” in particular to its setting as a result of tall buildings developments. The threat comes mainly from the potential to diminish the important visual qualities of the property including views both to and from the site. These views would include the panoramic LVMF views 2B.1 (Parliament Hill) and 4A.2 (Primrose Hill)³⁹⁷.
 - iii. A more robust method in relation to HIA is required. With strong input and advice from HE³⁹⁸.
 - iv. If the above concerns are not addressed effectively the continued deterioration of the WHS may lead to the need to consider placing the property on the World Heritage in danger list³⁹⁹.
- c) At its 41st (2017) Session in Krakow the WHC made clear that there is an inadequate urban planning framework to manage development in the setting of the Westminster WHS, with the result that developments are causing a cumulative negative impact on the OUV of the WHS⁴⁰⁰. It made clear that large scale projects should be submitted to the WHC for review (which has not happened in this case) and it adopted and requested the expedited implementation of ICOMOS recommendations in its Reactive Mission Report.
 - d) At its 42nd Session in Baku (2019) the WHC further reiterated the need to implement the ICOMOS Report recommendations, in an increasingly urgent and insistent tone⁴⁰¹.
 - e) In light of the above, the UK Government wrote to the WHC on 1 December 2020 “accepting that in the past there may have been a disconnect between policies and results” and indicating that harm to the Westminster WHS would be given “the maximum possible weight in decision making”.⁴⁰²

512. This is the background against which the proposed development and its impact must be considered. Developments which harm the Westminster WHS have too often been consented without sufficient weight being given to that impact. It would be a very great shame if this were to become another such case.

The Design Process

513. In light of the above, it is obviously of critical importance that any development with the potential to affect the setting of the Palace of Westminster is designed having careful regard to how it will impact upon that setting, and in particular strategic LVMF views of the Palace.

³⁹⁷ CD S8 p.49 para 4.1

³⁹⁸ CD S8 p.51

³⁹⁹ CD S8 p.51

⁴⁰⁰ CD S9 p.135

⁴⁰¹ CD S11

⁴⁰² CD S32 p.3

514. Regrettably, it became apparent during XX of the Applicant's witnesses that, in this case, insufficient care had been taken to avoid the impact from the development's towers upon the ability to appreciate the significance of the Palace of Westminster in the strategic panoramas identified in the LVMF.

515. In particular, Mr Pilbrow, the scheme's architect confirmed in XX that:

- a) When considering how to redesign a scheme for the development of the site following the refusal of permission for development pursuant to appeal reference APP/N5660/A/12/2180815 ("the 2013 Scheme"), he found that taller buildings yielded better daylight and sunlight results and that primarily for this reason the decision was taken to build upwards.
- b) The above had the effect of introducing built development into the background of the strategic views of the Westminster WHS from Parliament and Primrose Hills, upon which the 2013 Scheme did not impact.
- c) The design approach was to regard the skyline formed by the Surrey Hills as the only limit on the height of any development behind the Palace of Westminster.
- d) The DAS represents a comprehensive exposition of the matters taken into account in developing the scheme and the design response to those factors. It includes no exploration of any design that would have resulted in the development intruding less into the strategic views than the proposed development. In particular, no consideration was given to whether reducing the height and bulk of the towers would mitigate the impact on the Westminster WHS.
- e) Because the HTVIA's conclusion was that the development would cause no harm, the design team regarded attempts to design a scheme with a lesser impact on the WHS as unnecessary.
- f) In 2018 the Applicant increased the heights of the proposed towers by approximately a further 5 stories. The primary reason for doing this was not architectural. It was done to accommodate a greater quantum of residential development.
- g) Following that increase in the height of the towers, the proposal was reviewed by Historic England's London Advisory Committee on 27 September 2018. Following that review, HE advised the Applicant, by a letter dated 9 November 2018, that the proposed development would harm the significance of the Palace of Westminster and stated expressly that it would be important to make a full assessment of the impact of the proposals including with regard to the ICOMOS Guidance on HIA for WHS and the GLA's SPG on Settings of the WHS.
- h) Despite this advice from the Government's heritage advisor, the Applicant gave no further consideration to reducing the heights of the towers so as to mitigate the impact of the development upon the WHS.

516. In the event, it is apparent that the HTVIA did not comply with the relevant ICOMOS Guidance and suffered from a number of significant flaws:

- a) First, although the HTVIA regarded the value of the WHS as exceptional, and its sensitivity to change as high, it inexplicably described the susceptibility of the site to change as medium⁴⁰³. That is an untenable conclusion. Dr Miele confirmed in XX that his use of those terms accorded with the approach in GLVIA3, however when taken to the relevant paragraph of the GLVIA3 guidance he admitted that susceptibility means 'the ability of the landscape receptor or an individual feature to accommodate the proposed development without undue consequences for the maintenance of the baseline situation and/or the achievement of landscape planning policies'.⁴⁰⁴ His assessment, as he accepted, had taken no account of the fact that the site was regarded as sensitive to tall buildings development in the Site 10 Allocation under the LLP. Indeed, it is difficult to think of a landscape more susceptible to tall buildings development than one which forms part of the backdrop to the Palace of Westminster, the relevant development plan allocation for which specifically states that tall buildings development is inappropriate because of the heritage sensitivity of the location.
- b) Second, in assessing the sensitivity of views, Dr Miele fundamentally misunderstood the appropriate methodology. He agreed that he had regarded the view as the receptor, and again whilst accepting that its value was "exceptional" argued that its sensitivity to change was moderate. However, when assessing the sensitivity of visual receptors, it is important to remember that visual receptors are people not views. That, as Dr Miele reluctantly accepted, is the clear effect of GLVIA3 para. 6.31.⁴⁰⁵ As paras. 5.32-6.33 of GLVIA make clear, the sensitivity of a receptor will be highest where the viewer's interest is focussed on the view. Again, it is difficult to think of a visual receptor more sensitive to change than a viewer at Primrose Hill or Parliament Hill with their attention focused on picking out the landmark silhouette of the Palace of Westminster within the designated LVMF strategic panorama. Dr Miele's suggestion to the contrary is simply untenable. Rather, Dr Miele is one of the professionals who has fallen into the error of failing to distinguish conceptually between landscape and visual receptors, which is ironic given Dr Miele himself referred to the paragraph in GLVIA3 which warns against such a misunderstanding.
- c) Third, there is no material analysis anywhere in the HTVIA of how the panoramic views identified in the LVMF contribute to the OUV of the Westminster WHS. Indeed, there is scant reference to OUV in the HTVIA at all, no meaningful analysis of the proposal's impact on OUV as a result of the developments impact on strategic views from Parliament Hill and Primrose Hill, and no reference to the harm identified by HE to the OUV of the WHS, notwithstanding the clear guidance from the WHC set out above, which stresses the importance of involving HE in the HTVIA assessment and regarding a finding of harm by them as a 'red flag'.
- d) Finally, and perhaps most importantly, in assessing the impact upon the view from Parliament Hill, Dr Miele's analysis focussed upon the presence of screening by an existing tree. That was an utterly untenable position, given that the tree is required to be managed under the LVMF⁴⁰⁶ and has been pruned since the HTVIA

⁴⁰³ CD A10.4.4 Vol 3 Part 1 p.50 (para 4.96)

⁴⁰⁴ CD S4 p.88 para 5.40

⁴⁰⁵ CD S4 p.119

⁴⁰⁶ CD P3 para. 104 and 108

was produced. Mr Pilbrow described reliance on that tree as “foolish” and every other witness to the inquiry on this subject (including Dr Miele himself) agreed. However, the effect of Dr Miele’s “foolishness” was that it set a hare running which infected a number of public decision-making processes including the GLA Stage I Report⁴⁰⁷, which took an approach contrary to its own guidance, and LB Lambeth in the officer’s report to committee.⁴⁰⁸

517. The effect of these flaws is that the impact of the development upon the Westminster WHS as a result of its intrusion into designated views which Dr Miele himself recognised make a key contribution to the OUV of the Westminster WHS has been underestimated.

The Impact

518. There is no dispute that the towers of the proposed development would be visible both with the naked eye and with a zoom lens or through binoculars in the designated strategic views from both Parliament and Primrose Hills. There was some discussion at the inquiry regarding the validity of using zoomed in images to consider the impact on views. For the following reasons, however, it cannot reasonably be disputed that consideration of the way in which the development would be perceived, both with and without zoom, is plainly appropriate.

519. First, the two are, as Mr Pilbrow accepted, ‘different but equally valid experiences’.⁴⁰⁹ There has been no challenge to Mr Burke’s evidence that whilst some people experience the view only as the background to another activity, many visit the viewing points identified in the LVMF for the specific purpose of appreciating the view, and that some of those who do so take with them cameras with the capacity to zoom in and binoculars to enhance the experience.

520. Second, the LVMF itself shows zoomed in views of relevant sections of the panoramas. As Mr Burke explained in re-examination, contrary to the assertion put to him by the Applicant in XX, those zoomed in views are not included simply to identify the specific features visible in the view, but also more generally to illustrate the strategic views and their significance.

521. With or without a zoom lens, the development would be visible in LVMF strategic views 2B.1 (Parliament Hill) and 4A.2 (Primrose Hill). Not only that, it would be visible in the most sensitive location in the view, in both cases appearing as abutting or shouldering up against one or other of the towers of the Palace, so as to distort the clarity of the Palace’s silhouette. Indeed, in the Primrose Hill view the development would appear between the towers of the Palace, which Mr Pilbrow himself described as an ‘important space’ to ‘stay outside’.⁴¹⁰

522. Before considering each view in turn, it is pertinent to note that the overarching issue when considering these views is as Dr Miele accepted in XX:

⁴⁰⁷ CD K1 p.17 para 80

⁴⁰⁸ CD K2 para 8.2.77

⁴⁰⁹ XX Pilbrow

⁴¹⁰ XX Pilbrow

- a) The extent to which the development in any way reduces the clarity or legibility of the silhouette of the Palace of Westminster as seen in the relevant view.
- b) Development which erodes the ability to recognise or appreciate the silhouette of the Palace would by definition harm a key aspect of the OUV of the Palace.

523. Factors which are relevant to considering whether development would have such an effect include:

- i. The extent to which development would be visible interposed between the towers of the Palace.
- ii. The extent to which development would appear to abut/ shoulder up against the towers of the Palace and the extent to which that affects the discernibility of their silhouette.
- iii. The extent to which the development would obscure the visibility of the hills behind the Palace and the contrast between the towers of the Palace and the tree-lined hills.
- iv. The extent to which the development would merge visually with any other built development visible in the view.

524. Once these factors are taken into account, it is readily apparent that the development would harm both of the views identified. Indeed, the primary factor apparently relied upon by Dr Miele in his assessment, namely the distance between the viewing point and the Palace of Westminster is one which, as he accepted in XX, does not change. It cannot therefore be a factor which in some way limits or reduces the impact of development on the view. On the contrary, as Mr Burke explained in XIC the fact that the Palace is discernible but at a distance, requiring concentrated attention to appreciate, serves only to increase the sensitivity of the views to development in the background, since the introduction of visual clutter at that range makes discerning the silhouette of the Palace considerably more difficult.

View 2B.1 – Parliament Hill

525. The importance of this view of the Palace from Parliament Hill is that it is, as the LVMF notes, one of the few publicly available locations from which all three towers of the Palace of Westminster are visible.⁴¹¹ It was accepted by Dr Miele in XX that the effect of the development on the view would be visible, and that the tallest elements of the tower will introduce additional built development into the view which will appear behind and to the left of the Elizabeth Tower, which houses Big Ben, rising almost to the same height as the tower and shouldering up against it. The effect of that would unavoidably be that the clarity of the silhouette of the Elizabeth Tower, which is perhaps the most internationally recognisable aspect of the Palace of Westminster, would be eroded. The view would be materially harmed.

⁴¹¹ CD P3 Part 1 p.49 paras 105 and 107

526. It was no doubt to avoid the need to recognise this impact that Dr Miele originally relied upon the presence of the tree on Parliament Hill as disrupting the view so as to avoid the need to properly consider the impact of the development. It is notable that, although Dr Miele says he was aware of the LVMF guidance he made no mention of it, nor did he contact the City of London to indicate he regarded managing the tree as necessary. Regardless, given that the tree has now been pruned in accordance with the guidance requiring its management in the LVMF, and Dr Miele's admission that reliance upon it was 'foolish' (to use M. Pilbrow's word) no reliance can be placed on it (as all parties agreed in XX).
527. In the absence of the ability to rely upon the tree's foliage, Dr Miele was not able to identify any good reason why he said that development directly adjacent to the sensitive silhouette of Big Ben would not harm the viewer's ability to appreciate it. The only real reason Dr Miele could give was the distance between the viewer and the Palace, but as he had already agreed, that is an immutable fact. It is irrelevant. The reality is that his evidence relied on little more than a bare and untenable assertion of no harm, in conflict with the view of both HE and WCC. Indeed, it is difficult to think of a worse location for a tall building in the view than directly abutting the delicate silhouette of the Elizabeth Tower.

View 4A.2: Primrose Hill

528. As to the view from Primrose Hill, Dr Miele and Mr Pilbrow both accepted that as a matter of fact the development would be visible interposed between the towers of the Palace. That is especially unfortunate given the emphasis both seek to place on maintaining the space between the tower in the Parliament Hill view. No reason was given for taking a different approach to this view, and in fact there can be no principled basis for drawing a distinction. Moreover, both witnesses agreed that: (1) the development would rise so that it is visible at or above the roofline of the Victoria Tower, albeit below the finials; (2) the development would appear to 'abut' or 'shoulder up against' the Victoria Tower; (3) the development would obscure the visibility of the Surrey Hills and the contrast between the towers of the Palace and the tree-covered hills and would merge visually with the built development visible atop the hills behind. Although Dr Miele refused to accept it, introducing built development up to roof level and directly adjacent to the Victoria Tower would reduce the clarity of the sharp left-hand edge of the tower, and the introduction of substantial built form between the Victoria Tower and the Central Lantern would erode the legibility of the architectural conversation between the towers. There would undoubtedly be harm to this view, as both HE and WCC have found independently.

The Harm to OUV

529. The effect of the above findings, upon which the position of both HE and WCC is consistent, is that the development would harm two of the four strategic panoramas in which the Palace of Westminster is visible as a landmark in its wider cityscape context. Even Dr Miele agreed that if such harm is found (and on any fair basis it must be) that would amount to harm to a 'key' or 'important' aspect of the OUV of the Palace of Westminster. It would be harm to a particular way of appreciating the Palace, seen at the heart of London with London itself visible in its wider landscape context, the opportunities for which are extremely limited. This is in addition to the townscape impact of the proposed development on its immediate environs, which would be noticeable, for example, when

standing on Westminster Bridge, where the proposed development will introduce a new scale and bulk of development in closer proximity to the Palace of Westminster, in a manner which would further diminish the Palace's prominence within its riverside setting.⁴¹² Overall, the harm which would arise principally from the harm to the ability to appreciate the silhouette of the Palace of Westminster as a landmark in the strategic panoramas in the LVMF would cause a moderate adverse impact on the OUV of the Westminster WHS, as both HE and WCC have concluded.

The Position of Historic England

530. It is at this point worth dwelling upon the position taken by HE. As Dr Miele acknowledged, HE has a long knowledge and working relationship with the implementation of the WHC and as the national heritage advisor, is best placed to be able to provide balanced and useful advice in regard to decisions that have a potential to affect OUV. As he himself said in the recent Holocaust Memorial Inquiry:

'You must give considerable weight to the role of Historic England... HE have a very good understanding of the local context to the UK world heritage sites and an express duty to provide advice on these matters... I don't think anyone would doubt the importance of Historic England's views on this or the weight to be given to them. ICOMOS itself wants more weight to be given to HE views'.

531. HE's view is that there would be a moderate adverse impact on the OUV of the Westminster WHS. That accords with WCC's view and is a matter which should attract very substantial weight. Indeed, it is especially notable that in its formal consultation response HE identified harm to LVMF view 4A.2 and expressed its 'disappointment' at the developer's failure to respond to the pre-application advice it had given which involved a suggestion that the building heights should be lowered to reduce this impact.⁴¹³

532. It should be noted that HE called Mr Foxall, the Head of Region for London and the South East to give evidence, including evidence of harm to the OUV of the WHS. Mr Foxall is directly senior to Mr Dunn who gave the pre-application advice in relation to this matter. Although he preferred to leave the inspector to "draw the inference", it is readily apparent that given his relative seniority to the extent that there is any inconsistency between Mr Dunn and Mr Foxall, as the senior officer, Mr Foxall's views are to be preferred. Moreover, he had visited both of the strategic views in question to form his own independent assessment and, unlike Mr Dunn who appears to have relied upon information from Dr Miele, there is no risk that he placed any reliance on the screening from foliage which has now been managed.

533. At the Inquiry, the Applicant sought to make something of the fact that HE had not objected to the development pursuant to the Town and Country Planning (Consultation) (England) Order 2009. However, as Mr Foxall agreed in XX, such objections are rare. The only three examples before the Inquiry relate to the Chiswick Curve, Citroen Cite, and Tulip applications, all of which result in such substantial harm to the OUV of WHSs that HE's position is that it is not

⁴¹² PoE Burke para 9.10

⁴¹³ CD Y21 p.79

considered that the harm caused to the significance of the designated heritage assets could be outweighed by the public benefits.⁴¹⁴ As Mr Foxall explained, those cases are characteristic of the rare cases in which HE will formally object. The absence of such an objection does not, however, mean that the development is unobjectionable in heritage terms. On the contrary, as Mr Foxall accepted, this is a case in which the development's impact upon the OUV of the WHS is objectionable.

534. Overall, therefore, the fact that HE identifies a moderate adverse impact on the OUV of the WHS, amounting to less than substantial harm to the Palace of Westminster which accords precisely with the case for WCC, is a very significant material consideration which should attract considerable importance and weight.

The Position of LB Lambeth

535. The approach Lambeth has taken to the harm this development would cause to the Westminster WHS has been, to say the least, unfortunate. Without dwelling for too long on the matter, the following points were conceded in XX by Mr Black:

- a) Mr Black, who gave evidence to this inquiry on the historic environment on behalf of LB Lambeth, previously gave evidence to the Shell Centre Inquiry. In that case he gave evidence that the development would not harm views of the Palace of Westminster from the South Side of Parliament Square. The ICOMOS reactive mission subsequently identified harm to precisely those views as a result of the Shell Centre development, which was identified by the WHC as being one of the developments the effect of which has damaged the OUV of the Westminster WHS.
- b) Mr Black's approach was that the strategic panoramas in the LVMF which identify the Palace of Westminster as a landmark make no contribution to the appreciation of the OUV of the WHS. He is the only witness to maintain this position, which is contrary to the express approach in the LVMF.⁴¹⁵
- c) The proposed development does not accord with the Site 10 allocation in the Lambeth Plan (2015). That policy specifically identifies the sensitivity of the 'background areas' in strategic views of the Palace of Westminster from Primrose Hill and Parliament Hill to development on this site and for that reason concludes that the site is inappropriate for tall buildings development. The allocation is a carefully formulated expression of the Council's policy position produced following a detailed evidence gathering exercise and public consultation including with relevant statutory consultees such as HE. It has been examined by an inspector on behalf of the Secretary of State and found to be sound i.e. found to be, inter alia, 'justified – an appropriate strategy taking into account reasonable alternatives and based on proportionate evidence' and 'consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the NPPF'. The position remains the same in relation to the draft Lambeth Local Plan, which means that since the adoption of the Development Plan, Lambeth has undertaken further

⁴¹⁴ CD X26 p.5, 18 and 29

⁴¹⁵ CD P3 p.29 para 57

evidence-based assessment of the suitability of this site for tall buildings, including with express reference to the issues raised by ICOMOS and WHC above, and - for the same reason as the adopted policy identifies but with the support of further evidence - has decided that the site is not suitable for tall buildings.

- d) Mr Black inputted into the officer's report to committee in relation to the historic environment and guided Lambeth's approach to the acceptability of the development in terms of its impact on the historic environment. He was aware from before the time the officer's report was produced of HE's findings of harm to the strategic views in the LVMF, which he agreed is an important material consideration, but which is conspicuously absent from the committee report (by contrast with the GLA response where the finding of no harm to OUV is expressly referred to). This, he agreed, was a material omission from the report. Similarly, Mr Black made no mention of HE's position in his proof which did not accord with his statement that "the Inquiry's attention has been drawn to any matter which would affect the validity of [his] opinion".

536. Given these concessions, and in particular the concession that (under Mr Black's supervision) there was a material omission in relation to the HE position on harm to the OUV of the WHS from the development in the committee report, no material weight can be placed on the evidence of Mr Black or on Lambeth's approach to the impact on the WHS.

537. Nor did matters improve with the evidence of Mr Traves. In particular, two key points emerged from WCC's XX of Mr Traves:

- a) First, the only reason given in the officer's report or in Mr Traves evidence for finding no harm in relation to the Parliament Hill view (2B.1) was the screening by the tree, which has now been pruned. If one deletes reference to the tree from the evidence, Lambeth's position is simply that "the tallest elements of the proposal attach to the left hand side of the Elizabeth Tower (Big Ben)". That can only properly be interpreted as a harm, rather than a benefit.
- b) Second, Mr Traves conceded that (contrary to what he said in his PoE at 4.1.1) he had not in fact weighed the public benefits against any heritage harm to the OUV of the Westminster WHS anywhere in his PoE. In an attempt to plaster over this very considerable crack in his response to WCC, Mr Traves attempted to make up his position on the spot, which did not improve his credibility. His conclusion was that the benefits of the proposed development were such that they would justify any level of harm to the WHS, short of substantial harm. Given the test for substantial harm, that is a palpably ridiculous analysis and one which cannot withstand scrutiny. To the extent that that reflects the approach taken by officers at Lambeth to harm to the Westminster WHS, it is little wonder that the WHC has expressed the concerns it has.

538. Overall, therefore, Lambeth's contribution on this issue at the Inquiry has added nothing of value, save to highlight the inadequate and unsustainable approach it has taken in this case to harm to the OUV of the Westminster WHS.

Harm to OUV: The Planning Policy Context and Weight

539. All parties agreed that any finding of harm to the Westminster WHS must be given the maximum possible weight in the planning balance.⁴¹⁶ Any harm to the Palace of Westminster must attract considerable importance and weight and will create a strong presumption against the grant of planning permission.
540. Moreover, as became apparent from the answers given in XX by Mr Goldsmith, permitting development which harms the OUV of the Westminster WHS would not accord with the plan led approach to planning decision making. As Mr Goldsmith accepted in XX a finding of such harm would:
- a) Result in a substantive conflict with the Site 10 Allocation under Policy PN2 of the Lambeth Local Plan 2015. Notwithstanding Mr Goldsmith's somewhat extraordinary argument that it required a "quantum leap" to read together the section of the policy which identifies specifically the sensitivity of the LVMF views from Parliament and Primrose Hills as constraints on the development of this site with the policy's statement that the site is inappropriate for tall buildings development because of its heritage sensitivity (an argument which did Mr Goldsmith no credit) he accepted that:
 - i. This allocation represented a detailed assessment of the suitability of the site for development which must be read in the context of the allocation having been prepared, examined, and found sound having regard to all of the other policies in the plan and found to be consistent with them.
 - ii. On a proper analysis there is in fact no contradiction between the allocation and the other policies in the plan. Policy Q26 identifies three broad categories or area in relation to tall buildings development, namely areas where such development is appropriate, areas where it is inappropriate, and areas which are sensitive to such development. Vauxhall is identified as sensitive, which is not the same as saying that the whole area is appropriate for tall buildings. Rather, what is required is a site specific evaluation regarding appropriateness. This is made clear by the terms of the policy in PN2 which states that the appropriateness of sites on Albert Embankment for development up to 80-90m is subject to the relationship and impact of tall buildings on the setting of heritage assets and views. The Site 10 allocation then explains that the site is in the background to LVMF views of the Palace of Westminster and states that "the heritage sensitivity of the site makes it inappropriate for tall building development". That is not inconsistent and this development conflicts with that policy.
 - iii. This position is unchanged under the emerging plan, the effect of which is that Lambeth has reviewed its development plan policy in

⁴¹⁶ XIC Burke; XX Miele; XX Goldsmith; XX Traves;

relation to this site and maintained the view that it is inappropriate for tall buildings.

- b) Conflict with the wording and objectives of policies 7.10, 7.11 and 7.12 of the London Plan which protect the OUV of WHS and the LVMF views.
- c) Conflict with policies Q19, Q20, Q25 and Q26 of the adopted Lambeth Local Plan 2015.

541. In addition, the development would conflict with emerging and other material policies including: HC2 of the Intend to Publish London Plan, Policies DES 14 and DES 16 of the Westminster UDP, Policies S25 and S26 of the Westminster City Plan, and Policies Q19, Q25, Q26 and PN2 of the Draft Revised Lambeth Local Plan.

542. In reaching a conclusion in this case, it must be remembered that WCC and HE are both independent public bodies acting in the public interest. They are also perhaps the two public bodies with the greatest experience and understanding of the OUV of the Westminster WHS. In light of the above, if their positions (which are essentially aligned) are accepted and this development would cause harm to the OUV of the WHS, there will plainly be a material departure from adopted development plan policy. This would not be development which accords with the requirement for "genuinely-plan led" development under NPPF para. 15.

543. As regards the weight to be given to the harm to the OUV of the WHS, two final points require specific clarification:

- a) First, there was some attempt by Dr Miele in XIC and, the Applicant in XX of Mr Burke, to calibrate the extent of any harm to the OUV of the WHS with reference to the test for substantial harm. To the extent that this is a helpful exercise, Dr Miele accepted in XX that the test in the PPG applies, such that in determining whether harm rises to the level of substantial one asks whether there has been a serious impact on a key element of the listed building's significance. If there is any conflict between the test in *Bedford Borough Council v Secretary of State for Communities and Local Government* [2012] EWHC 4344 (Admin)⁴¹⁷ and the PPG, which on a proper appreciation of what was said by Jay J (especially at para. 26) would not seem to be the case, the PPG post-dates Bedford and represents the Government's own guidance on how the policy it has produced in the NPPF is to be interpreted. It is to be preferred. Once that is understood, Mr Burke and Mr Foxall's judgement that, applying the ICOMOS guidance, there would be moderate adverse impact on the OUV of the Palace of Westminster because there would be harm to multiple important views of the Palace which represent an important and unique aspect of its OUV, is an entirely appropriate one.
- b) Second, the Applicant relied at times upon the Inspector's report in the Citroen Site Case.⁴¹⁸ In that case, it is true that the Inspector recommended giving moderate weight to harm to the OUV of the WHS (IR para. 15.47). The Secretary of State in his decision letter did not, however,

⁴¹⁷ CD L12

⁴¹⁸ CD L8

agree. He expressly gave great weight to harm to the OUV of the WHS in that case (DL para. 29). That is manifestly the correct approach. The point, however, is somewhat moot given that both Dr Miele and Mr Goldsmith agreed in XX that in this case, the maximum possible weight, and certainly great weight, should be given to any harm to OUV.

544. The short point, therefore, is that the moderate adverse impact on the OUV of the Westminster WHS, identified by WCC and HE, is a material consideration of the highest order which creates a strong presumption against the grant of planning permission and which must attract very substantial weight in the planning balance. This harm was not taken into account by the Applicant, in designing the scheme, or by LB Lambeth in resolving to grant permission. As is apparent from the analysis above, the reason for that was, at least in part, the inadequacy of the assessment of the impact of the proposal upon the WHS' OUV in the application documentation, and in particular the HTVIA, and a blinkered design approach which sought to increase the quantum of residential development regardless of the concerns raised by HE about the impact of doing so.

545. Ultimately the question of whether such harm to the OUV of the WHS is justified is a matter for the Secretary of State. It is certainly of concern, however, that a development of this scale and bulk, which would unavoidably interrupt the background to the Palace in strategic views, and harm the ability to appreciate it, has been brought forward in circumstances where HE's position is that "had the height of the proposed tall buildings been reduced in line with our advice the harm to heritage significance identified in this statement would have been lower".⁴¹⁹ Given the WHC's repeated warnings about the cumulative adverse impact that granting planning permission for developments of just this sort is having upon the OUV of the WHS, and the clear warning from UNESCO that if such consents continue to be granted, the Westminster WHS will be placed on the List of World Heritage in Danger, serious thought needs to be given to whether permission should be granted for this development. Certainly, in the view of Westminster City Council it should not.

THE CASE FOR BEACONSFIELD (RULE 6 PARTY)

546. **David Crawforth** is a founding co-director of Beaconsfield, an educational charity registered and operational from 22 Newport Street, London. Beaconsfield has been housed in the former Lambeth Ragged Schools building since 1995 and, for more than twenty-five years, blazed a trail in the art world as an experimental art laboratory and gallery, known for leading developments in contemporary visual art and curatorial practice.

547. The remaining Girls wing of the former Ragged Schools is highly desired by contemporary artists wishing to develop their work on a large scale, with the site-specific stimulus of the historic purpose of the Ragged Schools and its artistically challenging original wooden floor and unusually high ceiling. The ground floor is used for more intimate exhibitions and art events, providing the bar and refreshment space for Private Views, talks and special events, as well as the public amenities of male, female and wheelchair user toilets. In addition, the Lower Gallery space has been deployed as a vegetarian daytime café since 2008,

⁴¹⁹ Statement of Tom Foxall para 7.11

- allowing flexible use of the space for a range of purposes. Both storeys work in tandem and are used for educational workshops, seminars and mentoring for the benefit of Lambeth and Southwark schools, London and UK-wide Higher Education groups, and artists' talks and symposia directed at a broad public.
548. The raised railway line viaduct forms a physical barrier between the more domestic scale and height buildings on its east side, and the big, massive building blocks along the Thames on its west side. Most of the buildings on the east side of the railway lines are 2 to 4 stories in height. There are exceptions, such as the two 13-storey blocks further along Vauxhall Walk but these are outside the Conservation Area and are set in landscaped grounds. The nearest exception is a small 6-storey block at 17 Newport Street. Even so, in the main, the character of the area, especially around Beaconsfield, is that of small-scale homes and buildings which provide a human-friendly environment in which to live and work.
549. In addition, the proposed 11-storey tower block site and Beaconsfield Gallery lie in the Albert Embankment Conservation Area. The tower would be clearly seen in views along a long length of Black Prince Road from east, from both within and outside of the Conservation Area, especially from the small shopping parade just to its east, lying within the Conservation Area. It would also be seen in views southwards along Newport Street (see the applicant's photomontages in Appendix F), and clearly seen northwards in views from Vauxhall Walk and from Pedlar's Park and Salamanca Street which crosses the park - all which lie within the Conservation Area. This last view is the most critical view of our heritage building, which, at the moment, provides a landmark from Vauxhall Gardens. By blocking this South wall of the building our visual identity from the main Vauxhall transport hub, from which most visitors will travel, is demolished. This is a complete view of the building that has been intact for 169 years. The site of the tower is currently an attractive 'green corner' which would be replaced by a clumsy monstrosity, harmful to the conservation area and obscuring views of the listed Southbank House.
550. A more collaborative approach to regeneration is needed, to capitalise on and reinforce existing cultural assets. The prizewinning Newport Street Gallery is an excellent example.
551. The proposed redevelopment of the site immediately adjacent on the corner of Black Prince Road and Newport Street would entirely mask the clearest view of the heritage asset from the south, eliminating brand recognition by local, national and international visitors as well as obscuring the heritage asset. The main visitor entrance would be compromised by the proposed servicing access to the new residential block on Newport Street; the inappropriate use of a narrow road for large vehicles would make pedestrian, cycle, wheelchair or pram access, potentially dangerous and contributes further congestion.
552. The currently successful mix of uses in the KIBA – artistic, manufacturing and light industrial, servicing, and other small businesses – creates a vibrant neighbourhood which supports our operations; and that the proposed mix of uses – largely residential and corporate offices, hotel and retail – would undermine the existing mix and threaten the commercial viability and aspirations for this being a cultural quarter.

553. The development would result in a significant harmful loss of daylight and sunlight to the gallery. Three of the four main spaces would be severely impacted:

- The lower gallery space has three large south facing windows that provide most of the natural light to the large, square room (approx. 16m deep and 11m wide). One half of the room is well-lit throughout the day, but the further away from the windows the gloomier it gets, which is where the toilets and kitchen are. The main source of daylight would be severely impacted by the proposed 11-storey development adjacent on Newport St.
- The first floor is the main room of the former school (girls wing) and now the main exhibition space: it has one large arched south facing window 1.65m x 3.80m (three further south-facing windows were blocked up decades ago) plus three east-facing arched windows (1.65m x 3.80m) and one small oculus – a port-hole window – high up to light a very high-ceilinged room (6m high almost the full height of the building) with an original raked floor. This provides adequate natural light to read anywhere in the room on a bright day. The south facing window provides much of the light, but this would be severely impacted by the 44m 11-storey building proposed for Newport St.
- The yards to the east and north (approx 18m x 8m) are critical to Beaconsfield's operations, both for core artistic fabrication, educational workshops, disabled parking and storage. The front-facing yard is used by the café and for events for external seating. The natural light to the spaces on the north side and along Newport Street would be severely impacted by the development, both the 44m high building on Newport St and the taller buildings on Whitgift St.
- One double railway arch is also an exhibition space (7m x 26m) which has no natural light and is used for exhibitions and operations requiring only artificial light.

554. The proposed 11-storey tower would decimate the provision of sunlight from the South from the two gallery spaces and the L-shaped garden yard: a 'green lung' contributing to the mitigation of urban pollution. The tall buildings on the central site would block sunlight from the west into the garden yard running along the north side of the building, adversely affecting light to the Lower Gallery facilities, outdoor workshop space and community green-space. Loss of sunlight to the garden spaces would impact air quality, number of visitors and volunteers and operational capacity. The development would cast a giant shadow over the operation.

THE CASE FOR THE GARDEN MUSEUM (RULE 6 PARTY)

555. **Christopher Woodward** is the Director of the Garden Museum, the only museum in Britain dedicated to the design, history and art of gardens, and to their place in modern lives. It has strong links with John Tradescant, gardener to King Charles, whose tomb is in the superbly restored St Mary's Church, which has been rescued from dereliction by the Museum Trust and is now part of the Museum. The extension to the Museum, known as the Sackler Garden was designed for a new café, but its primary function is learning. The Clore space, which faces south is one of the few spaces on the site which benefits from natural sunlight for much of the day, was used by 70 schools in 2019 and hosted 70 community groups. The Learning Studio, funded by the City Bridge Trust, faces south and west and is the first food learning programme in a UK Museum.

556. The trust is a stakeholder in the regeneration of the local area, and is taking the lead with the Lambeth green project. This is a scheme to 'green' 5.3 acres of public realm, extending from the riverside at Lambeth Bridge to Whitgift Street, with the enhancement of Old Paradise Gardens at its core. Further details of the work, history and development of the Museum and its pivotal role in the community are set out in Mr Woodward's PoE (CD W17).
557. The proposal would lead to a harmful loss of sunlight to the Museum garden during the winter months. The garden has been designed for the available level of light the garden currently enjoys. BRE was commissioned to assess the impact of the two towers on the Museum's spaces. The report concludes that during December the sunlight traverses a short distance between Palace View and Parliament View, for approximately 1 hour and 12 minutes. Some 20 minutes of this would be lost. While this is within the BRE guidelines for open space in general, it represents 28% of the already limited window of winter light which is the basis of the garden design. The significance is to photosynthesis but also to germination, as the soil requires a minimum of heat. It would also significantly diminish the enjoyment of visitors and learning groups. The harm would be aggravated by the intrusion of the towers in views down Lambeth High Street, and on the learning spaces which function as an oasis providing escape from the more brutal realities of the modern city.
558. The Lambeth Green project, led by the museum, offers the opportunity to green, connect and re-invigorate the historic public realm of Lambeth Village. It includes a radical project to transform the public realm to the south of Lambeth Bridge by replacing the roundabout with a new junction, freeing up space for greening. Old Paradise Gardens is central to the Museum's learning programme, the focus of 'Urban Botany Summer Camps' for local teenagers. Plants collected in the Gardens are studied in the Clore Space.
559. The BRE guidelines require at least two hours of sunlight to 50% of the park on the 21st March. While the application scheme considered in isolation would not breach the BRE guidelines on sunlight to Old Paradise Gardens, it has not been considered cumulatively with the permitted scheme for a six-storey office building on 34 – 36 Paradise Street. At the autumn equinox, this building will cast shadow in the children's playground until 11 a.m. The towers would start to cast shadow from 1 p.m., leaving a window of about 2 hours free from shadow.
560. This would adversely affect people but also harm the possibilities for horticulture. The development would erode the character and recreational value of the Gardens through overshadowing and overbearing dominance of the buildings. It would make any horticultural use of the gardens an 'uphill struggle'. It would render the Museum's plans for a successful community garden impossible of achievement. Given the failure of the scheme to provide adequate green space and soft planting within the scheme, it would lead to over-use of the gardens to the degree that existing residents would be excluded from the community asset. Additional traffic on Lambeth High Street would reduce the opportunities for greening.
561. The proposed Fire Brigade Museum, while claimed as a major benefit, does not need a development on this destructive scale for it to be built. As proposed, it would do a disservice to the Brigade heritage, as a result of being confined to an inadequate and subordinate space within the development.

REPRESENTATIONS BY INTERESTED PARTIES

562. A significant number of people joined the Inquiry online or by telephone to make representations about various aspects of the proposals, some as individuals and some representing organisations. Many of those provided written statements or speaking notes and these are included as Inquiry documents. I have briefly summarised the main points of concern below.
563. **Baroness Hoey of Lylehill and Rathlin** was formerly the MP for Vauxhall. She considers that the main motivation for this huge development, which is a departure from policy, is to achieve a financial return for the London Fire Service, which would also benefit the London Mayor. LB Lambeth's resolution to approve the application was decided on the Chair's casting vote. It is obvious that flats on the Whitgift Estate would suffer a deterioration in their light, including long-standing residents and people with mobility issues. The KIBA is there to provide opportunities for jobs needed by local people. The proposed development is not the kind of regeneration that is needed in the area. Local people would not be able to afford the flats being built and an opportunity will be lost for ever. The tall buildings would create a barrier between local people and the river.
564. **Mohamed Hussain** lives on the ground floor of Whitgift House, where he and his wife care for three children, with multiple health vulnerabilities. The development would reduce daylight to their flat and to neighbours by about 40%. The children cannot go out into the sun, so spend most of the time at home, and need to be near the window which provides access to Vitamin D. The development would have other adverse health effects from more deliveries, coaches, cars and taxis. The community does not need more restaurants.
565. **Barbara Weiss** represents the London Skyline Campaign. The campaign is not against all tall buildings, just poor-quality buildings in the wrong location. The former Mayor has left a legacy of 236 tall buildings which has altered the London skyline beyond recognition, with another 525 on the drawing board. These developments are highly visible and are seen as a shapeless jumble of so-called iconic shapes, looming over formerly tranquil neighbourhoods. River prospects have been severely damaged by inappropriate tall buildings. The tall buildings here would contribute to the creep northwards from Vauxhall and damage the fine silhouette of the Fire Brigade HQ, which would be no better for the clumsy glass box extension. They would require frequent and expensive maintenance and attract eye-watering service charges. The Newport Street Gallery should be the model for regeneration of this area. The development will destroy local community and add nothing of value.
566. **Diana Mukuma** has lived in Lambeth for over 40 years and seen unbelievable change in that time. To walk in green spaces such as Paradise Park and Pedlar's Park with the dog is a joy with the sun overhead, which would be lost with the construction of tall buildings nearby. You won't be able to see the sun coming up over Whitgift House any more and the lives of people would be harmed. This has already happened at Kennington. Progress should be proportionate. This isn't. The hotel is unnecessary. We don't want any more 'wonderful' villages like Oval Village and Vauxhall Village dreamt up by developers. We have a wonderful

community and the scheme isn't needed. There is much history and important historical associations, such as with Charlie Chaplin and the Black Prince, that would be lost.

567. **Angus Aagaard** is the Team Rector for North Lambeth which covers a number of churches from Westminster Bridge to Vauxhall Cross. There is a lack of open space, a lack of local jobs, and a poverty of relationships, as people find it hard to meet and form associations. We try to work with them to remove those obstacles. Development should contribute to safeguarding healthy, flourishing communities, supporting the creation of a green corridor. People repeatedly say the massing of the project would be out of place, harmful to heritage and daylight.
568. **Helen Monger** spoke for the London Gardens Trust. The trust is particularly concerned about the impact on Lambeth Palace Gardens and Victoria Tower Gardens. From Lambeth Palace Gardens, the towers would have a very significant impact on views of the Palace seen cumulatively with Westminster Tower and 81 Black Prince Road, creating a wall of intrusion. No assessment has been made of impact from the new Lambeth Palace Library looking back over the gardens. The Applicant has placed great reliance on the screening effect of plane trees in assessing the view from Victoria Tower Gardens. When the leaves drop the screening effect would be much less effective. The effect of the tall buildings on this historic London skyline (together with existing tall buildings) would be significantly adverse, and would detract from the value of the park. Greater weight should be given to the heritage and visual impacts and loss of public benefits than has been done to date.
569. **Abdihakim Hassan** lives on the ground floor of Whitgift House. His neighbours have disabled children. There is a sense of community and residents help each other out. He does the school run. Ground floor flats don't get enough light, which affects the health of residents through Vitamin D deficiency. If the towers go ahead the houses and communal gardens would be overshadowed with further loss of sunlight. With less natural daylight residents would need to use more gas and electricity for heat and light, but sunlight cannot be replaced. His children use the park which can be accessed without crossing the road. Overshadowing would diminish the enjoyment of the park. This development should be stopped.
570. **Katherine Wallis** lives on Newport Street, working from home with no access to private outdoor space, nor any dedicated workspace in the flat. Old Paradise Gardens provides a life-line, where she can take traumatised dogs as a volunteer foster carer, for its tranquillity and calmness. It provides mental and physical space, an exercise area and safe outdoor space with immeasurable benefits for physical and mental well-being, where the natural world can be experienced. The threat of the negative impacts on light, space, biodiversity, character and feel of this place of the tall buildings is of great concern to myself and many existing residents.
571. **Stephen Nelson** lives on Newport Street overlooking the Beaconsfield Gallery. He supports Beaconsfield's case that the three tall towers would be really damaging to the physical setting of the gallery. It was wrong of the developers to capitalise on the existing Newport Street Arts Community, when the development threatens to destroy the original organic artistic community. Beaconsfield is

unlike any other in London – compact, intimate, accessible, sociable, inviting. It is community used and community led and has nurtured a precious garden in its restricted site. In addition to taking light, sky and nature from my home environment, the development would create additional air and noise pollution, circulate carcinogenic particles from the nearby railway tracks, as well as amplifying the noise of frequently passing trains

572. Several artists, exhibitors and educationalists made representations in support of **Beaconsfield's** position, demonstrating that all the spaces are used flexibly by artists to make the most of the spacious premises. **Michael Curran** (CDY 135) has been associated with the gallery since 2009. The architecture and atmosphere of the site play an integral role in the manifestation of artworks, and are, in themselves a medium for creating artwork, for example the artist known as Bob And Roberta Smith, who used the premises as a production site for a whole year, ending with an exhibition occupying all three gallery spaces, making the most of natural light in the Upper Gallery. These kind of opportunities to have such freedom and time to work in a gallery are very rare. Mr Curran gave numerous examples of ambitious art projects in a range of media which made imaginative use of all the available spaces, including the 2011 Spaceship Earth project to create a living roof. He emphasised the importance of Beaconsfield and its multifunctionality as a space for Art, for Installation, for Sound, for Live Art and its function as a studio, environment, light box and as a haven and a historic site.
573. **Gursen Houssein** was unable to attend and her statement was read out by Dr Angela Weight. She is Creative Resources manager for Harris Academy, Bermondsey and runs an extra curricular photo club for Harris Academy students. Her role has developed to foster relationships between the school and the gallery, working closely with Naomi Siderfin. They aim to benefit students from a variety of backgrounds who would not normally have the opportunity of visiting this type of venue, to develop their confidence and knowledge. Beaconsfield provides a safe and secure environment, including safe outdoor space, essential in some cases to overcoming parental reservations. Students use all the spaces and spend many hours immersed in art. Changing natural light plays a special role in this, and is an essential ingredient for the exhibition of objects and images and the creation of artworks. Artificial daylight could never replace the subtlety of changing light conditions. Overshadowing would have a massive impact on the gallery's attraction and experience.
574. **Erika Winstone** had a solo exhibition at Beaconsfield in 2019. The loss of light would negatively affect the wonderful visitor experience, and the very special natural light that the gallery offers. My exhibition 'The Duration' needed a space that would only be lit by natural light for as much of the day as possible. I work in silver point, an ancient technique that involves drawing with sterling silver wire onto a specially prepared surface, and also with glass, video projections and reflections all of which are very light sensitive. Even in December, it was possible for visitors to view the exhibition in natural light for much of the day. The unique light conditions provided by the gallery were essential to the effective understanding and appreciation of the works, and has enabled me to have a clearer understanding of my own work, with direct feedback from the public and constructive appraisal from the directors of the gallery.

575. **Naomi Siderfin** is a founding co-director of Beaconsfield, which aims to educate the public in contemporary art. The Lower Gallery has been a critical space for small scale works, and also provides a more intimate space for workshops, talks and symposia whenever possible. The four windows in the south side provide light and heat in a potentially inhospitable space. Every aspect of the site is available as exhibition and making space. The gallery is a lifeline for vulnerable people resident in the locality and other visitors, who often pop in to visit the office in the corner of the ground floor, with one south facing window, where the door is often open. Beaconsfield also runs a volunteer scheme to support people in developing life-skills, including those following courses to become curators, attracted by the friendly and inclusive nature of the organisation. Sunlight plays a role in wellbeing and recovery from illness. Without daily changes in light levels, the Lower Gallery will die and will become a depressing place to work and visit. The development scheme cannot fail to negatively impact Beaconsfield's current activities and ambitions to provide affordable creative workspaces in our own backyards.
576. **Lucy Gregory** took on the re-greening of the visitor entrance, side yard and garden roof in 2017. The allotment style garden was originally planted with edible plants and herbs used in the Ragged Café, but had fallen into disrepair by 2017. The aim is to establish a tranquil mixed-use green space that would offer an escape from the hustle and bustle of life in an area increasingly surrounded by tall buildings, providing access to greenspace in an area where many households are without their own gardens. The Beaconsfield garden has proved increasingly popular for hosting a wide variety of events including art installations, wedding receptions, a venue for writing and poetry groups, a food market and simply as a green oasis. These uses contribute to the genuine regeneration of the area. If the proposal goes ahead it would cut a substantial amount of direct sunlight throwing the yard and plants into shadow for a significant portion of the day.
577. **Jaakko Nousiainen** (CD Y37) represents the Finnish Institute which promotes Finnish culture in the UK. It has a long-term partnership with Beaconsfield since Beaconsfield pioneered the first exhibition of contemporary Finnish Art in the UK. In 2017, the partnership launched 'Below Zero', a UK based contemporary art prize for Finnish artists, which has so far been awarded twice, and both winning artists spent their residency working at Beaconsfield. The gallery space was turned into a studio. This included open studio days, allowing the public to visit the working artists. The physical setting of the gallery is elemental, and represents a very rare facility where the gallery space can be used as a laboratory for experiments and trials, which are key in all artistic work. Cyanotype and chromatography are both extremely sensitive means of image production. The images benefit from being observed in daylight, and the beauty of the strong direct natural light at Beaconsfield allow colours, shapes, contours and surfaces to be rendered as true as possible. Beaconsfield provides an exceptional venue for contemporary art. Its claim to direct daylight is an essential ingredient in art making.
578. **Cllr Joanne Simpson** (CD Y25), a ward councillor for Princes Ward, raised a number of points. It is unacceptable that there are no family sized dwellings within the affordable housing offer. There are many existing households in the Borough that urgently require re-housing. 50% affordable housing should have been provided to justify housing in the KIBA. There is no justification for including a gym in the KIBA. There is an existing oversaturation of hotels in the

area. She also supported Lambeth Villages stance on residential development in the KIBA, harm to the listed building and heritage assets, poor quality public realm and loss of sunlight/daylight to residential properties and community/cultural assets. She considered that the hotel would give rise to a huge increase in vehicular traffic, with a severe impact on Lambeth High Street and local air quality. There is no provision within the scheme for the number of taxi trips that will be generated.

579. Many objectors commented on what they consider to be a failure to consult adequately on the proposals. **Mr Woodward** stated that by the time the developer met with residents of the area, all the key decisions about land use, scope, scale and massing had been effectively taken by the project team, and the design was largely fixed prior to the submission of the planning application. The use of "pre-ticked" support cards by the London Fire Brigade Museum without any explanation of the scheme was reprehensible.
580. **Gillian McFarland** lives on Black Prince Road, close to the proposed 11 storey building on the East site. It would be wholly inappropriate in the locality and contrary to local plan policy. It is on a prominent corner location, would not be set well back, has no step down and would completely dwarf neighbouring buildings. It would have a moderate to major adverse effect on light to habitable rooms. Bedrooms are increasingly used for other purposes during the pandemic. Minimum separation distances are breached in respect of 73 – 79 Black Prince Road and there would be loss of privacy. Servicing arrangements are inadequate and would cause congestion and harm to the safety of pedestrians and cyclists. Consultation with residents was very poor.
581. **Helen Perrault-Newby** lives on the Whitgift Estate and is the secretary of the Tenants and Residents Association (TRA). She enjoys the diversity, heritage and sense of community. She is a key worker and her neighbours do a variety of important jobs including driving buses, portering, security and work in primary schools. The TRA wants a development that respects the local area rather than one that ignores those of us who live next to it. There was no meaningful consultation of residents. She supports the case put by Lambeth Village, in particular loss of daylight, heritage harm, inappropriate tall buildings, conflict with policy and inadequate social housing provision.
582. **Victoria Conran** has seen the area change dramatically in the past 10 years as dozens of tall buildings have been built. Many of the towers are empty or absurdly expensive and kept as second homes. They are now marching down the Albert Embankment from Vauxhall Cross. Tall buildings create wind problems, which cannot be adequately predicted and have not been properly evaluated. The proposed baffles do not solve the problems caused by severe downdraft, creating unpleasant conditions for pedestrians and danger to cyclists, together with air quality effects from the circulation of particulates. She is also concerned with the health effects of loss of sunlight to open spaces, the harmful effects of construction noise, and the lack of affordable housing for local people in need.
583. **Giles Semper** supported Beaconsfield's case on the harmful effects of the 11 Storey building on the ambience of the gallery. It 'crosses the line', introducing a tall building to the east of the railway to the serious detriment of the local community. It would set a precedent for denser development and a rush to construct tall apartment buildings for private sale, with no respect for the existing

low-rise character. The east site should be returned to the community for its own use.

584. **George Turner (CD Y1)** lived in Whitgift House at one time and took an active role in the Native Land appeal inquiry, representing the TRA. A cursory glance at the planning policies that apply to this site, together with a brief look at its planning history, would leave most observers perplexed as to how it could make it off the drawing board, let alone past Lambeth's officers and Planning Committee. However, this is just the latest in a series of inappropriate non-compliant schemes for this site. Each of them has failed because planning policies do not allow for high-rise housing led development on the site, and such development is damaging to neighbouring historic buildings and the local environment.
585. The present scheme is only a minor improvement in respect of daylight/sunlight impacts. All windows in Whitgift House would breach the BRE test and would be below the British Standard for new buildings. It can't be said that current daylight is extraordinary to justify the losses proposed. There are no plans to increase the size of windows to compensate for this. Lambeth Council's approach on heritage entails a complete reversal of its previous stance on the Native Land scheme – all serious objections to the heritage impacts have been minimised. Much of Mr Black's proof of evidence was cut and pasted from his earlier proof, but the conclusion on impacts and harm is very different. The current scheme eviscerates the plan led system, as evidenced by Lambeth treating it as a 'Departure'. Key policies have been cherry picked and simply ignored by the Applicant and LB Lambeth if inconvenient to the argument. The development involves large losses of employment space in the KIBA, fails to provide jobs for local residents. There has been no marketing of the Workshop building, so there is no evidence to justify the loss of KIBA Land. Other schemes are available – no clear and convincing justification has been provided for not delivering a planning compliant scheme. No family housing would be provided as part of the AH offer. There are dozens of families living in desperate living conditions. The 50% target for AH should be achieved to justify residential in the KIBA. There is no justification for the gym; there are already too many hotels in the area, so much so that hotel development is proposed to be restricted in the new Local Plan. When Westminster Tower was converted to offices it was justified by lack of demand for office space in the locality.
586. **Richard Pinder** chairs the residents' right to management company at 9 Albert Embankment. Residents support LV's case on heritage and daylight/sunlight impacts and were active in getting 8AE listed to ensure its conservation. Effects on traffic and congestion on the road network have not been properly taken into consideration. No meaningful consultation took place prior to submission. There was almost universal rejection on the part of the local community to the developer's approach, and a lot of smart and helpful suggestions which could have improved the design, but this happened after submission and were not taken on board.
587. **Donald Weighton** commented on the potential hazard of locating disabled parking spaces in the basement. He considered that the expected number of deliveries do not take account of recent growth in online shopping. The Applicant has not addressed the issue of changes to the roundabout at Lambeth Bridge for

Fire Engines returning to base. The layout for the junction of Black Prince Road and Lambeth High Street is inadequate for left-turning vehicles.

588. **Gary Allen** (CD Y141) referred to existing problems caused by deliveries and servicing to the nearby Park Plaza Hotel at 12 – 18 Albert Embankment. The Council has served a Breach of Condition Notice on the hotel which requires compliance with the Delivery Servicing Plan in all regards including proper use of the service yard access arrangements. He considered similar problems were certain to arise with this proposal.

589. **Paschal Thiernan** is the owner and MD of James Knight of Mayfair (JKM). It has grown into the largest independent supplier of prepared fish to hotels, restaurants and the catering trade in general. They have operated from the railway arches abutting the south-east corner of the development site for 17 years. Many factors informed the choice to locate there: proximity to 11 river crossings with direct access to central London; the KIBA designation giving protection to industrial uses; local workforce; good front and rear access; and opportunity to separate uses offered by the 4 arches. We have recently invested in e-bikes to replace 5 diesel transit vans for greener local deliveries. Sites like this are essential to the way London operates, and should be retained.

WRITTEN REPRESENTATIONS

590. A considerable number of written representations were received. The large majority were opposed to the application on grounds which for the most part reflect those pursued by Lambeth Village and other Rule 6 Parties. Of particular concern were heritage impacts, loss of daylight and sunlight, loss of employment space, impact on local green space, traffic impacts, delivery and parking arrangements and lack of proper consultation. These reflect the full range of objections considered at the Inquiry

CONDITIONS

591. Discussions between the Council and the Applicant resulted in a comprehensive list of conditions that was presented to the Inquiry (CD N1). This was then discussed further in a round table session that also involved LV and Westminster City Council, and was open to members of the public to attend.

592. I have considered these suggested conditions in the light of advice in paragraph 55 of the Framework. This advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. Conditions that are required to be discharged before development commences should be avoided, unless there is clear justification. The Applicant confirmed that all the pre-commencement conditions were reasonable and acceptable to them.

593. During the conditions session, Mr Ball for LV raised the need for a condition regarding the necessary wind baffles on the proposed South Square. The ES microclimate report (CD/ A10.2.13) states at 13.7.2 'These mitigation measures have been incorporated into the planning application but must be delivered as part of the Proposed Development for the outcomes of this wind microclimate assessment to be considered valid.' In a subsequent note, the Applicant responded that the issue is covered in Schedule 14 of the s.106

Agreement. This sets out a commitment to use best reasonable endeavours to implement the strategy, and to consult with the Council in order to identify alternative means of mitigating wind if the consents are not forthcoming for any reason. Due to the other need for other consents to be obtained (including for works in the highway) a condition cannot be imposed in this instance.

594. Mr Ball also raised the need for a condition regarding the letting of contracts on demolition and construction on the central site to ensure against the circumstance of the demolition of the Workshop site without its replacement being constructed, thereby harming the character and appearance of the listed buildings and Conservation Area. In response, the Applicant proposed adding the following words to draft condition 39, which would require a construction programme to be submitted for approval prior to the demolition of the workshop: *'In addition, for the DMP relating to the Central site (phase P2) a construction programme shall be submitted to, and approved in writing by the local planning authority, prior to demolition of the Workshop building and the construction shall be carried out in accordance with the approved programme'*. I consider that this would address the issue raised by LV.
595. The conditions and reasons are set out in Appendix B to this report. I have updated the reasons to refer to the relevant policies of the London Plan 2021. I consider that they meet the tests set out in paragraph 55 of the Framework.

SECTION 106 OBLIGATION

596. A draft version of the s106 Agreement was the subject of extensive discussion between LB Lambeth and the Applicant, and a final draft version was available for discussion at the Inquiry. The signed and completed s106 Agreement dated 16 December 2020 was duly submitted before the end of the Inquiry (CD X37).
597. Planning obligations are addressed in paragraph 56 of the Framework. In accordance with Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010, these must only be sought where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
598. Schedule 3 of the Agreement would secure financial contributions to the following: Employment and Skills Contribution - £658,112; Legible London Signage Contribution - £10,000; Offsite Playspace Contribution - £35,640; Obligation Monitoring - £120,000; Travel Plan Monitoring - £10,000; Loading Bay Contribution - £40,000.
599. LV questioned the level of the Offsite Playspace contribution at the Inquiry. However, the CIL compliance document provided by LB Lambeth (CD X30) confirms that this has been calculated appropriately.
600. Schedule 4 addresses Transport and Highways and would secure: a car parking management plan; restrictions on entitlement to residential and business parking permits; arrangements for car club membership for scheme residents for a period of three years; agreements to secure necessary highway works; arrangements for cycle hire membership; preparation and implementation of travel plans including appointment of a sustainable travel co-ordinator; and provision of loading bays.

601. Schedule 5 addresses the arrangements to secure the affordable housing. It sets triggers which link the provision of affordable housing with the occupation of market housing and includes controls to ensure that the various categories of affordable housing to be provided (affordable rented, social rented, shared ownership and London affordable rent units) shall only be occupied on the appropriate terms; and sets household income caps for shared ownership housing.
602. Schedule 6 includes a mechanism for early and late affordable housing reviews and Schedule 7 contains the review formulae. The review mechanism set out in the Agreement is not bespoke to this site or this Developer, but accords with the approach set out in Part 3 and Annex A of the GLA Affordable Housing and Viability Supplementary Planning Guidance 2017 (the "GLA SPG" CD P8) and has been informed by the viability section in the Planning Practice Guidance and the London Plan (ITP 2019 CD P6).
603. Schedule 8 secures the provision of the new Lambeth Fire Station and London Fire Brigade Museum, which is fundamental to the scheme.
604. Schedule 9 is concerned with the provision of the public realm proposals. It secures unrestricted access to the public realm for the lifetime of the development, and arrangements for its management and maintenance.
605. Schedule 10 requires the submission of Employment and Skills Plans, and for the developer to use best endeavours to deliver employment opportunities for local residents together with career inspiration activities for young people.
606. Schedule 11 secures the production of a District Heating Network (DHN) statement. In the event that it is concluded that it is technically and financially feasible to connect the development to the DHN then to use reasonable commercial endeavours to agree commercial terms and to connect to the DHN within a reasonable timeframe.
607. Schedule 12 commits the developer to registering with the considerate constructors scheme and the Nine Elms Construction Charter. A construction environment management plan (CEMP) must be prepared prior to each implementation phase, and complied with at all times.
608. Schedule 13 secures the delivery and subsequent management and marketing of the flexible, micro, small and medium workspace to be provided as part of the employment hub on the central site.
609. Schedule 14 is divided into three parts. Part 1 concerns implementation of the wind mitigation strategy, involving the construction, installation and maintenance of 5 flag structures in the public highway adjacent to the hotel. Other consents and approvals are required, so the commitment is to use best reasonable endeavours to implement the strategy, and to consult with the Council in order to identify alternative means of mitigating wind if the consents are not forthcoming for any reason. Part 2 concerns carbon offset contributions and includes a formula for calculating the contribution in the event of shortfalls against the carbon saving targets for each phase being identified. Part 3 includes provisions for Estate Management Plans and a Hotel Visitor Management Plan, to be complied with for the lifetime of the development.

610. Schedule 15 commits the developer to using reasonable endeavours to retain the scheme Architect as the concept architect until completion of the development.
611. Schedule 16 secures submission and subsequent implementation of a Public Art Strategy and a Heritage Strategy, prior to the commencement of above ground works in Phase 2. It commits the developer to using best reasonable endeavours to dismantle the obelisk in as complete a form as practicable, and re-erect it as part of the Public Realm in Phase 2 (or so much as remains fit-for-purpose as a public art feature).
612. Schedule 17 secures a deliveries and servicing management plan to minimise vehicle movements associated with waste and refuse, deliveries, facilities management, designed to achieve a maximum of 72 daily deliveries in a 24 hour period and a 50% consolidation of deliveries and other movements.
613. Schedule 18 secures provision of 49 wheelchair accessible parking spaces with electric charging bays, 10% of the residential units as fully adapted units and 90% as adaptable units as part of a Wheelchair Unit Strategy.
614. After the Inquiry closed I wrote to the Applicant asking for clarification of two errors in the signed version of the Obligation: the amount of the Legible London Signage Contribution in Schedule 3; and the omission of Schedule 8 which makes provision for the replacement fire station and the new fire brigade museum. The Applicant replied on 17 February 2021, attaching a corrected supplemental deed which simply rectified the errors (CD X46).
615. The Council submitted a CIL compliance Schedule that provides detailed justification for each of the obligations created by the Agreement (CD X30). Having regard to this document, I am satisfied that each of the covenants would be fully supported by relevant development plan policies as amplified by supplementary planning guidance. I conclude that all the obligations in the various Schedules that make up the s.106 Agreement meet the tests of the Framework and comply with the requirements of Regulation 122 of the CIL Regulations 2010.

INSPECTOR'S CONCLUSIONS

616. From the evidence before me at the Inquiry, the written representations, and my inspection of the application site and its surroundings, I have reached the following conclusions. The references in square brackets [] are to earlier paragraphs in this report.

Main considerations

617. The matters on which the Secretary of State (SoS) particularly wished to be informed are set out in the bullet points at the top. Combined with other matters raised, I find that the main considerations in this Application are:

- **Consideration 1:** The extent to which the proposed development is consistent with the Government policies for conserving and enhancing the historic environment (NPPF Chapter 16) including:
 - a) The effect of the proposals on the significance of the host building (Lambeth Fire Station) and significance of other neighbouring heritage assets in LB Lambeth.
 - b) The effect of the proposals on the setting of the Palace of Westminster (World Heritage Site), with particular reference to protected views from Primrose Hill and Parliament Hill.
- **Consideration 2:** The effect of the proposals on the living conditions of neighbouring residents with particular reference to daylight and sunlight effects.
- **Consideration 3:** The effect of the proposals on the amenity of neighbouring community and other uses.
- **Consideration 4:** The extent to which the proposed development is consistent with the Government policies for delivering a sufficient supply of homes (NPPF Chapter 5).
- **Consideration 5:** The effect of the proposal on the supply of land for employment use in Lambeth Borough.
- **Consideration 6:** Other matters raised by residents and others, including traffic impacts.
- **Consideration 7:** Planning balance and overall conclusions

CONSIDERATION 1: THE EXTENT TO WHICH THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE GOVERNMENT POLICIES FOR CONSERVING AND ENHANCING THE HISTORIC ENVIRONMENT (NPPF CHAPTER 16)

The effect on 8 Albert Embankment (8AE)

618. 8AE is the subject of a lengthy list description. It was built in 1937 by the London County Council (LCC) to the design of EP Wheeler, Architect to the LCC, as the Headquarters of the London Fire Brigade. It was part of a complex that incorporated the administrative HQ of London fire-fighting, residential quarters, a working fire station with a range of staff facilities, a drill parade ground, a drill tower and a training school and maintenance workshop at the rear also combined with flats. After its opening the grandstand like rear elevation of the main building incorporating tiers of balconies accommodated large crowds of spectators to watch fire-fighting displays on the drill tower. There was also a river fire station with pontoon which is still in use but rebuilt. The capital's fire fighting

operations were run from the site during World War II, when an underground control room was constructed.

619. The buildings were first listed in 2002. In 2009 all the listed buildings occupied by the London Fire Brigade were re-assessed by English Heritage, and the opportunity was taken to revisit the listing description. The 2009 list description summarises the reasons for designation of 8AE as:

- *Of special architectural interest as a well-composed and externally unaltered 1930s building, which while in streamlined Moderne idiom, upholds the Arts and Crafts ideal of collaboration between architecture and sculpture;*
- *A landmark building on the south bank of the River Thames;*
- *Important sculptural reliefs, most notably by the distinguished C20 sculptor Gilbert Bayes;*
- *Interior features of interest, including the main entrance hall and sculpture;*
- *Of special historic interest as the headquarters of the London Fire Brigade, the most important fire brigade nationally and the third largest in the world. The building was the centre of London's fire fighting operations in World War II. [357,*

620. The description states that the 1980s rear extension to the main building is not of special interest, nor are the former training school and workshops. The Drill Tower is separately listed and has group value with the main building.

621. There is extensive inquiry evidence on the significance of the building as a designated heritage asset, including historic photographs, but in my opinion the features listed above constitute the main elements of importance, encompassing archaeological, architectural, artistic and historic value, including cultural links with the community.

622. The significance of 8AE is further analysed in the relevant proofs of evidence of Dr Miele for the Applicant (CD T2 Section 8), Mr Black for LB Lambeth (CD U4 Section 6), & Mr Velluet for Lambeth Village (LV) (CD W14 Section 3). There was broad agreement between Dr Miele and Mr Black on the significance of the listed building though with some differences of emphasis. For example, Mr Black laid greater emphasis on the significance of the rear elevations, and their importance for the public/ceremonial functions associated with the Fire Station complex. Mr Velluet considered that the Applicant's assessment in the HTVIA underestimated the significance of the rear elevation, and its relationship to the complex as a whole (including the Training Centre and workshops), and the interrelationships of this assemblage. Dr Miele's judgment was that '... the listed building front is completely different from its back, and that the evident care in composition overall is lacking in the latter' and '...more architectural consideration went into the front than the back'. (CD T2 para 9.26 & 9.27)

623. As it incorporated a fire station from the outset 8AE exhibits established characteristics of the Metropolitan Board of Works (MBW) and London County Council (LCC) fire station 'house styles'. These characteristic elements are important to the significance of the building as a historic fire station.

624. They include:

- Façade, flank, and roof form exhibiting a formal and refined architectural aesthetic in the Moderne style incorporating carvings and other decoration.
- A rear elevation with an aesthetic driven by its functional requirements including residential accommodation accessed by external balcony decks.
- The external manifestation of the appliance bays (front and rear), drill ground and drill tower.
- The 'watch tower' feature on the roof of the main building.
- The poles and their pole housing structure.

625. However, 8AE was also designed to incorporate the Brigade headquarters which brought with it training and administrative functions. With these came ceremonial/public functions which are wholly unique, site specific and exceptionally important to the significance of the building in terms of illustrating its status and function as the Brigade HQ.

626. For example, the principal entrance to the building (south entrance hall) serves as a formal Brigade Memorial Hall. When the site was originally developed the Brigade regularly held weekly public display drills to showcase the skill and professionalism of the Brigade, its facilities, equipment, and status. There was a Brigade brass band and the building had a low wing at the rear (now demolished) incorporating a museum and purpose-built band-stand facing onto the drill ground so that the band could provide musical accompaniment for events on the drill ground. The rear elevation was designed to accommodate 800 spectators on purpose-built balconies which illustrates how important these events were considered by the Brigade at the time and how popular they envisioned them to be. A photographic record of some of the displays survive.

627. The historic functions of the fire station, brigade headquarters (including memorial / ceremonial functions), and residential use are still readily identifiable in the surviving built fabric and spatial characteristic of the building. They are thus strongly contributory to significance of the site.

628. LB Lambeth's core position on the effects of the proposal on 8AE is set out in Mr Black's PoE⁴²⁰ at paragraphs 6.75 and 6.76:

'No. 8 Albert Embankment is a structure of noteworthy architectural and historic interest. It was built to meet a very precise set of requirements for its client and most of these original characteristics survive. The building is of a high architectural quality and has genuine landmark status on Albert Embankment. It provides important physical evidence of the role of the building as a fire station, an administrative headquarters and as a ceremonial centre for the London Fire Brigade.'

'The applicant has worked hard to understand the significance of the site and, where possible, to learn lessons from the previous appeal scheme and I accept that the majority of the alterations to the historic building are necessary to accommodate the proposed change of use and secure an optimum viable use.'

⁴²⁰ CD U4

However, the proposal still entails significant alteration and extension which will ultimately diminish some of the architectural and historic interest of the building. Furthermore, the tall buildings on the central site will harm its setting. As a result, I consider that the proposal would lead to less than substantial harm to the significance of 8 Albert Embankment and have a harmful effect on its setting. My general conclusion of 'less than substantial harm' accords with the Inspector's view of the previous scheme. In para. 74 of the decision the Inspector concluded:

'As a result I assess that the degree of residual harm to the heritage assets of no. 8 and the Albert Embankment Conservation Area would be less than substantial.' [206,

629. The proposals for the building are complex and detailed, and would affect the significance of the listed buildings in a number of ways, some positive, some negative. It is generally accepted that the removal of the 1980s CMC extension would not entail harm to the significance of the listed building. In what follows I will comment on the main differences of emphasis in the assessments which have been made of each significant element of the proposal, and reach my own judgement as to the significance of the effects.

Approach to the assessment of harm

630. LV have sought to argue that the correct test of whether harm is substantial or less than substantial in the terms of the NPPF is set out in the Planning Policy Guidance in section 018. The guidance was most recently updated in 2019. The PPG says that: 'Whether a proposal causes substantial harm will be a judgement for the decision maker, having regard to the circumstances of the case and the policy in the NPPF. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest'. It continues: 'While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all ... Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the asset and its setting'.
631. The Applicant argues that NPPF paragraphs 194-195 refer to substantial harm to designated assets. That has been defined by the Court⁴²¹ as 'serious such that very much, if not all, of the significance was drained away', or 'an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced'. LV's position is that, since the PPG postdates the Bedford case, it should take precedence. [117 - 121]
632. To my mind there is not necessarily a conflict between the approach in Bedford and the advice in the PPG. Whether harm to a heritage asset is substantial or not is a matter of judgment having regard to the circumstances of

⁴²¹ In *Bedford BC v SSCLG and Nuon UK Ltd* [2012] EWHC 4344 at 25-25 (CD L12)

the case. The PPG guidance confirms that substantial harm is a high test which will not occur very often. The PPG gives an example of what might constitute substantial harm, but does not alter the threshold of substantial harm set out in the Bedford case. In any event, less than substantial harm attracts considerable importance and weight in the decision making process. [211, 316, 340 – 354, 373 – 379]

Principal frontage to Albert Embankment

633. The fabric and styling of the front elevation, including the streamlined appearance, the fine detailing in the Moderne Style and the sculptural elements, would be retained and where, necessary refurbished. This is uncontroversial and to be welcomed as a benefit.
634. More controversial would be the two-storey roof top extension to house the proposed restaurant, associated with the proposed hotel. The Applicant draws parallels with Tate Modern. Dr Miele does not identify harm to 8AE, but considers that 'the monumentality of the main block will contrast in a pleasing way with the light, open character of the new extension, whose horizontality and set back from the edges will complement the massing of the building overall (CD T2 para 9.60).' Mr Black for LB Lambeth identified less than substantial harm arising from this element. He noted the Inspector's conclusion on the single storey extension proposed in the Native Land Appeal: '...The extension would be of lightweight form and materials, and therefore contrast with the original building, but it would detract from its architectural purity... [It] would therefore detract from its significance'.
635. LV argue that the harm would be altogether of a higher order, amounting to serious damage to the existing, original and distinctive profile of the building, as seen in views from both the Westminster and Lambeth sides of the river, and seriously detracting from the building's architectural integrity and particular special interest (CD W14 para 8.4). The need for the walls to the rooftop tankroom to be demolished and reconstructed was considered further evidence of unnecessary and unjustified harm to the listed building by LV.
636. I accept that there are successful precedents where well designed, lightweight roof-top extensions to historic buildings have worked well, and been found acceptable in the balance of heritage and planning considerations. In this case, however, I agree with Mr Black for LB Lambeth that the two-storey extension proposed would draw attention away from the subtle tiering and stepping on the upper levels of the façade and detract from the largely unaltered high-concept design of the original building, amounting to less than substantial harm to the significance of the building. [127, 128, 217, 206, 320, 358, 362]

Side elevation to Black Prince Road and rear elevation to Lambeth High Street.

637. The scheme proposes significant alterations to the side and rear elevations of 8AE. The 1980s CMC extension would be removed and replaced by a hotel matching the height of the retained building. The building line would be set back from the junction to create an area of public open space in the setting of the listed Royal Doulton factory and would return part way along Lambeth High Street, partially enclosing the former drill yard and obscuring views presently obtainable from Lambeth High Street of the rear elevation of the listed building. The Applicant's DAS describes the hotel as sensitively scaled and recessive in

nature (CD A6 p.91) and as a contemporary re-interpretation of the listed HQ façade (ibid p.165). The Hotel would be connected to the roof-top restaurant by a high level bridge structure.

638. The architectural character of the rear elevation is described at para 6.45 6.54 of Mr Black's PoE CD U4: *Architecturally and stylistically the streamlined forms and crisp detailing of the rear is a clear reference to the rise of international modern influences. The composition is striking and noteworthy. The ground floor is dominated by the appliance bays which are recessed beneath the first-floor balcony. The first, second and third floors have balcony terraces enclosed at either end by the projecting north and south end wings. The elevations of the fifth to seventh floors are recessed by 6.5 m from the lower rear elevation and the eighth floor is set back again to give greater prominence to the watch tower at roof level. The ceremonial uses were an important aspect of the design brief and are of considerable historical significance. The three levels of balconies immediately above the appliance bays (identifiable by their ornamental ironwork balustrades) were designed for the use of spectators attending regular drill displays. (CD U4, Figs 43, 47 – 54).*

639. Mr Black's view was that the combined alterations and infill extensions would significantly alter the original design integrity of the rear elevation and remove many features of historic interest, resulting in less than substantial harm to significance. He considered that the reduction in the area of the former Drill Yard/Parade Ground resulting from the larger footprint of the hotel extension in comparison with the CMC building would also result in loss of significance amounting to less than substantial harm. [206]

640. However Mr Black noted that the rear alterations in the Native Land scheme would have had greater impact as that proposal entailed a full height in-fill extension. At paragraph 56 of that appeal decision, the Inspector stated:

'However, the extension would infill almost the full depth of the return ends which give the original rear elevation a more distinctive architectural interest. While a replacement pole housing type design feature would be created, the original would be lost as an external structure, and some elements of the viewing platforms would also be removed. There would be an erosion of significance from these losses of fire brigade fabric.'

641. LV identify a number of serious harms to the significance of the listed building arising from the proposed changes to the side and rear elevations of the listed building:

- the inclusion of the bridge would seriously damage the existing, original and distinctive profile of the listed building as seen from the rear;
- the hotel building, although stepped back is entirely excessive in height and bulk in relation to the listed building, contrary to the need for subordination required by LLP Policy Q11;
- the loss of the existing gap between the listed building and the CMC building (It was noted that the Native Land Scheme left a clear gap between the original building and the new, other than at ground floor level);

- the substantial reduction in the open space to the rear and the loss of views of the carefully considered rear elevation of the listed building which will detract from the immediate setting;
- the proposed infilling of the open linear balconies with continuous bands of glazing will damage the surviving, original and distinctive profile of the building. Such extensive change is not necessitated by the principle of residential conversion of the upper floors of the building.

642. Taking these together, LV conclude that the proposals would very much reduce the significance of the listed building resulting in substantial harm to that significance. Only if such substantial harm to the significance of the listed building can be clearly and convincingly justified in accordance with paragraph 194 of the NPPF and demonstrated as being necessary in order to achieve substantial public benefits that outweigh such harm (or the circumstances identified in paragraph 195 of the NPPF), can the proposals be regarded as acceptable.

643. I acknowledge that the fabric of the listed building has deteriorated and is in need of investment, which the Application proposal would bring. I also note some important features were lost when the CMC building was constructed, for example the bandstand, and the projecting north wing was truncated and partially enclosed with insensitive fenestration. While it is true that the display and ceremonial uses have long ceased, it is apparent that they informed the design of 8AE and are important to the historical significance of the HQ building. However I agree with Mr Black's assessment that the proposed alterations to this element of 8AE would involve less than substantial harm to the significance of the listed building. [128 – 130, 363]

Other alterations to the fabric of 8AE

644. On the ground floor the existing appliance room is served by the original seven front and six rear appliance doors. The central bay at the rear is occupied by an open staircase of architectural interest connecting to the accommodation above. The appliance bay has a robust and utilitarian character which reflects its use. There are four firemen's poles which are clearly of historic interest. The space would be divided with the four northern bays remaining in fire station use as part of the new fire station. The three remaining bays would serve the new museum. The wall between them would be glazed so that museum visitors would be able to view the functioning fire station.

645. The north entrance hall with polished stone walls, Moderne style plaster frieze, cornice, ceiling and interior doors and joinery would be retained in part as part of the proposed Museum. However a wall would be demolished and one panel of the original four-panel doors will be removed (CD U6, Fig 33). The Memorial Hall with its collection of memorials to the Brigade, has been the subject of previous alterations, though it retains an understated Art Deco character and many original design features. The proposal would retain it largely unaltered apart from the installation of a new stairway to the basement on the south side and a ramp and doorway on the northside.

646. Upper floors would be converted to residential accommodation. The existing character of this part of the building is generally utilitarian with plain walls and ornamentation limited to more important rooms. Joinery is simple and robustly

detailed, and include some features of historic interest such as memorial plaques, pole shafts and poles. The second and third floors were previously occupied by the Brigade Headquarters function, while the fourth to eighth floors contained flats for senior brigade staff.

647. The proposal would also involve the loss of a recreation room on the first floor and a conference room on the second/third floor, associated with the Brigade headquarters function housed on these floors. While the internal alterations would involve some loss of historic fabric, many of the more important elements particularly on the ground floor would be retained and conserved. The loss of the staircase on the ground floor, the poles and the external pole shaft at the rear of the building however would clearly involve harm to significance, which I judge to be less than substantial. [123- 125]

Drill Yard/Parade Ground

648. The museum/hotel proposal would occupy a significantly larger area than the CMC building which it would replace. The drill yard would accommodate the new-build element of the Fire Station, necessitating the removal of the interesting obelisk, constructed to hide the air shaft of the wartime underground control room. It is intended to re-erect the obelisk as part of the POS proposals, however it may not be possible to preserve it intact, in which case a facsimile would be constructed. The impact on the significance of the building would be negative and harmful as the historic drill yard would essentially be lost. [129, 130, 364]

The Drill Tower

649. The structure would be retained for its original use and refurbished as part of the modernised fire station. Some new openings would be made to bring it into line with modern training requirements, though I do not consider that the extent of change to the fabric would harm its significance. Its setting would however be diminished by the changes to the Drill Yard, which I have taken into account in respect of its effect on the setting of the main listed building, though I note the changes to the drill yard affect both listed buildings. [131]

Setting of 8AE

650. The significance of the listed building derives in part from its prominence on the Albert Embankment frontage, and its presence as a distinctive and distinguished listed building, which would be harmed by the intrusive height and mass of the two tall buildings rising to 80 metres behind it on the central site. The impact would be most noticeable from the Millbank Tower opposite, and to a lesser extent, Victoria Tower Gardens where the building is seen against a background of sky, which helps to emphasise its prominence on the embankment and the distinctive nature of its silhouette. Both towers on the central site would intrude in the setting of the listed building. [320, 359, 381]
651. The towers would be somewhat less intrusive but still appreciable in views from Lambeth Bridge. From this vantage point the prominence of 8AE has also been affected by the existing tower at 23 Black Prince Road, the Westminster Tower and other recent frontage development on Albert Embankment to the south towards Vauxhall. The significance of the listed building in close views from Albert Embankment itself would be diminished by the roof-extension, but otherwise the effects would be limited as the towers are set back or would be

hidden by the parapet of the listed building. In general terms the robustness of the original design would preserve the legibility of its monumental and landmark qualities.

652. Clearly there is a kinetic dimension to the viewer's appreciation of significance as the design animation prepared by Mr Pilbrow demonstrates (CD T14). However an assessment of impact must take into account views from different locations. I acknowledge that the towers would stand behind the main listed building, but there would be no disguising their height in relation to it, and in certain views they would detract from its silhouette. I find there would be less than substantial harm to the setting of the listed building. [131 - 133, 206, 365]

Conclusion on 8AE

653. In summary I find there would be harm to the significance of the building arising from the addition of the rooftop restaurant, internal alterations involving the loss of features of historic significance such as the poles, and external changes affecting the rear elevation. In addition, there would be harm to significance arising from the effective loss of the drill yard due to the footprint and massing of the proposed hotel. There would also be harm to the setting of the listed building.
654. In my judgement, the harm would be less than substantial. In this case my assessment accords with that of LB Lambeth and Historic England. While the Applicant acknowledges less than substantial harm, it is considered to be at the low end of the scale, and outweighed by the benefits of the proposal (appropriate uses, restoration and refurbishment, new fire station and fire brigade museum). [206]
655. Lambeth Village identified substantial harm to the significance of the listed building. In the light of relevant caselaw, I consider this to be an exaggerated assessment of the degree of practical harm. The significance of the building would remain clearly identifiable, particularly the frontage to the Albert Embankment. Much of the fabric would be retained and restored, including on the rear elevation. I accept that significance at the rear would be compromised. However, the scheme would not come close to *'eviscerating the significance of the listed building historically and architecturally'*, as suggested by LV. It is important to recognise that there has been previous harm from the 1980s CMC building. I also note that the previous (Native Land) scheme would have involved greater losses of interior detailing, and some harmful changes to the rear elevation. The Inspector did not identify harm to the significance of the building as a reason for dismissal. However the application scheme would have very different impacts from the Native Land scheme. In respect of setting impacts, the buildings on the central site would have been much lower than in the current scheme. [130, 217, 218, 313, 362]
656. With regard to the PPG guidance, it confirms that whether the proposal causes substantial harm will be a judgment for the decision maker, having regard to the circumstances of the case and the policy in the NPPF. It states that *'in general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. Partial*

destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm'. [119, 211]

657. The changes proposed here, while harmful to significance, generally involve limited and well-detailed alterations which fall short of 'partial destruction'. To my mind the advice in the PPG does not change the threshold for substantial harm established in the Bedford case but is consistent with it. In any event, in accordance with the revised NPPF, great weight should be given to the conservation of a designated heritage asset. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
658. There would also be heritage benefits to be weighed against the harm. The restoration/conversion proposals would give the building a new lease of life, while retaining in part the Fire Station use and introducing a new Museum of direct relevance to the building's former role as the HQ of the London Fire Brigade. It would remove the unattractive 1980s CMC building. Residential use of the upper floors is accepted as an appropriate reuse which would allow much of the character of the building to be retained. I will assess the weight to be given to these benefits in undertaking the planning balance. [122, 129, 213]

Effect on Albert Embankment Conservation Area (AECA)

659. The AECA was designated in 2001. The designation recognises the historic significance of the construction of the Albert Embankment, one of London's most ambitious engineering achievements of the nineteenth century. The designation report also recognises the architectural significance of two major landmark buildings – the MI6 building at Vauxhall Bridge and the art deco Moderne London Fire Brigade Headquarters. Paragraph 3.41 refers to the contribution of the rear (east) elevation to this building, comprising of a series of cantilevered balconies and an elegant bull nosed observation room, as well as the drill tower and the obelisk.
660. Following public consultation in 2016 the conservation area boundary was revised and extended to the north and east. The subsequent Conservation Area Statement was published in 2017 (CD O6). The western and central sites lie within the AECA, and the immediate locality is characterised in the following extracts, which give a clear indication of the importance attached to 8AE and its strong positive contribution to the significance of the AECA, including its character and appearance:

Black Prince Road

2.56 Only the western end of this road is within the conservation area. Moving east from the Albert Embankment only the northern side is included. Highly visible is the imposing flank of no. 8 Albert Embankment which runs to the junction with Lambeth High Street. Beyond the junction is the impressive corner offices of South Bank House (the former Doulton Pottery works) with its exceptionally ornate brick and pottery façade. Its long elevation is plainer but nonetheless impressive and it encloses the north side all the way to the railway viaduct which terminates the view eastward.

2.57 Passing through the viaduct its walls are decorated with tiled panels of the Black Prince - the 14th century Prince of Wales who owned the Manor of Kennington.

2.58 On the east side of the viaduct are surviving 19th and 20th Century buildings and a gap site. These include three attractive Victorian public houses (including the Jolly Gardeners, no.49-51), the nearby remnant of the original Ragged School, Newport Street and some interwar shops with flats over. They have an informal urban character, sharing a brick palette and similar building heights. There is a strong visual connection west towards Southbank House (with its ornamental gables) visible over the viaduct.

Lambeth High Street / Whitgift Street

2.62 This narrow and quiet historic route runs north to south between and parallel with Albert Embankment and the railway viaduct. Whilst historic there are few buildings of interest. The Old Paradise Gardens (formerly known as Lambeth High Street Recreation Ground) presents a long street frontages with railings and mature soft landscaping. Its historic memorials and walls can be glimpsed from the street. The Windmill Public House is a modest 19th century building of note – situated by the Fire Brigade HQ training tower.

Towards its southern end, the high street cuts through the middle of the former Fire Brigade HQ site. To the west is the drill yard, its imposing training tower, and the rear of the former HQ building with its modernist tiers of terraces. To the east, and running along the south side of Whitgift Street, is the former Fire Brigade training school and workshops block which are detailed and designed as part of the whole complex. The character here is of inter-war modernism; a unified architectural composition of Fire Brigade Buildings focused around the space formed by the roadway and the drill ground.

2.94 The former London Fire Brigade HQ at No. 8 Albert Embankment was the first truly high-status HQ building erected on this section of the river frontage; like County Hall (further to the north) it positively addresses the river and has a strongly articulated silhouette. It comprises a HQ buildings (incorporating a fire station) to Albert Embankment, a drill ground to the rear, (containing a training tower), a training school and workshops to the rear (on east side of Lambeth High Street). The main elements are listed, in part for their little altered character (see 2009 list description).

2.95 It is only at the rear of the building, that the true fire station use of the site is exhibited - the appliance bay openings, the covered wash-down area, the balcony access to the upper-floor accommodation and the training tower. The design also exhibits a number of unique features which were incorporated into the design to meet the Brigade's ceremonial requirements including tiered spectator terraces overlooking the drill yard. A band stand was demolished in the 1980s. Architecturally and stylistically the streamlined forms and crisp detailing of the rear is a clear reference to the rise of the international modern influences; a practical aesthetic for such a functional building type.

2.96 The multifunctional drill yard space was designed to serve both the day-to-day needs of the fire station and the public role for weekly public drill events and formal Brigade ceremonies. It has direct access to the balconies via an external staircase with ornamental ironwork. It contains an unusual obelisk

structure which ventilates basement control room bunker accommodation which is considered to be of interest.

2.144 When viewed from the River itself or from the opposite riverbank two buildings on Albert Embankment can be considered to have landmark status – No. 8 Albert Embankment and the Vauxhall Cross Building. Their landmark status comes from their form, treatment, and architecture but particularly from their silhouettes against open sky. In both instances it is clear from the compositions that their designers intended them to be appreciated in this way. Both are symmetrical, imposing and richly modelled to create defined and interesting silhouettes against the sky. No. 8 Albert Embankment is visible in true silhouette from the footway and south entrance gates to the little public garden which serves the south steps up onto Lambeth Bridge. This viewing place is within the Smith Square Conservation Area. [319]

661. The AECA (as extended in 2016 (CD 06)) covers a large area from Westminster Bridge in the north to the boundary with LB Wandsworth beyond Vauxhall Bridge in the south. It has a diverse character but its main focus is on the embankment and the river frontage. It extends to the east in places to include important landmark buildings and the railway viaduct. The appeal site lies wholly within the AECA but there are 'islands' of predominantly modern development adjacent which have been omitted to the south of Black Prince Road and the north of Whitgift Street.
662. The appeal proposals would have a significant effect in the immediate surroundings, and certain elements (the rooftop extension to 8AE and the three residential towers) would be visible from a wider number of locations. I consider the effect on the Palace of Westminster WHS below.
663. I have concluded above that the application proposal would result in less than substantial harm to the significance of the listed buildings at 8AE. That harm would also affect the significance of the AECA as the listed buildings make an important contribution to the significance. [217,218]

Loss of the Training School and Workshop Building

664. The loss of this building on the central site was found to be acceptable in 2013 in the Native Land appeal decision. At that time it was common ground between the main parties that the training school and workshop buildings had a neutral effect on the character of the Conservation Area and there was no objection to their removal in principle. Since that time the Conservation Area Statement (CD 06) has been revisited. It has this to say about the building and its relationship with the former Fire Station Headquarters:

'2.98 The Training School and Workshop building shares the same architectural language as the main building with the materials, window detailing, brickwork and stone banding; there are elements of decorative ironwork set into the roof garden parapet. This was a conscious design response to provide a dignified backdrop to the public drills and ceremonies when seen from the viewing balconies of the same building. This building is not statutorily listed but is considered to have historic and architectural significance and is a positive contributor to the conservation area'. (CD 06)

665. The building was considered for listing in 2008. English Heritage's report at the time concluded that although the building did not meet the criteria for listing, 'it undoubtedly has a measure of historic interest for its historical associations with the LFB headquarters, and has a pleasing and virtually unaltered façade in streamlined Moderne style which echoes that of the main building'.
666. The interrelationship between the Training School and Workshop and the Fire Brigade HQ building is plain to see, and I consider that the loss of these buildings would harm the historic and architectural significance of the assemblage. However, this would be part of the less than substantial harm I have already identified in relation to the changes at the rear of 8AE. The ceremonial space has already been damaged by previous changes, the loss of the bandstand and the construction of the CMC building being critical in this respect, and the space has not been used for ceremonial purposes for many decades. All elements of the policy context envisage and make provision for the redevelopment of the central site. The harm to the significance of the conservation area would be less than substantial, in my assessment. [219, 366]

Design and townscape effects

667. Mr Pilbrow's evidence (CD T1) sets out the Applicant's ambitious design aspirations for the development. Good placemaking lies at the heart of the vision which seeks to achieve a lively diverse and accessible place that will be welcoming to all. It is intended to respond to the rich heritage context, integrating the new with the old to leave an enduring legacy for those living, working on, and next to the site. The proposals are intended to align closely with the conclusions of the Government's 'Building Better, Building Beautiful' commission: *'To make a place we must connect what we build to the space where it stands, creating structures that are woven together, as the streets of our ancient settlements are woven together in a continuous and walkable fabric'*.
668. Balanced against the identified harm the scheme would deliver a number of benefits which in my estimation would amount to positive enhancements of the character of the conservation area. It would create a vibrant new urban quarter supported by the introduction of a mix of uses, including employment, residential, leisure and cultural uses. It would deliver substantial investment in the restoration of key listed buildings, including provision of a modern purpose-built fire station and the new Fire Brigade Museum, retaining important links with the historic use.
669. At street level it would re-introduce active frontages to Lambeth High Street, in contrast to the rather stark and unwelcoming atmosphere which is currently experienced. This would link to a new high-quality network of public spaces and routes with active frontages which would be attractive to those working in the area, including the new employment hub, visitors and to existing local residents. The hotel and restaurant would attract footfall to the area. While LV criticise the design of the public realm for not including sufficient green-space, I consider that the public realm proposals would be appropriate in the context of the policy objectives for the mixed-use redevelopment of the site. I agree that it would give a significant lift to the area and create a more lively character. This is well illustrated in the contrast between Figures 10 and 11 of Mr Pilbrow's PoE (CD T1), where the removal of the CMC extension and the pulling back of the hotel frontage would enhance the setting of the listed Southbank House, and provide

for a new space in front of the attractively designed workspace building. [207, 412, 413]

670. Beauty is notoriously in the eye of the beholder, and means different things to different people. The streetscape created by the proposed development would inevitably be very different from historic views of Lambeth High Street which predate the construction of 8AE. Design criticism from objectors inevitably focused on the height and massing of certain elements of the proposal in relation to the existing townscape, particularly the hotel and the residential towers, rather than on architectural detailing such as articulation, cladding, and fenestration.
671. From some perspectives, the townscape created would be less successful. An example put forward by LV is the view from Lambeth High Street looking towards Black Prince Road (Verified View D6), in which the height and elevations of the western tall building together with the proposed hotel contrast unfavourably with the PH and the Drill Tower. However, it must be recognised that the existing view focuses on the unattractive CMC building and the north flank wall of 9 Albert Embankment. The older PH is already dominated by modern development in the foreground (not in the AECA).
672. The long side wall of the workshop which currently faces Whitgift Street would be replaced by a residential terrace of three storeys facing Whitgift House, gradually stepping up to the south towards the 9 storey Workspace Building. The third floor would be set back to create a shared residential terrace, with a further two storeys of residential above. The façade would be of pale buff handset brickwork with punched windows and stone-effect banding delineating the floor levels. I consider that this terrace would be a significant improvement to the streetscape and an enhancement to the AECA. The presence of tall buildings at either end of the terrace would, however, relate less successfully to the existing character of Whitgift Street. Notwithstanding their diamond shape, which gives what the Applicant describes as a 'slender' profile, the 36 metre dimension referred to by Lambeth Village is perceptible from other viewpoints, giving the towers a dominant presence, and making a notable contrast with the scale of much existing development in the neighbourhood. [310, 408, 409]
673. Another focus of criticism by LV and local residents is the scale of the 11 storey building on the corner of Black Prince and Newport Street, and its relationship with surrounding development. I acknowledge that there is little precedent for buildings of this height to the east of the railway arches, and that it would contrast strikingly in height with nearby development, including the Ragged School (home of the Beaconsfield Gallery), and residential development on the east side of Newport Street and 73 to 79 Black Prince Road. The design would, however, be striking in context and the strong curved profile would make good use of the prominent corner site. The arched ground floor would provide an active frontage intended for commercial gallery use, which could provide synergies with existing galleries on Newport Street. The façade would be of attractive handset red brickwork, punched windows and white pre-cast lintels. To my mind it would make a bold architectural statement which would resonate with the robust industrial architecture of Southbank House further along Black Prince Road, and contribute positively to this part of the AECA. The limitations on window openings on the north elevation is the result of land ownership considerations. Nevertheless the elevation would have robust articulation, and I

do not regard it as being seriously detrimental to the design as a whole or the significance of the AECA. [141 – 143, 156 – 158, 215, 220, 405 – 409]

674. I accept that integration of the tall buildings is problematic in townscape terms. 23 Black Prince Road (while outside the Conservation Area), is an example of a modern tall building which cannot be said to enhance the character of the locality. I acknowledge that high density development can be a means to the creation of well-designed active public spaces, to which well-designed tall buildings can be a positive adjunct. The scheme would have positive as well as negative impacts on the significance of the AECA. Considering the AECA as a whole, the harm identified, which principally arises from the changes to the listed building and the effects of tall buildings on its setting, I find that the degree of harm would be less than substantial. [138, 223, 320, 405]

Effect on Lambeth Palace and Gardens, Archbishop's Park, Old Paradise Gardens and Lambeth Palace Conservation Area

675. The effect of the development on the setting of Lambeth Palace and Gardens is illustrated in verified view B2 (CD A10.4.5 Vol III iv). It is apparent that other tall buildings are visible behind the roof-line of the Palace in the existing view, and also that the photograph has been taken from within the gardens but at some distance from the palace itself.

676. The exceptional heritage significance of Lambeth Palace and the associated conservation area is not in dispute. Save Britain's Heritage (CD Y19) disagrees with the Applicant's assessment that the impact on Lambeth Palace and Gardens in Central London would be minor. SAVE identifies a point on Lambeth Palace Road where the upper parts of the proposed development would be clearly visible rising above roofs, turrets and chimneys of the Palace buildings which are currently silhouetted against the sky (CD Y107, slide 3). SAVE consider that the tall new buildings would be so different in scale to their surrounding context, and would so dominate the townscape that a key element of the significance of the existing conservation area would be radically undermined, amounting to substantial harm. Lambeth Village identify less than substantial harm of a very high order to the Grade I listed building arising from the appearance of the development behind the gilded weather-vane with ball and mitre finial which rises from the timber lantern on the roof of the Great Hall.

677. I visited the identified viewpoint on my site visit. Lambeth Palace Road is a busy thoroughfare. It is used by cyclists, but does not appear to have a heavy pedestrian footfall. It is not the obvious place one would go to appreciate the significance of Lambeth Palace. While it is a publicly accessible location where views can be obtained, it does not feature in the list of viewpoints from which Lambeth Palace as a group is capable of being appreciated in the Conservation Area Appraisal (CD 07, para 2.55)⁴²².

678. In my judgement there would be very limited and certainly less than substantial harm to the setting of Lambeth Palace. Views from this point are

⁴²² It also notes that distant tall buildings are visible in views from the West of the River. This is apparent from Victoria Tower Gardens where the group around the Elephant are clearly visible behind Lambeth Palace. They are harmful to the setting and therefore to significance, but I would judge the harm to be less than substantial.

likely to be glimpsed rather than deliberately sought out. The significance of Lambeth Palace is appreciable, and likely to be understood, in many other ways. Standing closer to the buildings in the gardens would allow them to be observed, including the rooflines, without the development being visible behind.

679. I agree that the two towers would be highly visible from Old Paradise Gardens. The Gardens are described in CD 07 as '*the former burial ground overspill to St Mary's Churchyard. The space is soft landscaped, has historic boundary walls and retains numerous headstones. Recent enhancement has resulted in an attractive landscaped environment*'. While the presence of the tall buildings would no doubt be unwelcome to current users, I do not consider that it would render the Gardens of less value for outdoor recreation, or seriously diminish the significance of the Gardens in the Conservation Area. I consider that the harm would be less than substantial. [144, 145, 222, 368 – 371]

Effect on the setting of the Palace of Westminster World Heritage Site (WHS)

680. The significance of the WHS is set out in detail in Sections 2 and 4 of Mr Burke's PoE (CD V1). There is no dispute that it is of exceptionally high value.⁴²³ The Statement of Outstanding Universal Value (SOUV) (CD V1) describes the importance of the form and architecture of the Palace of Westminster and highlights the following attributes:

- *The iconic silhouette of the ensemble is an intrinsic part of its identity, which is recognised internationally;*
- *The intricate architectural form of the buildings can be appreciated against the sky and make a unique contribution to the London skyline;*
- *The instantly recognisable location and setting of the property in the centre of London, next to the River Thames, are an essential part of the property's importance;*
- *Important views of the property are vulnerable to development projects.*

681. Policies HC2, HC3 and HC4 of the LP 2021⁴²⁴ protect the WHS from adverse impacts of development and seek to ensure that new development does not harm the characteristics and composition of strategic views and their landmark elements identified in the LVMF. Policy HC4 C states that '*Development proposals ... in the background of a view should give context to landmarks and not harm the composition of the view as a whole. Where a silhouette of a WHS is identified as prominent in a designated view, and well preserved within its setting with clear sky behind it, it should not be altered by new development appearing in its background. Assessment of the impact of development ... should take into account the effects of distance and atmospheric or seasonal changes*'. [226,

682. Policy Q19 of the LLP 2015 requires a demonstration that new development with potential to affect the WHS preserves or enhances the OUV and the environmental quality of approaches/vantage points, and provides an opportunity to appreciate the OUV. Policy Q25 of the LLP 2015 resists harm to the

⁴²³ '*Top of the Tree*'. Dr Miele in evidence.

⁴²⁴ These policies replace Policies 7.10, 7.11 and 7.12 of the London Plan 2016

significance of strategic views defined in the LVMF. Subsection (b) xvi identifies the view ESE from Milbank to 8AE as a view to be protected. Policy Q26 supports tall buildings in Lambeth provided: (i) they are not located in areas identified as inappropriate for tall buildings; (ii) there is no adverse impact on the significance of strategic or local views or heritage assets; (iii) design excellence is achieved; (iv) the proposal makes a positive contribution to the townscape and skyline. [226,

683. Emerging plans maintain the emphasis on protecting the setting of the WHS from the adverse effects of development.
684. The London View Management Framework (LVMF) (CD P3) is supplementary planning guidance produced by the Mayor of London and is a material consideration in the determination of planning applications. It includes 11 designated views of the WHS and the Palace of Westminster as a landmark within these views. The development policies outlined above include specific reference to the LVMF.
685. The Heritage, Townscape and Visual Impact Assessment (HTVIA - part of the ES supporting the Application CD A10.4.4) concludes as follows in respect of the visual impact of the proposals on the WHS:
- *'The building heights have been carefully adjusted to avoid any material impact on the strategic views from Primrose Hill and Parliament Hill which feature the Palace of Westminster as an important element'.*
 - *'The proposals would have no material impact on those views and would not limit the ability to see and appreciate any part of the Palace. They are largely obscured in any event, and the limited degree of additional development which might be visible would be seen over a considerable distance and would not encroach on the dominance of the three towers of the Palace of Westminster in these views or reduce the viewer's ability to perceive the visual relationship between the three towers. (page 6)*
 - *'Overall, taking into consideration the views assessment of the setting of the WHS, the proposals would represent a negligible magnitude of change to the Westminster WHS. There would be a negligible effect on the value of the receptor, which is not significant.'* (paragraph 8.135, page 115)
686. Westminster CC challenge this analysis. Mr Burke's evidence identifies harm to strategic views of the Palace of Westminster and to the OUV of the WHS.

LVMF View 2B.1 (Parliament Hill: east of the summit)

687. The viewing position is identified in the LVMF, though surprisingly there is nothing on the ground to tell the visitor where to find it. There is a prominent tree in the foreground, but it was accepted at the Inquiry that this should not be taken into account in the assessment, as it is the subject of management to avoid encroachment in the panorama and the view of the WHS in particular. Mr Burke presented a zoomed-in photograph showing the existing view of the Palace of Westminster. The upper parts of the Victoria Tower, the central fleche, and the Elizabeth Tower, and the relationship between them are readily distinguishable in the photograph. The Surrey Hills are visible behind. Only the flagstaff on the Victoria Tower cuts the skyline. In the foreground there are existing tall buildings which frame the silhouette, but do not obscure it.

688. The LVMF notes that it is one of the few publicly available views of all of the principal towers of the Palace of Westminster and continues: 'All three towers ... are set against the distant hills. The scale and simple outline of existing tall buildings in the view frame the Palace of Westminster and contrast with its more delicate and intricate silhouette'. In relation to this view the LVMF advises that small scale incremental change in the background of the three towers might be appropriate if it does not dominate the individual towers or diminish the spatial relationship between them.
689. In Mr Burke's submission the proposal does not accord with the LVMF or the London Plan. Instead the new development would erode the spatial relationship between the Elizabeth Tower and the distant hills; the iconic silhouette with its intricate architectural design would become less clearly defined; appreciation of the scale of the Palace of Westminster would be diminished by the introduction of tall buildings which seemingly appear immediately behind it, rather than the distant hills which emphasise the size of the palace; and the internationally famous clock tower would become less pronounced in this panoramic view of the city. Mr Burke considers that it would have an adverse impact on the setting of WHS and erode OUV of the WHS, in conflict with LP Policy 7.10. [147, 525 -527]

LVMF View 4A.2 Primrose Hill: The Summit

690. The zoomed-in detail of the existing view shows only the higher parts of the three towers, with modern development, set within the silhouette and adjoining the Victoria Tower, partially obscuring the individual elements and the relationship between the towers. It is by no means an uncluttered view.
691. The LVMF notes that Primrose Hill is a clearly defined and popular place from which to enjoy a wide panorama of London. Good views of St Paul's Cathedral and the Palace of Westminster are available from here ... the three towers of the Palace of Westminster are visible amongst the townscape elements that obscure the main building. The LVMF advises that 'Development in the background of the Palace of Westminster should preserve or enhance the viewer's ability to recognise and appreciate the Strategically Important Landmark. The form and materials of new development should help improve the clarity with which the silhouette of the towers of the Palace of Westminster can be distinguished from their surroundings.'
692. The 'with development' image taken from the DAS shows that the proposed buildings on the central site would substantially infill the remaining gap between the Victoria Tower and the existing tall building to the right of the fleche. They would, however, remain below the pinnacles on the Victoria Tower.
693. The HTVIA assesses the impact as follows: *'the very upper elements of the proposed residential towers may be visible in the distant background below, and to the left of Victoria Tower. These elements would be discrete in the distant background of the view by virtue of the considerable distance, lightweight and slender appearance of the towers and interposing development. The proposed buildings would be a recessive background element below the treeline of distant hills and consistent in scale with the wider skyline. The appearance of the proposed buildings would merge into the existing background and contrast with the sand-coloured limestone of the towers of the Palace of Westminster, ensuring the clarity of the silhouette of the towers of the Palace of Westminster are maintained and that they can be distinguished from their surroundings. The*

Proposed Development would be visually subservient and would not encroach on the dominance of the three towers of the Palace of Westminster in these views or reduce the viewer's ability to perceive the visual relationship between the towers.....The limited degree of the Proposed Development which might be visible, coupled with the distance and the proposed form and appearance of the proposed buildings, is such that there would be no perceptible change and the clarity with which the towers of the Palace of Westminster can be discerned from their surroundings would be maintained. The magnitude of the impact would be negligible. Overall the proposed development would have a negligible effect, which is not significant.' (CD A10.4.4 Vol 3 paras 10.23 – 10.25)

694. In Mr Burke's submission it is plain that the two tall buildings would rise prominently behind and to the left of the Victoria Tower, reaching to the main parapet level of the Victoria Tower, and obscuring the distant hills which currently provide most of its backdrop. The development will blur the definition of the strong vertical accent of the Victoria Tower which, set against the darker and distant hills, greatly assists in defining the tower and the viewer's appreciation of it. The development would erode the appreciation of the OUV of the WHS and conflict with Policies HC2 of the LP. [147, 528]

Discussion

695. Mr Burke's analysis relies heavily on the use of zoomed-in photographs, which are revealing of the detail, but are different to what the visitor experiences with the naked eye, as I saw on my site visits to the identified viewpoints. Unaided by binoculars or zoom photography, the WHS is certainly discernible in both views as part of the panorama of London and contributes to the observer's understanding and enjoyment. However it requires some concentration to focus on and identify the individual elements of the Palace of Westminster. The summit of Primrose Hill is a popular destination, and many visitors would no doubt be happy to make the effort to distinguish what can be seen of the silhouette. The Parliament Hill viewpoint is less obvious. The WHS cannot be seen from the summit, and it is only on a fairly narrow transect to the south east of the summit that the view of the three towers can be observed. [147, 227, 518]

696. The 'LVMF realscale views' (CD X12) provided during the Inquiry are a good representation of what can be seen with the naked eye, if held at the correct natural viewing distance. They show that it is possible to place the buildings and obtain some sense of their importance and OUV. With the naked eye, it would be possible to discern the impact of the development behind the WHS, but in my judgement it would not significantly harm the viewer's ability to appreciate and understand the OUV and significance of the WHS.

697. I agree that a proportion of visitors would carry binoculars, or would take their own zoom photographs, in which case their experience would be more as described by Mr Burke. As he pointed out the LVMF uses zoomed-in views to identify specific features but also to illustrate the strategic views and their significance. [518 - 521]

698. The LVMF views are designated in the London Plan, and their protection is subject of specific policies. Any conflict with the policy is therefore a matter to be taken very seriously. The development would be behind the WHS, which would accordingly not be obscured in the identified views. However the LVMF also gives guidance as to how development proposals in the background should be

assessed. I agree that, in magnified views, the ability to distinguish and appreciate the outlines of the Towers against the background would be harmed by the introduction of substantial built development as a result of the Application scheme. This is not to criticise the design detailing of the Towers, which would be hard to interpret and evaluate from this distance even with the use of magnification. However, the massing of the development would interfere with the existing, more open background, and would diminish the significance of the WHS in its wider setting. [228, 521, 524, 541]

699. The architectural and historic interest of the WHS is of the highest significance, and its visibility in the wider setting contributes importantly to that significance. Nevertheless, in my judgement, the harm to the setting would be less than substantial. I acknowledge that there are many locations close to the WHS where its architectural and historic significance can be appreciated, Westminster and Lambeth Bridges, the London Eye, and the Tower of St Mary at Lambeth offering particularly fine views. If built, the new rooftop restaurant at 8AE would be another publicly accessible viewpoint, albeit for paying customers.
700. I recognise that the development would not vitiate or seriously reduce the significance of the WHS. However, the Act, the NPPF and relevant case law requires that considerable importance and weight be given to any harm to the significance of heritage assets. I am also aware of the considerable interest that the UNESCO World Heritage Committee (WHC) and ICOMOS⁴²⁵ have taken in recent years regarding the impact from development, especially tall buildings, upon the OUV of the Palace of Westminster. In response to this the Government has made clear that any harm to OUV should attract 'the maximum weight possible in decision making'. This further emphasises the weight to be attached to any harm to heritage assets in the planning balance. [228, 229, 511]
701. Considerable attention was paid at the Inquiry to whether these impacts on significance had been properly assessed by Lambeth Council in resolving to approve the application and by the London Mayor. Objectors argued that they had been over-reliant on the Applicant's assessment of negligible impact based in part on what can be seen with the naked eye, but also having regard to the spread of the prominent oak tree at Parliament Hill Fields. [232, 535 – 538]
702. The GLA Stage 1 consultation report gave consideration to the impact on both views. With regard to LVMF 2B.1 (Parliament Hill) it noted that '*the proposed 26 storey building would exceed the protected Vistas Extension threshold height and would appear in the background to the left of the Elizabeth Tower, although it is noted that it would largely be screened by a prominent tree on Parliament Hill, even when not in leaf. The building would appear as a recessive background element, below the treeline of the distant hills, and below the top of the spire of the Elizabeth Tower. During pre-application discussions, the applicant investigated various material colours and muted tones have been selected, which match the background trees/hills, in contrast with the stone of the Palace of Westminster. The proposed building would be consistent in scale with the wider skyline and would not dominate the Elizabeth Tower*'. A similar conclusion is reached with regard to LVMF 4A.2 (Primrose Hill), noting that the Towers would appear in the background to the left of the Victoria Tower, below the turrets and

⁴²⁵ International Council on Monuments and Sites

finals (CD K1 paras 80 & 81). On this basis it was concluded that the buildings would cause no harm to the significance of the WHS or LVMF views, and that the OUV would be conserved. These conclusions were confirmed in the GLA Stage 2 Report. The overall conclusion was that the application complies with the London Plan and the intend to publish London Plan, and there are no sound reasons for the Mayor to intervene in this case (CD K6).

703. It was also suggested by Westminster CC that Historic England's response had been informed by this assessment. In view of my conclusion that there would be less than substantial harm to the OUV of the WHS, I do not consider it would be helpful to go over this ground in detail. However in my view the Applicant's conclusion of negligible impact is not sustainable in the light of the evidence to the Inquiry and my own observation. [225, 232]
704. I note that Historic England did not formally object to the development, and authorised LB Lambeth to determine the LBC application as they thought fit. At pre-application stage, however, HE identified harm to the listed building, the conservation area and considered that the tall buildings would appear in the LVMF view (4A) from Primrose Hill. It is not apparent that HE gave any consideration at that stage to the potential for impact on LVMF view 2B.1 from Parliament Hill Fields, possibly for the reason that the Applicant's HTVIA assessed the potential impact as negligible. HE's advice, based on the views shown, was to encourage the Applicant to consider ways of reducing the height of the towers so they would not encroach upon the view of Victoria Tower from Primrose Hill, and the development would remain visually subservient. They also advised that it would be important at application stage to make a full assessment of the impact of the proposals on the historic environment, particularly with regard to the ICOMOS Guidance on Heritage Impact Assessments for WHS sites, and the GLA's Supplementary Planning Guidance on Settings of WHS sites (CD Y21, p 58/9). Subsequently, the Applicant increased the height of the Towers, in part as a design response to issues of daylighting and sunlighting affecting neighbouring residential properties. HE subsequently expressed disappointment that its advice was not taken but recommended that the authority should weigh the harm against the public benefits of the proposal when coming to a decision (Letter dated 24 June 2019 (CD Y21 page 79)). [232, 531]
705. Mr Foxall, who appeared at the Inquiry on behalf of HE, was clear that 'the severity of harm should, for the purposes of the NPPF, be treated as less than substantial'. For both views he identified a low level of additional harm to the Palace of Westminster. Applying the ICOMOS guidance on Heritage Impact Assessments for World Heritage Sites, he considered that the proposal would have a moderate adverse impact on OUV because it affects part of a property that is of very high value (CD Y21 pp 35/36). Although Mr Foxall was not the case officer handling the application at earlier stages, he occupies a senior position in the hierarchy at HE. It was clear he had undertaken a measured assessment, and I found his evidence convincing and reliable. There was no inconsistency between his position at the Inquiry, and HE's stated view that the application should be determined in accordance with NPPF Paragraph 196 by weighing the heritage harm against the public benefits of the proposal. [149 – 152, 530 – 534]

Other LVMF Views

706. Westminster CC also raised concern over the potential for townscape impacts at closer range. The LVMF includes two other protected views which include the setting of the Palace of Westminster: LVMF 17A.2 – Hungerford Bridge Upstream and LVMF 18A.2 Westminster Bridge. It is argued that the development would add to the cumulative impact from tall buildings in these views which would adversely impact the dominance of the Palace of Westminster as it is appreciated in its riverside setting, by introducing a new scale and bulk of development in closer proximity to the WHS (CD V1 paragraph 9.10). LV also consider that there would be considerable (though less than substantial) harm to the view upstream from Westminster Bridge, as the profile of the tall buildings would extend into a gap between existing taller buildings on the Albert Embankment frontage and St. Thomas's Hospital, reducing the legibility of the existing composition.
707. In both views the Millbank Tower and the emerging Vauxhall cluster are prominent beyond Lambeth Bridge, together with a number of existing tall buildings extending northwards from Vauxhall along Albert Embankment towards the Application Site. While I acknowledge that the view would change, I do not consider that the impact of the Towers on the central site, seen to the left of the existing Westminster Tower, would result in any significant harm to the vistas, or the OUV of the Palace of Westminster in the context of existing and consented development. The dominance of the WHS and the integrity of the silhouette of the Palace of Westminster would be preserved by the separation provided by Victoria Tower Gardens and the expanse of the River itself. Any adverse impact in the view would be significantly less appreciable from the more distant Hungerford Bridge. [230, 380]
708. For the sake of completeness, I do not consider that the proposal would cause harm to the significance of Smith Square and Millbank Conservation Areas. The setting of these is best appreciated from Albert Embankment, and the views from this side of the river would not be changed by the scheme.

Conclusion on Palace of Westminster WHS

709. I conclude that there would be less than substantial harm to the OUV of the Palace of Westminster WHS. This should be weighed against the public benefits of the proposal in accordance with NPPF para 196.

Overall conclusion on heritage impacts

710. I have concluded that the scheme would cause less than substantial harm to the significance of the following designated heritage assets:
- The Grade II listed London Fire Brigade Headquarters (8AE) and its setting;
 - The setting of the Grade II listed Drill Tower;
 - The AECA and its setting;
 - The setting of Lambeth Palace;
 - The OUV of the Palace of Westminster.

711. In accordance with the advice in the NPPF and relevant caselaw I attach great weight to the less than substantial harm that I have identified, which should be weighed against the public benefits of the proposal in considering the planning balance. [153, 544]

CONSIDERATION 2: THE EFFECT OF THE PROPOSALS ON THE LIVING CONDITIONS OF NEIGHBOURING RESIDENTS WITH PARTICULAR REFERENCE TO DAYLIGHT AND SUNLIGHT EFFECTS

712. Details of the impact of the proposed development on daylight, sunlight and overshadowing are set out within the Environmental Statement - Volume 1 (CD A10 Chapter 14) prepared by Point2 Surveyors and summarised in the Planning Statement (CD A4, paras 7.269-7.282)

Policy and Guidance

713. Policy D6 D of the LP 2021 requires that the design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context. Policy Q1 of the LLP 2015 supports development that would not have an unacceptable impact on levels of daylight and sunlight on the host building and adjoining property. Policy Q2 (iv) of the Draft Revised LLP 2020 contains a similar provision.

714. Implementation Guidance is set out in the Mayor's Housing SPG. The SPG advises that an appropriate degree of flexibility needs to be applied when using the BRE guidelines, which should be applied sensitively to higher density development, especially in opportunity areas taking into account local circumstances, the need to optimise housing capacity, and the scope for the character and form of an area to change over time. The degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.

715. The Applicant's assessments used the methodology of the 2011 BRE publication 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' which is referenced in the LLP and the Mayor's Housing SPG. This guidance states that if, following the construction of the proposed development, the Vertical Sky Component (VSC) is less than 27% and it is less than 0.8 times its former value then the reduction in diffuse daylight could be noticeable by occupiers and therefore the proposed development can be seen to have an adverse impact. Where this is not achieved, other methods of calculation can be considered.

716. The BRE report also gives guidance on the distribution of light in existing buildings, based on the areas of the working plane which can receive direct skylight before and after. If this area is reduced to less than 0.8 times its value before, then the distribution of light in the room is likely to be adversely affected, and more of the room will appear poorly lit. This is referred to by Point 2 as the No Sky Line (NSL) analysis.

717. These two guidelines address different aspects of the daylight environment in a space. The vertical sky component relates to the amount of light entering the room, while the no sky line relates to the way the light is distributed. A room can experience an adverse effect if either guideline is not met. So for example, if the amount of light entering the room is significantly reduced but the distribution remains adequate, there would still be a significant effect on the daylight amenity of the room.
718. The Environmental Statement and the Point 2 report also refer to the average daylight factor (ADF) as an additional criterion, though they do not give a comprehensive table of average daylight factors in the existing buildings. The ADF is a measure of the daylight within a room. It depends on the room and window dimensions, the reflectances of interior surfaces and the type of glass, as well as obstructions outside. In a new building the designer can compensate for a high level of obstruction, for example by making the windows larger or the room smaller. The ADF is an appropriate way to quantify this.
719. Where the loss of daylight or sunlight does not meet the guidelines in the BRE Report, the impact is assessed as minor, moderate or major adverse. Factors tending towards a minor adverse impact include: only a small number of windows or limited area of open space are affected; the loss of light is only marginally outside the guidelines; an affected room has other sources of skylight or sunlight. Factors tending towards a major adverse impact include: a large number of windows are affected; the loss of light is substantially outside the guidelines; all the windows in a particular property are affected.

Position of Applicant/LB Lambeth

720. A summary of the Council's assessment including the key considerations of their appointed daylight and sunlight consultant Schroeders Begg is detailed in the officer report to the Planning Applications Committee, 03 Dec 2020 [CD K3, paras 8.4.1 – 8.4.53]. The conclusion to this report section stated the following:

7.32 "Considering all aspects in terms of daylight and sunlight, the proposed scheme does result in some adverse and noticeable reductions in daylight but for such reductions, these need to be considered in reference to the detail and background to the particular property under review. Clearly, there is a degree of adversity to the daylight to some of the residential neighbouring properties resulting from the proposed massing. This degree of adversity primarily relates to the windows / rooms within the areas identified / applicable within Whitgift House, 2 Whitgift Street, 9 Albert Embankment – Building A – East, 71 Black Prince Road, 73-79 Black Prince Road. In terms of sunlight, for reductions to neighbouring properties, the proposal adheres closely to the BRE Guide with minimal departure.

7.33 Given the target compliance to the BRE Guide is not mandatory, it is reasonable to say that given the effect to some neighbouring properties in terms of daylight reduction, the overall merits of the scheme will have an influence on the balance of acceptably (in terms of isolated harm versus the benefits). However, for an urban scheme of this nature, it is considered that the adversity impact could be considered acceptable with the scheme also representing an improvement (lesser impact) when compared to the appeal scheme in reference to Whitgift House and 2 Whitgift Street.

7.34 In terms of the recent Graphite Square Appeal (Scheme A & B), whilst it is not possible to completely make direct comparisons, in terms of consideration towards retained target values / alternative targets, many neighbouring properties impacted by the proposed 8 Albert Embankment scheme would still meet the alternative target criteria set within the Graphite Square Appeal although accepted, the context and neighbouring impacts should always be considered relevant to site specifics."

7.35 The GLA stage 2 report notes: "GLA officers acknowledge some major adverse daylight reductions to adjoining properties; however, it is considered that these impacts will not cause unacceptable harm to amenity or result in unacceptable living conditions, in accordance with London Plan and intend to publish London Plan policies. In particular, GLA officers emphasise the reduced loss of daylight to Whitgift House and 2 Whitgift Street compared to the Appeal scheme, and the retained daylight values. Given the context of dense historic and tall buildings, and the highly accessible location within central London, an appropriate balance needs to be struck between loss of daylight and the benefits provided by the scheme, as acknowledged in the Mayor's Housing SPG and Building Research Establishment (BRE) guidance. The benefits provided by the scheme (as set out in detail below) are significant and are considered to outweigh this issue." (para 30). The Council sought an independent review of the Point2 Surveyor's report in respect of possible impacts of the new development on surrounding sites and within the development itself, undertaken by Schroeders Begg. Based on this review it is agreed that for an urban scheme of this nature, the adversity impact is considered acceptable with the scheme also representing an improvement (lesser impact) when compared to the 2013 appeal scheme.

7.36 With respect to overshadowing the BRE 2 Hour test seeks to establish whether 50% of the test area achieves 2 hours of sun on March 21st (when the sun is at its midpoint position in the sky in reference to the respective extremities of the sun arc path at the winter and summer solstice). The results of the technical assessments for both the Old Paradise and the main garden/square courtyard garden will continue to meet and exceed the BRE Guide 2-hour amenity test at the 21st March equinox (BRE Guide seeks for the amenity area to have the ability to receive 2 hours or more at the 21st March equinox to at least half of the amenity area and if less, targeted not to be less than 0.8 times former value).

721. The Applicant acknowledges that the scheme would give rise to a number of negative effects in terms of daylight and sunlight for neighbouring buildings. However, to address the issues with the Native Land scheme, which proposed large slab blocks at right-angles to Whitgift Street, a radically different design has been adopted by the Applicant, involving taller, slimmer blocks, to minimise the reduction in daylight to neighbours. [159]

Position of Lambeth Village

722. This assessment and conclusions were challenged by Dr Littlefair on behalf of Lambeth Village and local residents. Dr Littlefair, who is the author of the BRE guidance, also acted for objectors at the 2013 Inquiry, where a major adverse impact on sunlight and daylight to the flats on Whitgift Street was identified as the sole reason for dismissal of the appeal. He argued that the Application

scheme would result in substantial harm to living conditions, for which no mitigation is proposed. In particular he considered that:

- The daylight impacts have been understated in evaluations by the Applicant and the Council;
- The importance of daylight impacts on living rooms have been generally undervalued. [294,418, 419, 423]

Daylight effects

723. The BRE guidelines provide an established metric for the assessment of impacts, but explicitly do not give guidance on what would be acceptable in particular circumstances. The relevant policy test is whether the effect of the scheme on living conditions would be acceptable or unacceptable. It is clear that the guidelines are to be applied flexibly, and acceptability may vary according to context. Caselaw indicates that a two-stage process is required, involving an accurate assessment of the effects by reference to the BRE recommended levels for Vertical Sky Component (VSC), No Sky Line (NSL) and, if relevant, Average Daylight Factor (ADF).

724. My reading of the evidence is that no issue is taken by LV with the methodology used and the data provided by the Applicant's consultants, Point2. Dr Littlefair did not carry out any independent calculations and based his assessment on the Point2 data. [419]

Whitgift House

725. LV identified a major adverse impact to sky light in flats 1 – 24 Whitgift House. Schroeder's Begg on behalf of LB Lambeth classify the impact as moderate/major.

726. Whitgift House is a five-storey block of flats. The front elevation of Whitgift House is orientated south and faces the proposed residential terrace on the central site. The flats all have their main living rooms with windows facing this direction, and each has at least one bedroom with a window in the south façade. There are existing trees planted in front of the block, but these have been discounted in the daylight assessment in accordance with the BRE guidelines.

727. In total there are 60 rooms with their main windows in this façade. Existing VSC ranges from some 27% to 34%, daylight levels generally improving as one moves up the building. All 60 would suffer a loss daylight in excess of the BRE guidelines. The Applicant's data shows that they would all have VSCs significantly below 27% and that VSC components with the new development in place would be between 0.59 and 0.67 times their previous values, substantially below the 0.8 times recommended in the BRE guidelines.

728. The lowest calculated retained VSC factor on this façade would be 16.6%. 53 of the windows would retain a VSC above of 18%, with the average retained VSC across the front elevation facing the proposed development would be 19.2%. The lowest levels would generally occur on the ground floor, although fourth floor levels are affected by overhanging eaves.

729. Applying the NSL approach, 24 of the rooms would have an impact on their daylight distribution outside the BRE guidelines, with 10 rooms on the ground

floor having a loss of 40% or more in the area receiving daylight. For all the rooms assessed, the retained daylight falling in the room behind the aperture would exceed 50% with 54 out of 64 rooms achieving light of 60% or more. The average retained NSL for rooms with windows on the front elevation would be 77.3%.

730. LV identify a major adverse impact because a large number of windows would be affected, the loss of light would be substantially above the guidelines and the spaces include living rooms with a particularly strong requirement for daylight. Schroeders Begg identify a moderate/major impact, but argue that consideration should be given to informal, alternative criteria, which indicate that the retained values could still be considered reasonable and acceptable for such an urban context.
731. I accept that there is a judgment to be made as to acceptability, and I address that below. However in terms of the guidelines, I accept that the proposals would have a major adverse impact on the 24 rooms on the lower floors of Whitgift House, having regard to the reduction in VSC and the retained light levels. Impacts on the upper floors would be less serious, but I would still regard the impact as moderate adverse having regard to the BRE criteria. [168]

2 Whitgift Street

732. This building lies to the north of the proposed development, with its end elevation facing onto the street. It is a six-storey block containing 17 flats, of which 6 face the development site. There is a set of windows behind large curved balconies, and another set of windows facing directly onto Whitgift Street.
733. The living room windows under the balconies would be the most affected, with retained VSC values of some 25 – 50% of their current values. There are also smaller secondary windows to be considered which would have VSCs of 0.58 – 0.75 times their current values.
734. Of the 22 windows on the front elevation, all would retain a VSC in excess of 15.28% (including the 9 windows located under the balconies). These 9 windows are overshoot by projecting balconies, serving 5 lounge/kitchen/diners and 4 bedrooms. The obstructed view of the sky result in an average existing retained VSC value of 6.77% for these windows.
735. LV acknowledge that the existing deep balconies restrict light from reaching affected windows in current circumstances. Without the overhanging balconies, the retained VSC across the 22 windows would average 19.96%. They assess the effects of the scheme as 'moderate adverse' because, although living rooms are affected and the loss of light is substantially outside the BRE guidelines, the effect of the balconies worsens the relative loss. LV also identify a major adverse effect on the ground floor flat, as the ADF analysis in Schroeders Begg table 6 (CD F10) shows that it would be left with insufficient daylight. [168, 281 – 282]

73 – 79 Black Prince Road

736. This is a block of flats facing north towards the proposed 11 storey residential tower proposed on east site. Of the 16 north-facing windows analysed by the Applicant the retained VSC would be between 0.61 and 0.49 of their former values. The worst affected windows would be towards the eastern end of the building. These are identified as bedrooms by Point2, though, as residents

pointed out, bedrooms are used for other purposes, particularly during the current Covid pandemic. LV assess the impact as moderate adverse, when the BRE guidelines are applied.

737. With the exception of 3 single aspect dwellings all flats in the building are dual aspect. The main living rooms of all the properties, including the single aspect ones, look out over Pedlar's Park to the south, and have very good standards of daylight and sunlight.
738. While the north-facing windows of the flats would be adversely affected, I consider that these flats would retain a good standard of amenity overall, and the effects of the proposal on daylight would be acceptable. [168, 288]

9 Albert Embankment

739. This is a large residential development to the south of the Application site. Windows facing onto Black Prince Road would be affected. In Building B West, the main impacts would occur on the upper floors, as the lower floors are already obstructed by Southbank House. 53 windows would suffer a loss of light outside the BRE guidelines. However in most cases the loss of light would be only marginally outside the guideline figure. In some cases the relative loss of light would be exacerbated by existing balconies and overhangs over the windows. LV assess the loss of light as minor to moderate adverse. [286]
740. Building A East has balconies along its northern elevation facing the new development. 96 windows would suffer losses of VSC above the BRE guidelines, including all windows on floors 1 – 5. On the lower 5 floors windows would typically lose between a third to a half of their VSC. Retained VSCs with the new development in place would typically be in the 5 – 15% range, which LV consider would result in poor daylighting to the interiors. Schroeders Begg for LBL indicate that the ADF results would be poor. 20 rooms would have a worsening of daylight distribution outside the guidelines. LV considers that there is no justification in policy for using the 'alternative target value of 50% of the room area remaining with daylight distribution' as proposed by Schroeders Begg. [284, 285]
741. Building A West has its main façade facing west over Albert Embankment. Point2 state that these windows light large living rooms which also have windows facing east and west, that would be less affected by the new development. In these circumstances the loss of light to the north facing windows is less important. There would also be some significant losses of light to east facing bedrooms and kitchens tucked into the gap between Building A West and Building A East, which in most cases are just outside the guidelines. Overall the loss of daylight to Building B West would be assessed as minor adverse. [286]
742. Dr Littlefair accepts that existing balconies above the windows cut out a proportion of the light and worsen the relative loss of light. Point2 undertook a calculation without the balconies in place. There would still be 74 windows with losses of VSC outside the guidelines, and 18 rooms would have a worsening of VSC outside the guidelines, with the loss of light assessed as moderate to major adverse. [168]

Other buildings

743. The Windmill Public House faces onto Lambeth High Street. LV consider that windows facing onto the street would have a substantial loss of light, with reductions in VSC of between 0.71 and 0.39 times their current values. It is obstructed on other sides so relies on Lambeth High Street frontage for its light, resulting in a moderate to major adverse impact. The Applicant states that of the 15 windows that experience reductions in VSC beyond the BRE recommended levels, 7 would retain a VSC in excess of 20% which the Applicant considers reasonable in the dense urban surroundings. Of the remaining 8, 2 serve rooms with additional windows that would retain VSC of more than 20%. The remaining 6 serve two bedrooms and a kitchen, where the retained VSC value of the main window ranges from 17 – 19%. [290]
744. 15 – 17 Lambeth High Street is a two-storey building which is used as a hostel for homeless people. For 17 windows analysed, the loss of VSC would be outside the BRE guidelines. Some of these windows appear to be smaller secondary windows, but 7 main windows would have a reduction of VSC of between 0.61 and 0.78, which LV assesses to be a moderate to major adverse impact on VSC. [289]
745. LV identifies a minor to moderate impact on 21 – 67 Newport Street, where 30 windows would have reductions in VSC of between 0.6 and 0.8 times the current value.
746. Flats at 65 – 69 Black Prince Road would be affected by loss of VSC marginally outside the BRE guidelines to five windows.
747. The Queen's Head PH (71 Black Prince Road) would also be affected. Of the 7 windows analysed, 4 would experience reductions in VSC greater than 40%. They are stated to be bedrooms, where lower light levels may be considered acceptable. [291]
748. 80 windows at 81 Black Prince Road would not meet the BRE guidelines for VSC. However in many cases LV accepts that the loss of light is not far below the guidelines, and many of the rooms have other windows that would meet the guidelines, so the impact would be assessed as minor adverse.

Acceptability of daylight impacts

749. The BRE guidelines are an aid to analysing effects. They can assist in quantifying effects of development in terms of whether a room would become more gloomy, but they are not standards which, if not complied with, dictate that a scheme must fail. What is acceptable in a particular context remains a matter of judgement. The Applicant points to examples where decision makers have accepted lower daylight standards to accommodate more housing where higher densities are called for by policy, and referred to this as '*the current balanced approach to the issue of daylight and sunlight in inner London*'. A case in point is the Whitechapel Estate decision from 2018 (CD L3). The Inspector agreed that '*the 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*'. [162, 163, 270, 272, 421]
750. The Applicant's case is that VSC components in the mid-teens would be achieved, which have been found acceptable elsewhere in London. This has

informed consideration of this application by LB Lambeth and by the GLA. The Mayor's Housing SPG advises that guidance should be applied sensitively to higher density developments, especially in opportunity areas (amongst others) and accessible locations, taking into account local circumstances, the need to optimise housing capacity, and the scope for the character and form of an area to change over time. The site allocations in the LLP, and the inclusion of the site in the VNEB, are clear indications that change is to be expected to the form and character of the area over time in this part of Lambeth. [163, 164, 166, 276, 295, 434]

751. Dr Littlefair did not accept the applicant's view that the 27% 'target' for VSC is more appropriate to a suburban location, rather than an inner London Opportunity Area where there are strong policy drivers for achieving greater housing densities. The Judge in the Rainbird case noted that there is nothing in the BRE guidelines that states that this value is derived from a suburban development or that indicates that its guidelines are only applicable to developments outside an 'inner city urban environment' ([2018] EWHC 657 (Admin) paragraph 112). [165]
752. The Applicant undertook a local comparative review with nearby Eustace House, which fronts onto Lambeth High Street. It is of a similar design to Whitgift House and faces existing tall buildings. The average VSC for windows on the assessed frontage is 13.3%. This compares directly with the figure of 13.2% which would have resulted at Whitgift House from the Native Land scheme. Mr Ball of LV had previously been a resident of Eustace House, and spoke of the onset of depression brought on by loss of daylight due to high rise development opposite. The Applicant makes a comparison with the predicted average retained VSC levels at Whitgift House resulting from the current scheme of 17.8%. Whilst this would be some improvement in comparison with the effects of the Native Land scheme, it would still involve substantial adverse effects on daylight. I do not consider that Eustace House should be treated as an appropriate benchmark for acceptable daylight levels. [168, 277, 433]
753. There are precedents for accepting lower daylighting standards, to which the Applicant drew my attention. For example, the Whitechapel Estate Appeal referred to above, where the Inspector accepted evidence showing *'that a proportion of residual VSC values in the mid-teens have been found acceptable in major developments across London. This echoes the Mayor's endorsement in the pre-SPG decision at Monmouth House, Islington that VSC values in the mid-teens are acceptable in an inner urban environment. They also show a smaller proportion in the bands below 15%. Even if there were some discrepancy in the appellant's figures for this lower band ...the VSC outcomes for the appeal proposal would in general be very similar to those of other schemes. The appeal proposal would therefore appear to be in compliance with the LP as amplified by the SPG and as it is being interpreted by the Mayor.'* (CD L3, paragraph 112). [163, 276]
754. In the Graphite Square Appeals (CD L2) the Inspector also commented that any reduction in daylight and sunlight entering the flats in the appeal scheme as a result of either of the schemes must be seen in context. However that applied to the particular circumstances he was faced with in the appeal, where he found that the affected property was in a rather privileged position, because of the minimal massing on the area of the appeal site it borders, which meant it

- received much higher levels of daylight and sunlight than might be expected in such an urban location. [276]
755. Set against that, Dr Littlefair referred to the Sainsbury's appeal at Cambridge Heath Road, London E1 5SD, which concerned a proposal to replace an existing store with 471 residential units, together with new and enhanced public realm. In that case, the Secretary of State agreed with the Inspector's assessment that very many existing neighbours would experience a gloomier outlook than at present, and that a large number of windows would be affected, many quite significantly. He considered that this harmful impact on neighbouring properties should carry substantial weight against the proposal, and would conflict with the relevant core strategy policy, which sought to prevent loss of access to daylight and sunlight. He noted that the BRE guidelines recommend a VSC of 27% and that the guidelines, the Mayor's Housing SPG and paragraph 123c of the Framework all expect a flexible approach. In that case the Appellant aimed for retained levels of VSC of at least 15%, while achieving a high density. It was a matter of common ground that 19% of windows in the surrounding blocks (243 windows) would suffer a significant loss of VSC (being left with a VSC of less than 15%), while a majority of those would be left with a VSC of less than 10%. The Secretary of State dismissed the appeal. [277]
756. The Applicant points out that it is not hard to identify locations in London where historic residential development does not meet the BRE guidelines, including mansion blocks and terraces in Westminster. Such developments are often considered highly desirable, with no suggestion that living conditions are unacceptable. It is likely that people will make a trade-off between the benefits of living in a central metropolitan location and the better sunlight and daylight standards that might be expected in lower density outer areas. [432]
757. In my view, there is a danger in placing too much reliance on such comparisons. Although it is close to the heart of London, some of the affected accommodation around the appeal site houses families with vulnerabilities, who have little choice about where they live. Evidence that links daylight levels with human health, including mental health and disease resistance was referred to by LV, and is more than anecdotal (CD W12 page 10). Material reductions in daylight should not be set aside lightly. [436]
758. I acknowledge that the development would help to alleviate some pressing housing need in Lambeth, which would benefit the health and well-being of others. [176]
759. Nevertheless, I conclude that the proposal would result in some significant individual reductions in daylight levels to a limited number of properties. Those reductions at Whitgift House and 2 Whitgift Street would result in reductions greater than the BRE guidelines, in some cases substantially so, and residents would experience an unacceptable increase in gloominess. The reduction in light would affect all of the flats in Whitgift House but would be particularly noticeable on the lower floors. I attach very significant weight to the harm to the occupiers of these two properties. [159]
760. With regard to the daylight impacts on other buildings, many of these would either be within the BRE guidelines, or where a reduction greater than 0.8 occurs, there are particular circumstances (such as existing poor light levels or the presence of balconies) which should be taken into consideration in assessing the

extent of harm. There would be some other – mostly minor to moderate - adverse effects on daylighting at a number of other properties, including 9 Albert Embankment (Building A East) and 15 – 17 Lambeth High Street, which are to be taken into account in the overall balance.

Sunlight effects

761. The BRE report recommends that Annual Probable Sunlight Hours (APSH) received at a given existing window should be at least 25% of the total available, and at least 5% in winter. Where the APSH in the 'with development' scenario is less than 25% (or 5% in winter), the absolute loss resulting from development is greater than 4% and the reduction is greater than 20%, the sunlight impacts are likely to be noticeable.
762. LV argue that most of the dwellings to the north of the site currently benefit from high levels of sunlight and would have big reductions in sunlight, though sunlight to living room windows would remain above the BRE guidelines. This reduction would be noticeable, and would be viewed by the occupants as a loss of amenity. However, the effect on Whitgift House, 2 Whitgift Street and the Windmill public house would only be classified as a minor adverse impact. At 16 – 17 Lambeth High Street, there would be a loss of sunlight outside the BRE guidelines to 9 windows out of 27 assessed, of which 7 are assessed as of minor to moderate significance by the Applicant.
763. 60 out of 62 windows in Whitgift House assessed by the Applicant would meet the BRE guidelines in respect of APSH. In the two that would not meet BRE guidelines, they are affected by the proximity and height of 2 Whitgift Street. The majority of windows in 2 Whitgift Street would meet the APSH guidelines. The rooms affected would be bedrooms, which would have a lesser expectation of sunlight availability. With regard to 16 – 17 Lambeth High Street, the sunlight effects would mostly be experienced in winter, because of the south-east orientation which limits available sunlight.
764. For gardens and amenity spaces the BRE guidelines advise that no more than 50% of the area should be prevented from receiving two hours of sunlight on 21st March. If reductions as a result of development are greater than 20%, the loss is likely to be noticeable. The applicant's analysis demonstrated that none of the gardens/amenity spaces assessed, including Old Paradise Gardens, would fail to meet the APSH guidelines for sunlight as a result of the development.
765. Effects on Beaconsfield Gallery and the Garden Museum are considered below. However I conclude that the development would have a very limited adverse effect on levels of sunlight to the windows of affected properties, or to neighbouring gardens/amenity spaces.

CONSIDERATION 3: THE EFFECT OF THE PROPOSALS ON THE AMENITY OF NEIGHBOURING COMMUNITY AND OTHER USES

The Garden Museum

766. Mr Woodward argued that the loss of sunlight during the winter months due to overshadowing by the two towers would harm the enjoyment of visitors to the museum, including the many educational and community groups, which make use of its unique facilities. Particular concern was expressed about effects on photosynthesis of rare plants growing in the Sackler Garden.

767. The BRE report commissioned by the Museum (CD W18) presents the following conclusions:

'The results show that the easternmost tower could shadow this point in the garden for a few days in mid to late December, for up to 20 minutes per day in the late morning (1125-1145 GMT).

The westernmost tower is predicted to shadow this point for longer, from mid-November through to the end of January, for around half an hour between 1220 and 1250 (approximately) each day. However for this preliminary study, no other buildings were modelled. It is likely that another building, the Parliament View Apartments at the corner of Lambeth Road and Lambeth Bridge Road, already shadows the garden at these times of day and year. If this is correct, the westernmost tower would have no additional effect.'

There appear to be no other tall buildings between the garden and the easternmost tower, so it is likely that the easternmost tower would cause the predicted additional overshadowing, for a few days in mid to late December, for up to 20 minutes per day in the late morning (1125-1145 GMT).'

768. In my opinion it is very unlikely that these limited losses, which would be most noticeable on sunny days, would have any appreciable effect on the success of horticulture at the Garden Museum, bearing in mind that December is outside the main growing season for many plants.

769. With regard to the effect on Old Paradise Gardens, I have dealt with the heritage impact elsewhere. Mr Woodward appeared to accept that additional overshadowing would not breach the BRE guidelines for open space at the spring solstice. I understand that some users might find the presence of the towers to be overbearing, but that is far from saying that the Gardens would become unusable, or significantly less valuable for recreational or even horticultural purposes. They would continue to receive good sunlight conditions for an urban area in the main growing season. [222]

770. It is clear that the Garden Museum is a great cultural and community asset to the locality and to London. However, I do not find any persuasive evidence that the proposed development would be harmful to its continuing success, or would prevent it developing its work in the community, including the greening and enhancement of adjacent spaces. [174, 297]

Beaconsfield Gallery

771. The principal concern of objectors was with loss of natural daylight to the main gallery spaces, and overshadowing of external areas which have been developed for communal use, including the roof top garden. An additional matter was the potential for current use of the external yard area to the west of the arches to be affected by the proximity of residential accommodation in the development. It was suggested that this would place constraints on its use for fabrication and assembly which are essential to the Gallery's offer to artists. [553, 572 – 577]

772. Dr Littlefair's evidence on behalf of LV does not identify any unacceptable loss of daylight or sunlight to the First Floor (Upper Gallery) space. To my mind it would continue to receive acceptable daylight and sunlight from the three large east facing windows. While daylight and sunlight to the sole, unblocked, south facing window would be affected by the 11 storey tower on the East Site, it would

not be completely occluded. A substantial reduction (57%) in the Vertical Sky Component to this window does not equate to a dramatic loss of light overall to the room and I consider there would continue to be adequate natural light in this room overall. The same applies to any effect on the west facing oculus.

773. With regard to the Lower Ground Floor, I acknowledge that this is an attractive and flexible space, which serves many purposes in addition to its main use as a café. Areas adjacent to the windows would continue to receive appropriate levels of daylight, even though there would be some loss of daylight attributable to the development. Other areas are away from the windows and it is possible that additional artificial lighting would be required at times. However, I do not consider that the development would result in significant loss of usability or attractiveness for customers and others making use of the space, in connection with the main gallery use.
774. The yard area to the north of the arches is sometimes used for fabrication and assembly by artists working at the gallery. I acknowledge that there may occasionally be noisy activity, but it would be surprising if this persisted for long periods or at anti-social hours so as to give rise to conflict with neighbouring residential uses. A gallery, even an adventurous and experimental one such as Beaconsfield, would not normally be thought of as a bad neighbour. While I recognise the concern, I consider that the potential for conflict is considerably overstated and is not a significant threat to the gallery's activities. [307]
775. With regard to the external spaces, light conditions would be comparable with other outdoor spaces in urban areas. Daylight and sunlight would vary according to time of day and with the seasons, but the spaces would still be usable and attractive places at many times of day when the weather conditions favour outdoor use. It is true that current levels of light would change, but the corner site is part of an Opportunity Area and an allocated site, where some change must be expected. [576]
776. I fully appreciate the importance of natural light, as eloquently attested by several artists and exhibitors at Beaconsfield. However, I consider that the Gallery would still receive adequate levels of daylight and sunlight in its key spaces and I do not agree that its use would be compromised or its future threatened by the development. It is not inconceivable that the new people attracted to the area for work and employment would provide additional support for the gallery and its activities, as well as contributing to the general vitality of the locality. [169 – 173, 296, 407, 572 – 577]
777. I therefore conclude that there would be no significant adverse effect on the levels of sunlight and daylight reaching community uses and associated spaces in the neighbourhood of the development. [100, 554]

CONSIDERATION 4: THE EXTENT TO WHICH THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE GOVERNMENT'S POLICIES FOR DELIVERING A SUFFICIENT SUPPLY OF HOMES (NPPF CHAPTER 5)

778. The Government's objective is to significantly boost the supply of homes, and to ensure the planning system functions effectively to support this primary aim. The delivery of housing, including affordable housing (AH), is given a very high priority in the NPPF. Local planning policies should be consistent with this aim.

779. The LP 2021 includes a requirement for housing delivery to be increased by some 11% above the previous LLP target, giving an annual housing target of 1,335. The housing target for Lambeth in the DRLLP accords with this figure. In his directions prior to adoption of the LP 2021, the SoS expressed support for ambitious Boroughs seeking to deliver above targets. LP Housing Policies seek to create mixed and inclusive communities, with the maximum reasonable amount of AH, taking into account development viability, the characteristics of an area and the impact on mixed and balanced communities. Further detailed guidance on tenure mix is given in the London Affordable Housing and Viability SPG (2017).
780. The VNEB Opportunity Area is identified in the LP for the optimisation of residential land uses and a significant intensification and increase in housing capacity. [101]
781. LLP Policy H2 seeks the maximum reasonable amount of AH (at least 50% on large sites where public subsidy is available, or 40% without public subsidy). 70% of the AH provision should be for rent and 30% should be intermediate. LLP Policy H4 requires a balanced mix of size and type. AH provision should reflect the preferred mix of 20% 1 bed, 20 – 50% 2 bed, and 40% 3 or more bed units. [104]
782. LV accepted that the need for housing of all types in London has never been clearer, and that this is a key priority at all levels of government. However, they also point to a tension between meeting the pressing need, limited land availability, the need to accommodate other important uses and the protection of heritage assets and residential amenity. [437]
783. LV considered, however, that the site's contribution to housing delivery should be seen in the context of Lambeth's overall housing delivery performance. The latest figures identify a five-year supply, so there is no question of the NPPF 'tilted balance being engaged'. The scheme is shown as contributing 443 units towards the end of the 10 year period, and cannot therefore be seen as needed to support delivery in the short term. In the past the site's potential contribution has fluctuated (147 dwelling in 2015), rendering the assessment inherently uncertain. That figure was the Council's estimate of what could be delivered on the site having regard to other constraints, and following the dismissal of the Native Land Appeal (which would have provided 265 dwellings). LV considers that the Applicant is arguing that the VNEB requirement to optimise housing on the site trumps all other policy considerations, including policies on KIBA sites, residential amenity and heritage protection. The Applicant's approach amounts to maximisation rather than optimisation. [102, 442 – 444, 483]
784. The housing offer was viability tested against the 50% target for publicly owned land in LP and LLP policy. The appraisal undertaken by BNP Paribas for LB Lambeth, concluded that 40% represents the maximum reasonable amount of affordable housing in line with the relevant policies. This was accepted by the GLA, as set out in paragraph 16 of the Stage 2 Report (CD K6). Dr Lee's evidence to the Inquiry confirmed that the viability appraisal for the scheme followed the methodology set out in the Mayor's SPG 2017 (CD P8). In the event of any significant changes affecting valuation and viability the S.106 obligation provides for early and late stage reviews to assess whether any increase or reduction to the proportion of AH would be justified. [106, 483]

785. However, LV challenged the application of an Alternative Use Value (AUV) benchmark in the affordable housing appraisal, specifically the finding of a Residual Site Value of some £40 million. Mr Turner outlined the history of the Native Land scheme (as he saw it) in Appendix 1 to his statement (CD Y1). He stated that the use of an AUV benchmark was considered and rejected at the Native Land scheme, when it was accepted that the site had an existing use value benchmark of zero, due to the poor condition of the listed buildings and the high cost of maintenance. The Native Land scheme was found to be in deficit. It later became apparent that the developer had agreed to pay the site owner £40 million. In this scheme it seems that the developer has agreed a site value of £40 million and created an AUV around it, though not much has changed regarding the condition of the listed building and the need for maintenance. To be accepted as an AUV benchmark, the scheme should be policy compliant, which is not the case here. If the zero land value was accepted (as it was previously), the scheme would be more viable than is being claimed, and the achievable AH offer should also be higher.
786. The principle of an AUV approach was agreed by the GLA in pre-application discussions with Lambeth officers, on the grounds that the use as a fire station means there is no quantifiable market for the site on the basis of existing use value. As an alternative to existing use value, paragraph 017 of the PPG indicates that benchmark land value may be established through a valuation of an alternative use, providing that the alternative scheme would 'fully comply with up to date development plan policies.... and... it can be demonstrated there is market demand for that use'. Furthermore, if an alternative use value approach is adopted, the PPG indicates that 'AUV includes the premium to the landowner. If evidence of AUV is being considered the premium to the landowner must not be double counted'.
787. The Alternative Scheme (conversion of the listed building to provide 48,330 square feet of office floorspace; and new build development providing 374,296 square feet of office floorspace) was considered by the Applicants to be compliant with the adopted Local Plan requirements for sites within Key Industrial and Business Areas ('KIBA'). This was accepted by planning officers, in principle, as an appropriate basis for establishing the Site's benchmark land value.
788. A Financial Valuation Assessment (FVA) was undertaken by JLL on behalf of the Applicant. It concluded that the 'viable' level of affordable housing for the scheme is 127 units and that the scheme is unable to support any further affordable housing beyond 31% on a habitable room basis or 29% on a unit basis. However, the Applicant is willing to deliver the scheme on the basis of 40% of the habitable rooms comprising affordable housing (172 units) on the basis of hope value. This is an additional 45 units above the 'viable' level.
789. The FVA was reviewed by BNPP for the Council. The Applicant's alternative scheme for the site generated a residual land value of £42.78 million. This is the minimum land value that, in principle, the application scheme needs to generate to be considered viable. The residual land value of the Application scheme was lower than the benchmark land value and as a consequence, BNPP accepted that no additional affordable housing could have been viably provided. Dr Roe of BNPP provided updated figures for the Inquiry (CD U13). It shows that the scheme would generate a residual land value of £39.11 million, which remains lower than the revised benchmark figure of £42.50 million, confirming that BNPP

still considers that the Application scheme provides the maximum viable proportion of affordable housing.

790. LV also raised concern that the housing provision was not relevant to housing needs in Lambeth, did not provide for any much needed family housing and that the income thresholds used were, in reality, well above average household incomes in the locality. With regard to income thresholds, the appraisal was partly informed by NHG data on shared ownership income levels, together with the Lambeth Tenancy Strategy (2020) on rental levels for social rents. The Council has accepted that the AH secured satisfies the criteria for AH and that the intermediate housing element provides for a range of household incomes below the upper limit for shared ownership units. The extent of housing need in Lambeth was not disputed. 40% of the habitable rooms to be provided as AH would be available to those in need in the local authority area.
791. The GLA supported the mix of units, noting that, while only eight of the affordable/social rented units are family-sized, the affordable housing mix has been developed in collaboration with Notting Hill Genesis, which has specifically highlighted the demand for one and two-bedroom units in Lambeth. The mix of mainly one and two bedroom units is appropriate for the area, and allows greater affordability (CD K1, para 48).
792. I understand that LV considers the Mayor's position to have been influenced by the prospect of a capital receipt of £40 million to the London Fire Brigade. I also share some concerns about whether the AUV scheme (for office development within the KIBA) would be policy compliant in all respects. However, I acknowledge that the policy matrix which applies to the Application site is very complex, and open to a variety of interpretations. On the basis of the evidence put to the Inquiry I accept that the approach taken on AUV was reasonable in the circumstances.
793. I have seen no evidence of any impropriety in the handling of the application by the GLA and the LB Lambeth. In any event, the invocation of call-in procedure has ensured that the final decision is out of the hands of the Mayor and the Council. The scheme would deliver a substantial amount of affordable housing. I accept that, in theory, more affordable housing could be provided if the residual site value was zero, though this might have consequences for the deliverability of the scheme. However it seems to me inherently unlikely that a site of 1.06 ha with development potential in central London would have a residual value of zero, even with the constraints of the listed building and high maintenance costs. Nor does it seem to me unreasonable that the site value should accrue to the site owner, even where the site is in public ownership. As was pointed out at the Inquiry, the London Fire Commissioner is subject to the general duty of Best Value 'to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness'.
794. I acknowledge also that there may be other schemes which may be viable and policy compliant, whilst delivering a lower capital receipt. However, no party at the Inquiry has produced viability evidence of alternative schemes for me to assess. [243, 244, 451 – 456, 585]
795. With regard to the evidence that is before the Inquiry, I consider it shows that the AH offer was developed in the context of the London Affordable Housing and

Viability SPG 2017, which reflects current policies for meeting housing need stemming from the NPPF. The scheme would make a very substantial contribution to affordable housing provision which aligns well with the requirements of LLP Policies H2 and H4, and I accept that it is the maximum level that the scheme can support. While some objectors may consider that policy for delivering AH is flawed, I do not consider the present call-in application procedure is the proper forum to revisit, let alone rewrite, that approach. [252 – 254, 298, 427, 438, 483]

Conclusion on housing

796. The national priority given to housing delivery was agreed by all parties. I understand LVs concerns about potential conflicts with other policies, and this is addressed in other sections of the report. I will return to it in considering the planning balance. However it is clear from the NPPF and relevant Local Plan policies that the contribution of 443 dwellings, including 40% AH, should carry substantial weight in the balance. I acknowledge that housing delivery is generally on track in Lambeth, but there is strong policy support for optimising the potential of brownfield sites, sites within Opportunity Areas, and sites with high accessibility ratings from all levels of policy. This applies to Lambeth as to all London Boroughs, irrespective of targets. The SoS has recently expressed support for ambitious Boroughs seeking to deliver above targets. [101, 251]
797. With regard to AH as a proportion of the total, the scheme would deliver 40% AH (by habitable rooms) with a mix of tenures split 62:38 social rent/affordable rent to intermediate. A mix of 1-, 2- and 3- bedroom accommodation would be provided and overall the proposal aligns well with the requirements of LLP Policies H2 and H4. The AH proposals were discussed with an experienced registered provider – NHG - who highlighted the need for the smaller 1 and 2 bed units. [107 – 111, 252, 253]

CONSIDERATION 5: THE EFFECT OF THE PROPOSAL ON THE SUPPLY OF LAND FOR EMPLOYMENT USE IN LAMBETH BOROUGH

798. The central and east sites are identified in the LLP as a lying within the South Bank House and Newport Street Key Industrial and Business Area (KIBA). KIBAs are described in the LLP as Lambeth's 'Locally Significant Industrial Sites' as defined in the London Plan, and represent the borough's strategic reservoirs of land for business use. LLP Policy ED1 states that 'Development in KIBAs will be permitted only for business, industrial, storage and waste uses, including green industries and other compatible industrial and commercial uses ... ancillary to, or providing for, the needs of the KIBA'. [177, 457]
799. The whole of the application site is also allocated in Policy PN2 of the LLP as Site 10. Policy PN2 promotes the development of a new District Centre at Vauxhall Cross, and supports opportunities for development that is appropriate to the different characteristics and roles of distinct character areas of Vauxhall. For the Central Embankment Area this means '*enhancing the appearance and character of Albert Embankment, with active ground floor frontages and an expanded range of employment and residential uses ... Development should not create a wall effect through ensuring variation in the roofline and sufficient gaps between buildings, safeguarding strategic and local views and historic significance*'. The preferred use for site 10 is set out as follows:

'Retention/provision of an operational fire station. Mix of uses including residential and employment. Exceptionally, configuration of the site to include some residential within the KIBA boundary may be considered, if it can be demonstrated that this is necessary to provide an acceptable scheme in all other respects. The amount of replacement employment land should be maximised and should include space for small and medium enterprises.'

800. The application was advertised by LB Lambeth as a departure from Policy PN2 in respect of heritage principles, rather than any conflict with employment policy.
801. The application proposes 10,766 m² of new office and workshop floorspace, of which 9,123 m² would be class B1 (a), for a corporate office, and the remaining 1,643 m² would be for medium small and micro businesses (Class B1 (a) (b) (c)). The mix of employment uses is intended to create a cluster for creative and digital industries, suitable for start-ups as well as established businesses, and is anticipated to generate 900 new jobs. Together with other employment generating uses (i.e. the Fire Station, LFB Museum, hotel, retail, restaurant and gym) the proposal is expected to support 1264 jobs overall, which would amount to a significant net gain in employment.
802. The Applicant envisages a mix of employment uses to create a 'dynamic employment hub', with a strong sense of place and a welcoming and engaging environment. The development has the potential to accommodate anything from co-working facilities for small creative and cultural businesses and start-ups to larger employers. The scheme includes provision for medium, small and micro workspaces ranging in size from 20 to 428 m². This diversity of provision would be secured through the s106 obligation.
803. The key concern of LV is that the loss of industrial floorspace on this particular site in Lambeth needs to be seen in the broader context of the availability of such sites in and near the CAZ, and in the role they play in serving other businesses in the CAZ. Other employment uses should be sought for the existing Workshop and Training Centre, which as well as protecting the non-designated heritage asset, would be more in keeping with the KIBA designation. In support of this they provide evidence of the ongoing loss of industrial land, primarily to housing development, which has disproportionately hit the CAZ and central London and evidence of growing demand for industrial land. The emerging mismatch between supply and demand is considered to have negative impacts on London's ability to function as a world leading city⁴²⁶. They point out that Lambeth has less than 50% of the London Borough average of 225 ha, and has already lost 25% of KIBA land in the Borough. This site is the only protected industrial land in the CAZ. LV considers that sites like this should be retained, in accordance with KIBA policy, to provide opportunities for businesses dedicated to supporting CAZ activities, including for example, food and drink preparation for central retail, restaurant and cafe outlets; printers and publishers; couriers and express delivery operators; and other providers of time critical services, which must be in close proximity to their customers. The CAG report concludes that competition for land in these areas is generally intense, industrial users have been squeezed out by other uses, and rental levels are high. [457 – 463]

⁴²⁶ AECOM 2016: London Industrial Land Supply and Economy Study (CD W2). CAG Consulting (2017): London Industrial Land Demand CAG Report CD W3

804. A case in point is James Knight of Mayfair (JKM) which supplies high quality seafood to CAZ restaurants, hoteliers and city offices from 4 railway arches at the junction of Newport Street and Whitgift Street, and for which a central location is essential, and has enabled them to introduce last mile-delivery by electric bike. Concern was expressed at the Inquiry that such businesses might not be seen as compatible with the dense residential development proposed. [589]
805. LV provided examples of two serious inquiries from potential occupiers (Brompton Bicycles in 2013 and an electric vehicle charging hub on 2020), which have not been taken up by the London Fire Brigade, resulting in the workshop building being kept empty pending redevelopment (other than for the short-term 'meanwhile' uses). [462]
806. The evidence of pressures on the supply of centrally located industrial land was not disputed by the Council or the Applicant. However their principal case on employment is that all levels of policy seek to maximise employment provision on opportunity sites, including LLP Policy PN2 in respect of this site, which the appeal proposal does. When last used for Fire Brigade purposes, some 130 people were employed on the central workshop site. The appeal proposal makes provision for 1264 jobs in total, including 900 in the employment hub on the KIBA site. [174, 255, 259, 461]
807. The KIBA Policy (LLP ED2) allows for B1 development, which includes offices. LLP Policy ED3 supports offices over 1000m² in the CAZ and the VNEB. Policy PN2 does not preclude office development on the appeal site (Site 10). The preferred uses include residential and employment. However there is some flexibility, and exceptionally it allows for the configuration of the site to include *some residential* within the KIBA boundary, if it can be demonstrated that this is necessary to achieve an acceptable scheme in other respects. The amount of replacement employment land should be maximised. [179, 259, 260 – 262, 457 – 460]

Conclusion on supply of land for employment uses

808. I acknowledge that the application scheme, which includes a very substantial element of residential development on the KIBA site, is stretching the range of permissible interpretations of Policy PN2 Site 10. 'Some residential' could reasonably be interpreted as a subsidiary element needed to achieve viability. Nevertheless, the policy is also concerned with promoting the regeneration of the site as part of the wider VNEB opportunity area identified in the LP. In my judgement the application scheme achieves the objective of maximising employment provision in terms of jobs provided, albeit that office uses would predominate in the mix. It would include space for small and medium enterprises, to allow for some diversity of occupation, in accordance with policy. [255, 262]
809. With regard to other possible development scenarios for the site, no detailed proposal was put before the Inquiry for consideration, and certainly none which would have enabled the viability of potential alternative schemes to be properly evaluated. I accept that this would be beyond the resources of the organisations represented by Lambeth Village, which is a loose association of community bodies, individuals and cultural organisations. It may be that occupiers could be found for the workshop building. However it has not been established that that type of use, or alternative development proposals, would enable other objectives

- and site potential to be fully realised, as required by the NPPF and the LP. [185, 243 – 245]
810. Policy GG2 of the LP 2021 supports the creation of successful sustainable mixed-use places that make the best use of land. Those involved in planning should 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 readily accessible by public transport, walking and cycling. Policy D3 of the LP 2021 promotes development which makes the best use of land by following a design led approach that optimises the capacity of a site, based on an evaluation of the site's attributes, its surrounding context and its capacity for growth to determine the appropriate form of development.
811. I note that the KIBA policy in the draft DRLLP does state that office development will not be permitted in KIBAs. I was informed at the Inquiry that this policy is the subject of unresolved objections. The draft plan has been to examination, but at the time of writing the outcome of the examination is not known. At this stage, the revised policy attracts little weight. It would, in any event, appear to run counter to LLP Policy ED3 in respect of office development in the CAZ. [179, 304]
812. I also note that in paragraph 6.10 of the explanatory statement to LLP Policy ED1 it is stated that in the case of this KIBA, which falls within the VNEB, KIBA policy takes priority over other policies in the plan. It does not seem to me that this lower case paragraph can be held to modify or qualify what is said in Policy PN2. I was informed that the provision in respect of some housing being acceptable on Site 10 on an exceptional basis is in line with the recommendation of the Inspector who held the examination⁴²⁷. [263]
813. LV also questioned whether uses such as gyms and hotels are appropriate in KIBAs as a matter of principle. Such uses are referenced in the LLP Policy PN2, and I consider that they would be acceptable as part of the mixed-use CAZ regeneration proposal envisaged for the site by inclusion within the VNEB Opportunity Area. [255, 258]
814. With regard to incompatibility of residential development with existing businesses on the site, JKM coexists with existing residential accommodation nearby, and I do not see any reason why the new development would threaten the future of JKM or other businesses operating from the arches. [461, 589]
815. The scheme would deliver a very substantial increase in the number of jobs provided on the site, albeit that there would be a change from the previous use of the workshop, to a scheme which would be predominantly offices, associated with the provision of attractive new public realm with other employment uses and activated frontages. The mix of employment uses proposed would broadly accord with policy objectives for the area as set out in the LP, the LLP and the VNEB Opportunity Area. [188, 255]

⁴²⁷ See CD U2, paras 4.2.1 – 4.2.5

CONSIDERATION 6: OTHER MATTERS

Loss of sui generis uses

816. LV raised the potential of conflict with LLP Policy S1 arising from the conversion of much of the Fire Station building to residential and redevelopment of the Workshop site for residential/employment use. Policy S1(a) supports and encourages the most effective use of community premises to address different and changing priorities and needs in the Borough, in accordance with agreed strategies where relevant, and S1 (b) states that existing community uses will be safeguarded unless there is no existing or future demand for such uses, or development of the site for other purposes will enable the delivery of approved strategies. The current use of the Fire Station premises is sui generis. The operational space requirement has diminished substantially since it functioned as the Fire Brigade Headquarters, and the current needs of the Fire Brigade are proposed to be accommodated within the proposals in a purpose-built new fire station. The listed building would also accommodate the Fire Brigade Museum. Annex 2 of the LLP sets out agreed strategies for the provision of social and community infrastructure within the Borough, including the VNEB opportunity area. There are no proposals for the wider site to be used for community infrastructure purposes and the LLP envisages employment use for the workshop site. It is accepted that the scheme would provide a significant uplift in employment provision on the site as a whole, albeit of a type which LV does not consider appropriate for the KIBA designation. I have addressed this elsewhere in the report. Accordingly, I find that the Application scheme would not involve any conflict with the provisions of LLP Policy S1. [264, 464 – 474]

Transport

817. A number of objectors focused on the transport impacts of the proposal, suggesting that inadequate consideration has been given to parking and servicing arrangements and to excessive vehicle trip rates.

818. The Applicant and the Council have put forward a number of conditions to address the travel impacts of the development, designed to minimise vehicle use, reduce emissions and other environmental impacts and to promote the use of public transport and cycling/walking. These include requirements for a car parking management plan, provision of cycle storage, removal of redundant vehicle accesses, a delivery and servicing management plan (DSMP), and travel plans for residential and non-residential uses. The s.106 agreement would secure financial contributions to the improvement of footways, the delivery of the low traffic network and promotion of a 'Healthy Route Network'. These are standard and well understood provisions used in a wide range of developments across London. They are entirely appropriate for a CAZ location with a PTAL rating of 6B, the second highest possible. All levels of policy have moved away from more generous provision of parking, servicing, and road geometry which in the past constrained the achievement of the more efficient use of land and better townscape outcomes, along with other desirable planning objectives.

819. Beaconsfield and others raised an issue with the number of servicing vehicles generated by the East Site and impacts on pedestrian safety and visibility. LB Lambeth responded that the 30 flats would be expected to generate 13 servicing trips per day at most. The majority of trips would be light goods vehicles, with the ground floor retail generating less than 2 HGV trips per day.

820. The original loading bay strategy has been amended to ensure the retention of footways for pedestrians, with one bay on Whitgift Street being redesigned and that formerly proposed on Newport Street relocated to a more appropriate location nearby. The final DSMP includes a commitment to a 50% target for freight consolidation, with a consequent 50% reduction in service trips. The s106 Agreement also includes a mechanism to control the level of freight consolidation, capping vehicle numbers at 72 daily trips, with provision for monitoring by the developer, and a requirement for service vehicles to follow prescribed routes to limit use of local streets. The Agreement would also prevent occupiers from applying for parking permits and include provisions for car club and cycle hire membership, again with a view to minimising the use of private cars.
821. Councillor Simpson referred to 803 and 879 2-way trips that would be generated by the development in the AM/PM peaks respectively. However, these would not be vehicle trips but trips by all transport modes, the vast majority expected to be by public transport, reflecting the high PTAL rating. Movement of service vehicles would be limited to 72 in accordance with the s.106 agreement. With regard to taxi use earlier proposals for a coach drop-off bay on Albert Embankment and a taxi rank on Lambeth High Street have been removed from the scheme for safety/amenity reasons. There are two alternative taxi ranks within 300m of the site. [267, 579]
822. I appreciate the issues experienced at the Park Plaza Hotel, documented by Mr Allen. Servicing activity would require careful monitoring and enforcement may, on occasion, be required in the event of non-compliance. Nevertheless the development has been designed in accordance with current planning policies which provide strong support for limitations on vehicle use and a corresponding emphasis on traffic minimisation. [588]
823. With regard to the geometry of the junction between Black Prince Road and Lambeth High Street, there appears to be no reason why it could not be amended, if necessary, to accommodate the extra space that Mr Weighton considers necessary to allow large vehicles to make the left turn. [268, 587]
824. In summary I conclude that the development meets the appropriate standards and the Applicant has properly addressed the policy requirements to minimise vehicle usage and associated environmental impacts, in an urban location which has a very high public transport accessibility rating. The development would comply with the relevant policies of the LP and LLP. In my view there is no reason to withhold consent on traffic and transport grounds.

Optimum Viable Use

825. Para 196 of the NPPF states that 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. Optimum viable use is to be determined on a case by case basis, in the light of relevant evidence. Further guidance is given in the PPG: *'If there is only one viable use, that use is the optimum viable use. If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum*

*viable use may not necessarily be the most economically viable one. Nor need it be the original use.*⁴²⁸

826. The Applicant concludes that the heritage benefits of the scheme outweigh any heritage harm, so there is no need to consider whether the proposal represents OVU as part of the para 196 balance. However, the Applicant suggests that it would be open to the SoS to conclude that it would be the OVU in considering the para 196 balance. Dr Miele's evidence was that the proposals do comprise the OVU, but he does not rely on that to reach his position of net heritage benefit. In support of this conclusion on OVU he makes the following points; no third party is claiming an alternative that is to be preferred because it achieves the same benefits without the degree of harm acknowledged by the Applicant; 'Viable' in a paragraph 196 context has the meaning of 'deliverable'; an optimum viable use avoids fragmentation of the asset, and therefore secures its long-term management; there is no less damaging proposal before the SoS.
827. LB Lambeth concluded that the Application scheme comprises the OUV, on the basis that it was the outcome of an iterative process which ultimately led to a scheme that officers considered was the best option for the scheme, taking into account the various local and strategic policy requirements, aims and objectives.
828. In order to allow the SoS to reach a conclusion that the scheme represents OVU I consider that there would have to be appropriate evidence of other viability assessed schemes before the Inquiry. There is no such evidence before me. I note the Inspector in the Native Land scheme considered that the proposed residential conversion of the Fire Station was the OVU for the listed building, but this is a different scheme, with different impacts on the listed building, particularly as regards the double height roof extension and, alterations to the fabric at the rear, the new-build hotel and the bridge. [235, 236, 243 – 245, 388, 389 – 394]
829. LV argue that the onus lies on the Applicant to demonstrate that the scheme constitutes the OVU. I do not understand that to be implicit in paragraph 196 of the NPPF, which speaks of weighing harm against public benefits 'including, where appropriate, securing its optimum viable use'. It is not a mandatory requirement in all cases. [389, 394]
830. The Gibson case, cited by LV, concerned the failure of the local planning authority to take into account an alternative planning permission for a scheme (considered to be the optimum use for the listed building in question by English Heritage) as a material consideration in granting permission for a different scheme under challenge. In the present case, there is no other scheme with planning permission to make comparisons with before the Inquiry, nor any costed alternative scheme. In the absence of any such alternative, there is no evidence which would enable the decision maker to conclude that there is an alternative viable scheme that would involve less harm to heritage assets. The decision therefore falls to be made by weighing less than substantial harm to significance against the public benefits.

⁴²⁸ Paragraph: 015 Reference ID: 18a-015-20190723

CONSIDERATION 7: PLANNING BALANCE AND OVERALL CONCLUSION

831. The scheme would deliver a number of benefits. Firstly, through the restoration and reuse of the two currently underused listed buildings, including partial reuse for their original purposes which would secure their long-term future. Secondly, through the provision of a new 'fit-for-purpose' fire station and emergency base for central London, in a strategic location where rapid response times can be achieved. Thirdly, through the creation of a permanent home for the London Fire Brigade Museum at its original site and within the former Fire Brigade HQ. Fourthly, through the delivery of much needed new housing, including 40% affordable housing. Fifthly, the creation of space for some 1,264 on-site jobs across a range of sectors (including medium, small and micro workspaces aimed at small creative and cultural businesses and start-ups). And sixthly, the creation of 2,084 m² of new public realm, primarily within the central site area, including a range of squares and spaces with active commercial frontages and 24 hour public access. Substantial weight should be attached to these benefits in assessing the planning balance. [192- 194, 233, 483 – 488]
832. There was considerable support in principle for the achievement of these objectives, while objectors had detailed reservations relating to the type of employment and housing, the quality of the public realm and the nature of the Museum proposals. The proposals would be generally in accordance with the LP and LLP strategic and local policies for making effective use of previously developed land to support the delivery of housing, including affordable housing, and jobs. These policies derive support from the NPPF.
833. I have found that there would be some harm to the significance of the London Fire Brigade HQ, resulting from the addition of the roof-top restaurant and bridge, the loss of some internal fittings, changes to the rear elevation and the significant loss and enclosure of the former drill yard. The two tall towers on the central site would diminish the visual importance of the listed building in its setting on the Albert Embankment, particularly when viewed from across the river at Millbank. The harm to the listed buildings would be less than substantial. Nevertheless in accordance with the NPPF and relevant caselaw it should be accorded great importance and weight.
834. There would also be related harm to the significance of the AECA, arising principally from the changes to the listed building and its setting. Additional harm to significance would be caused by the demolition of the unlisted workshop/training centre, which is assessed in the AECA statement as making a positive contribution to significance. I accept that the AECA is a large and diverse conservation area and the harm would accordingly be less than substantial. There would be less than substantial harm to the setting of Lambeth Palace and the associated conservation area.
835. With regard to effects on the setting of the Palace of Westminster, it is accepted that the identified harm would be less than substantial. The development would be visible in LVMF View 4A.2 (Primrose Hill) and View 2B.1 (Parliament Hill East of Summit) behind the Palace of Westminster, and would make the upper parts of the silhouette more difficult to distinguish against the currently more open background. I accept that this effect is minimal when viewed with the naked eye. Given the nature and significance of the views however it is reasonable to assume that some observers would use magnification and with

- binoculars or zoom lenses the effect would be much more apparent. Much effort has gone into protecting such views in the LP and the LVMF and I do not consider that such less than substantial harm to the setting of the palace of Westminster should be dismissed lightly. It should attract considerable importance and weight.
836. The identified heritage harms would involve a degree of conflict with the relevant policies of the LP and LLP, insofar as they would involve less than substantial harm to a range of important heritage assets. However the NPPF requires that the harm should be weighed against the public benefits of the proposal. [299, 356,
837. There would be harm to the living conditions of residents by reason of a significant loss of daylight to windows of habitable rooms, principally affecting Whitgift House and 2 Whitgift Street, but including a limited number of windows in other nearby residential properties. I acknowledge that the retained VSC levels would be in the mid-teens and that this has been found acceptable elsewhere in London. Nevertheless, there would be some reductions of 40% or more on current levels, which is well above the BRE guidelines at which an increase in gloominess would be noticeable. I accept that the BRE guidelines are not mandatory but to my mind such reductions would result in unacceptable living conditions. Suggestions that higher daylight levels are more applicable in suburbs and that poorer conditions may be considered acceptable in dense inner-city areas should be treated with great caution.
838. As is clear from the evidence, there is a very complex policy matrix to inform consideration of this proposal. Some policies pull in different directions and there is scope for widely different interpretations to be placed on key elements of policy. It is unsurprising for example, that objectors should attach high importance to the statement in Policy PN2 Site 10 of the LLP that *'the heritage sensitivity of the site makes it inappropriate for tall building development'*, while the Applicant and Council have highlighted the apparently contradictory statement that *'buildings of up to 80 to 90 metres may be supported'*. [330,
839. The application site lies within the VNEB opportunity area, identified in the LP with indicative capacity for 18,500 homes and 18,500 jobs. More detailed policy guidance is given in LLP Policy PN2 where the site is identified as Site 10. The tall buildings would fall within the height guidance for this part of Albert Embankment of 80 to 90 metres, though this is qualified: *'a variation in height will be sought to create a sloped/waved environment. The appropriateness of development on this scale will be subject to the relationship and impact of tall buildings on the settings of heritage assets, views, neighbouring communities and other related policies'*.
840. There are underlying tensions within the policy criteria for Site 10. The scheme would comply with the preferred use for the retention/provision of an operational fire station and would provide a mix of uses including residential and employment. With regard to the design principles, I have reached the following conclusions:
- (i) The development would provide a broadly sympathetic re-use of the listed building, though some less than substantial harm would be caused to the building and its setting in the AECA.

- (ii) It would not fully respect the silhouette of the head-quarters building as seen from across the river.
- (iii) It would retain the ventilation obelisk within the site as a whole, though it would be moved to the new public realm, and may suffer by being moved.
- (iv) It would not relate well in height and bulk to the adjacent townscape taking into account the height, massing and scale of neighbouring buildings and the historic built form of the area. I accept there are precedents for tall buildings in this part of the Albert Embankment, but my assessment is that they have not made a positive contribution to the character and appearance of the AECA. The scheme would be in direct conflict with the statement that *'the heritage sensitivity of the site makes it inappropriate for tall building development'*.
- (v) 8AE would continue to make a positive contribution to the townscape, notwithstanding that it would be affected by some less than substantial harm as set out above.
- (vi) The scheme would involve some harm to the living conditions of neighbouring residents from reductions in daylight, so would not fully protect residential amenity.
- (vii) It would focus employment uses in and around the viaduct and Lambeth High Street.
- (viii) It would provide active residential frontages.
- (ix) It would avoid ground-floor residential uses for the most part.
- (x) It would provide public realm improvements, reduce traffic dominance and generally promote walking and cycling.
- (xi) It would maximise the amount of replacement employment, and includes space for small and medium enterprises.
- (xii) It would provide a reasonably mixed and balanced community with an acceptable mix and tenure split/distribution of residential accommodation.
- (xiii) It would allow for connection to a future district heating network.

841. In summary, while the scheme would deliver on a number of the design principles, there would be conflict with other key principles in respect of heritage and residential amenity. [332, 335,

842. There is a similar tension with Policy for protecting the KIBA. LLP Policy ED1 does not include residential as a use permissible in KIBAs. However, there is a specific reference in Policy PN2 which allows for residential use within the KIBA on Site 10: *'Exceptionally, configuration of the site to include some residential within the KIBA boundary may be considered, if it demonstrated that it is necessary to achieve an acceptable scheme in all other respects'*.

843. In this regard I find some justification for LVs view that the Applicant has sought to maximize residential development on the site as a whole and within the KIBA, rather than to optimise it which would have been more consistent with the achievement of *'an acceptable scheme in all other respects'*. I understand that there is a very good reason for this, which is to achieve the higher levels of

housing delivery sought by the LP, and to deliver 40% of the housing as affordable housing, which would not otherwise be achievable or viable. However, in my opinion this has been achieved by raising the height of the tall buildings on the central site to 24 and 26 stories, with consequent harm to the significance of heritage assets and living conditions. [415, 446 – 450, 484 - 486

844. Having regard to these identified policy conflicts, I do not agree with the Applicant's conclusion that the scheme would accord with the development plan as a whole, notwithstanding compliance with a number of other individual policies listed by Mr Traves in his Proof of Evidence (CD U11, paras 3.3.5 – 3.3.12). I note that LB Lambeth accepted that the Application was a departure from policy, and advertised it accordingly, but resolved to approve it on the basis that the benefits of the scheme outweighed the heritage harm. The heritage harm is less than substantial, but affects a number of important heritage assets, and attracts great weight in accordance with the NPPF. While I do not underestimate the benefits of the scheme, and attach substantial weight to them, I find that the heritage harm and harm to the living conditions of residents are not outweighed by the public benefits, including heritage benefits, and recommend that planning permission and listed building consent should not be granted. If the Secretary of State disagrees with me and considers the Applications should be approved, then the Conditions in Appendix B should be attached.

David Richards

Inspector

APPEARANCES

FOR THE APPLICANT:

Rupert Warren QC

He called

Fred Pilbrow	Pilbrow and Partners
Dr Chris Miele	Montagu Evans LLP
Andy Rowe	London Fire Commissioner
Justin Bolton	Point 2
Claire Dickinson	Quod
Neil Goldsmith	Lichfields
Hannah Whitney	Lichfields

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Reed QC

He called

Doug Black	Conservation and Design, LB Lambeth
Jason Traves	Development Management, LB Lambeth
Dr Anthony Lee	BNP Paribas Real Estate
Catherine Carpenter	Policy and Placeshaping, LB Lambeth
Ian Dias	Schroeders Begg
Emily Kingston	Transport, LB Lambeth

FOR LAMBETH VILLAGE (RULE 6):

Michael Ball

Waterloo Community Development Group

He called

Paul Velluet	Conservation Architect
Dr Paul Littlefair	BRE Group
Dr Jessica Ferm	Bartlett School of Planning, UCL
Christopher Woodward	The Garden Museum
David Crawforth	Beaconsfield Gallery
Naomi Siderfin	Beaconsfield Gallery (statement taken as read by agreement)
George Turner	
Michael Ball	Waterloo Community Development Group

FOR WESTMINSTER CITY COUNCIL:

Charles Streeten of Counsel

He called

Tom Burke

Design and Conservation, Westminster City Council

INTERESTED PARTIES:

Baroness Hoey	Former MP for Vauxhall
Diana Mukuma	Local resident
Donald Weighton	Local resident
Erika Winstone	Local resident
Dr Gillian McFarland	Local resident
Helen Perrault-Newby	Local resident
Abdihakim Hassan	Local resident
Jaakko Nousiainen	Exhibitor at Beaconsfield
Katherine Wallis	Local resident
Lucy Gregory	Exhibitor at Beaconsfield
Richard Pinder	Local resident
Stephen Nelson	Local resident
Victoria Conran	Local resident
Cllr Joanne Simpson	Ward councillor, Prince's Ward
Mohamed Hussain	Local resident
Michael Curran	Exhibitor at Beaconsfield
Revd Canon Angus Aagaard	Team Rector, North Lambeth Parish
Helen Monger	London Gardens Trust
Tom Foxhall	Historic England
Barbara Weiss	Skyline Campaign
Giles Semper	
Dr Angela Weight	read statement of Gursen Houssein re Beaconsfield
Pascal Tiernan	James Knight of Mayfair

APPENDIX A: INQUIRY DOCUMENTS

All documents related to the Application are available to view on

https://drive.google.com/drive/folders/1PnecsDOzJ5f17ruHnRhFwX_njoozNxOL

Number	Title
T) Applicant – Evidence and Rebuttal	
CD T1	Design Fred Pilbrow PoE
CD T2	Heritage Chris Miele PoE
CD T3	Daylight & Sunlight Justin Bolton PoE
CD T4	Viability Claire Dickinson PoE
CD T5	LFC Andy Roe PoE
CD T6	Applicant Neil Goldsmith PoE
CD T7	Summary of Design Proof - Fred Pilbrow
CD T8	Summary of Heritage Evidence - Dr Chris Miele
CD T9	Summary of Daylight and Sunlight Proof - Justin Bolton
CD T10	Summary of Viability Proof - Claire Dickinson
CD T11	Summary of LFC Evidence - Andy Roe
CD T12	Applicant Rebuttal 24.11.20 with appendices
CD T13	Daylight and Sunlight Presentation 271120
CD T14	Design Animation Track Stills
CD T15	Fred Pilbrow EiC Presentation
U) Lambeth – Evidence and Rebuttal	
CD U1	Catherine Carpenter Summary
CD U2	Catherine Carpenter PoE
CD U3	Doug Black Summary
CD U4	Doug Black PoE
CD U5	Doug Black Appendices
CD U6	Doug Black Images
CD U7	Emily Kingston PoE
CD U8	Ian Dias Summary
CD U9	Ian Dias PoE
CD U10	Jason Traves Summary
CD U11	Jason Traves PoE
CD U12	Anthony Lee Summary
CD U13	Anthony Lee PoE
CD U14	Anthony Lee Appendices
CD U15	Catherine Carpenter Rebuttal
V) Westminster – Evidence and Rebuttal	
CD V1	Westminster Thomas Burke
CD V2	WCC unaccompanied SV suggested viewpoints
W) Lambeth Village, Garden Museum, Beaconsfield – Evidence and Rebuttal	
CD W1	JFerm - 8AE Industry Proof 201110
CD W2	Ferm - 8AE Appx 1 AECOM London Industrial Land Supply 2015

CD W3	Ferm - 8AE Appx 2 CAG consulting 2017 for GLA
CD W4	Ferm Appx3 Ferm Jones 2016 Urban Studies
CD W5	Appx 4 Ferm Jones London's Industrial Land 2015
CD W6	Ferm Appx 6 - Brompton emails
CD W7	EV WORKSHOP TFL
CD W8	8AE Michael Ball PROOF 111120
CD W9	Delancey Bid
CD W10	HCA employment densities guide 2010
CD W11	Paul Littlefair summary
CD W12	Paul Littlefair proof
CD W13	Former London Fire Brigade Headquarters and Lambeth Fire Station, Summary of Paul Velluet's Proof of Evidence
CD W14	Former London Fire Brigade Headquarters and Lambeth Fire Station, Proof of evidence of Paul Velluet, Part 1, R3
CD W15	Former London Fire Brigade Headquarters and Lambeth Fire Station, Proof of evidence of Paul Velluet, Part 2, The Appendices
CD W16	Summary Christopher Woodward
CD W17	Proof of Evidence Christopher Woodward
CD W18	Woodward Evidence Appendix A - BRE report
CD W19	000_TGM_AVR Document_P01
CD W20	Beaconsfield_Summary_8AE
CD W21	Beaconsfield Proof of Evidence & Appendices 8AE
CD W22	Ball Rebuttal Pilbrow & Miele 8AE 241120
CD W23	Ferm Rebuttal Carpenter 8AE 241120
CD W24	Ferm Appx 1 HousingImplementationStrategyFebruary2013
CD W25	Ferm Appx 2 Housing Implementation Strategy 2015
CD W26	Ferm Appx 3 Housing implementation strategy September 2016
CD W27	Ferm Appx 4 Annual Position Statement 2019
CD W28	Ferm Rebuttal Appx 5 - Extracts from DRLLP EiP
CD W29	Comments on Tom Foxall's Statement
CD W30	Beaconsfield Rebuttals
X) Documents/Submissions during the inquiry [01 Dec onwards]	
CD X1	Applicant Opening Points
CD X2	Lambeth Opening Statement
CD X3	Westminster Opening Statement
CD X4	Lambeth Village Opening submission 011220
CD X5	Miele Corrections
CD X6	Parts 1 & 2 - Pilbrow's 2018 presentation to the LAC
CD X7	Parliament Sq Animation
CD X8	Response to Letter from Planning Inspectorate (Dec 2020)
CD X9	1528 PoE Pilbrow Corrections
CD X10	https://vimeo.com/user/113615799/folder/2445505
CD X11	Call-in Decision – Shell Centre Ref 2205181
CD X12	Applicant Images for Fri WCC HE Session
CD X13	WCC Documents for Evidence Fri 04 Dec
CD X14	Transcript Lambeth Planning Comm 031219 [Removed per Inspector direction 04 Dec]

CD X15	Pts1-5 Q&R by U&I 01Mar19
CD X16	Thomas Burke Pres Slides
CD X17	Paul Littlefair Pres Slides
CD X18	Justin Bolton Pres Slides
CD X19	Ian Dias Pres Slides
CD X20	Joint Position Statement on BPS 2016 Assessment
CD X21	Whitechapel Sainsburys Appeal Ref 17/3190685
CD X22	Dias rebuttal to Littlefair - Whitgift Hse Room R8 30
CD X23	Updated Justin Bolton Pres 081220
CD X24	Peachtree Burgess Business Pk SoS Decision 3225548
CD X25	Example app Pope's Road ref 20-01347-FUL
CD X26	8AE correspondence with HE & examples of HE objection letters
CD X27	Summary Tom Foxall
CD X28	S106 Agreement v04Dec20
CD X29	Parkhurst Rd Judgement EWHC 2018-991
CD X30	Lambeth 8AE CIL compliance table 10Dec20
CD X31	8AE PP Decision Notice List of Docs & Drgs 10.12.20
CD X32	8AE LBC Decision Notice List of Docs & Drgs 10.12.20
CD X33	Agreement - Summary Note of Aff Hsg Review Provisions
CD X34	SoS Letter to Mayor 10Dec20, Appendices A & B
CD X35	Pres Slides Michael Ball
CD X36	Response to Cllr Simpson
CD X37	Signed completed s106 Agreement
CD X38	8AE PP Decision Notice List of Documents and Drawings 16.12.20 v2
CD X39	1528-8 P&P Albert Embankment Drawing Issue Sheet 161220
CD X40	PINS EIA Advisor response to Reg 25 info 14 Dec 2020
CD X41	8AE Rebuttal note by Beaconsfield
CD X42	Closing Submissions LAMBETH VILLAGE 181220
CD X43	Closing WCC 181220
CD X44	LB Lambeth Closing Submission181220
CD X45	8AE Closing Submissions Applicants December 2020
Y)	Third Party Representations
CD Y1	George Turner submission (Summary; Statement; Statement + Appendices)
CD Y2	Creative Sparkworks
CD Y3 – Y7	Third Party Comments - Redacted
CD Y8	Councillor Lazzaro Pietragnoli LB Camden
CD Y9	Councillor Lazzaro Pietragnoli LB Camden
CD Y10 – Y16	Third Party Comments - Redacted
CD Y17	Councillor Flick Rea LB Camden
CD Y18	Third Party Comments - Redacted
CD Y19, 106, 107	Save Britains Heritage
CD Y20	Third Party Comments - Redacted
CD Y21	Tom Foxall Historic England statement and summary
CD Y22; 25; 27	Cllr Simpson LB Lambeth
CD Y23	Third Party Comments - Redacted

CD Y24	Thorney Island Society
CD Y26	Veolia Waste
CD Y28 – Y36	Third Party Comments - Redacted
CD Y37	Beaconsfield Finnish Institute
CD Y38 – Y40	Third Party Comments - Redacted
CD Y41	Florence Eshalomi MP
CD Y42 – Y57	Third Party Comments - Redacted
CD Y58	Massey Shaw Education Trust
CD Y59	Fire Heritage Network Uk
CD Y60 – Y95	Third Party Comments - Redacted
CD Y96	London Gardens Trust
CD Y97 – Y105	Third Party Comments - Redacted
CD Y108 – 126	Third Party Comments - Redacted
CD Y127	Vauxhall One Business Improvement District (BID)
CD Y128	Third Party Comments - Redacted
CD Y129	Third Party Comments – Donald Weighton Proof + Diagram
CD Y130	Third Party Comments - Erika Winstone
CD Y131	Third Party Comment - Helen Perrault-Newby
CD Y132	Christopher Woodward Pres
CD Y133	Third Party Comments – London Middlesex Archaeological Society
CD Y134	Third Party Comments - Paschal Tiernan
CD Y135	Third party comment - Gursein Hussain
CD Y136	Third party comment - Lucy Gregory
CD Y137	Third Party Comments - Gillian McFarland
CD Y138	Third Party Comments - Naomi Siderfin
CD Y139	Third Party Comments - Helen Monger
CD Y140	Third Party Comments – Victoria Conran
CD Y141	Third Party Comments – Gary Allen
CD Y142	Third Party Comments – Giles Semper

APPENDIX B: Planning & Listed Building Consent Conditions

Planning Application (19/01304/FUL)

- 1) The development to which this permission relates must be begun no later than four years from the date of this decision notice.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in Appendix C to this decision, other than where those details are altered pursuant to the conditions of this planning permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) No construction (excluding soft strip, asbestos removal and demolition) within the relevant phase/sub-phase of the development shall commence until a detailed drainage scheme for the relevant phase/subphase designed with regard to the drainage hierarchy set out in the London Plan, has been submitted to and approved in writing by the Local Planning Authority.

The drainage scheme for each phase/sub-phase of development shall be implemented and maintained in accordance with the approved details and retained permanently thereafter. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority. The drainage scheme shall include:

- a) The final surface water drainage design to scale, showing all connections, SuDS features and water storage details for the entire site.
- b) Details of how the scheme achieves betterment compared to the existing peak surface water runoff rates from the site.
- c) Details of a rainwater harvest system (if proposed).
- d) Details of how trees and planters will be located to maximise betterment.
- e) Any offsite consents required, such as agreed surface water discharge consents from Thames Water Utilities.
- f) A maintenance and management plan for the proposed drainage scheme.

All provisions for drainage must be undertaken in accordance with the details hereby approved, unless the written consent of the Local Planning Authority is received for any variation, and thereafter retained as such for the lifetime of the development.

Reason: To minimise the risk of flooding (Policy EN6 of the Lambeth Local Plan 2015).

- 4) (A) Prior to the commencement of any phase/sub-phase of the development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to, and approved in writing by, the Local Planning Authority:
- (i) A site investigation scheme, based on previous findings to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - (ii) The site investigation results and the detailed risk assessment resulting from (i);
 - (iii) An options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
 - (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The development of the relevant phase/sub-phase shall thereafter be implemented in accordance with the details and measures approved and shall thereafter be retained as such for the lifetime of the development.

(B) Prior to occupation of any part of the development in the relevant phase/sub-phase, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for the relevant phase/sub-phase shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

(C) If, during development, contamination not previously identified is found to be present at the site then no further development within that phase/sub-phase shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination will be dealt with.

Reason: For the protection of controlled waters and the site is located over a Secondary Aquifer and it is understood that the site may be affected by historic contamination. (Policies SD1 of the London Plan and EN4 of the Lambeth Local Plan 2015).

- 5) Prior to the commencement of soft strip to suit each relevant phase/sub-phase an asbestos survey of buildings to be demolished shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved survey.

Reason: For the protection of controlled waters and the site is located over a Secondary Aquifer and it is understood that the site may be affected by historic contamination. (Policies SD1 of the London Plan and EN4 of the Lambeth Local Plan 2015).

- 6) Prior to the commencement of each phase/sub-phase of development (excluding demolition) a Construction and Environmental Management Plan (CEMP) for the relevant phase/sub-phase shall be submitted to and approved in writing by the local planning authority.

The CEMP shall include details of the following relevant measures:

- (i) An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
- (ii) A description of management responsibilities;
- (iii) A description of the construction programme which identifies activities likely to cause high levels of noise or dust;
- (iv) Site working hours and a named person for residents to contact;
- (v) Detailed Site construction logistics arrangements;
- (vi) Details regarding parking, deliveries, and storage, including confirmation that the developer will join the VNEB construction working group.
- (vii) Details of an air quality and dust management plan;
- (viii) Details of noise mitigation measures to be deployed including identification of sensitive receptors and ongoing monitoring;
- (ix) Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
- (x) Measures to prevent the deposit of mud and debris on the public highway; and
- (xi) Communication procedures with the LBL and local community regarding key construction issues.

The construction of each phase/sub-phase shall thereafter be carried out in accordance with the details and measures approved in the CEMP for the related phase/sub-phase, unless the written consent of the Local Planning Authority is received for any variation.

Reason: This is required prior to construction to avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity during the whole of the construction period. (Policies T6 and Q2 of the Lambeth Local Plan (2015)).

- 7) No impact piling or other penetrative foundation work shall take place until a Piling Method Statement for the relevant phase/sub-phase has been submitted to and approved in writing by the Local Planning Authority. The Piling Method Statement shall include details of:
- a) The depth and type of piling to be undertaken;

- b) The methodology by which such piling will be carried out;
- c) Measures to prevent and minimise the potential for damage to subsurface water infrastructure;
- d) Measures to ensure there is no resultant unacceptable risk to groundwater as a result of the work; and
- e) The programme for the works.

Any piling or other penetrative works must be undertaken in accordance with the terms of the approved Piling Method Statement, unless the written consent of the Local Planning Authority is received for any variation.

Reason: To ensure that any piling works would not unduly impact upon the local underground sewerage utility infrastructure and in order to avoid adverse environmental impact upon the community. (Policies EN5 and EN6 of Lambeth Local Plan 2015).

- 8) No development other than asbestos removal, soft strip and demolition to existing ground level shall take place within any phase/ sub-phase until a Stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority with respect to the relevant phase/sub-phase. For land that is included within the WSI, no demolition below existing ground level or development shall take place for that phase or sub-phase other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place for that phase or sub-phase other than in accordance with the agreed stage 2 WSI which shall include:

- a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
- b) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: Heritage assets of archaeological interest may survive on the site. The planning authority wishes to secure the provision of appropriate archaeological investigation, including the publication of results, in accordance with Section 12 of the NPPF (Policy HC1 of the London Plan).

- 9) Prior to the demolition and/or construction works of any phase/sub-phase commencing, full details of the proposed mitigation measures for impact on air quality and dust emissions for the relevant phase/ sub-phase, in the form of an Air Quality and Dust Management Plan (AQDMP), for the demolition and/or construction phase of development have been submitted to and approved in

writing by the local planning authority. In preparing the AQMDP(s) the applicant should follow the guidance on mitigation measures for Medium Risk sites set out in Appendix 7 of the Control of Dust and Emissions during Construction and Demolition SPG 2014. Both 'highly recommended' and 'desirable' measures should be included. The AQDMP can form part of the Demolition Management Plan (DMP) or Construction Environmental Management Plan (CEMP). The AQDMP(s) shall include the following for each relevant phase/sub-phase of work (demolition and construction):

- a) A summary of work to be carried out;
- b) Proposed haul routes, location of site equipment including supply of water for damping down, source of water, drainage and enclosed areas to prevent contaminated water leaving the site;
- c) Inventory and timetable of all dust and NOx air pollutant generating activities;
- d) List of all dust and emission control methods to be employed and how they relate to the Air Quality (Dust) Risk Assessment;
- e) Details of any fuel stored on-site;
- f) Details of a trained and responsible person on-site for air quality (with knowledge of pollution monitoring and control methods, and vehicle emissions);
- g) Summary of monitoring protocols and agreed procedure of notification to the local authority; and
- h) A log book for action taken in response to incidents or dust-causing episodes and the mitigation measure taken to remedy any harm caused, and measures employed to prevent a similar incident reoccurring.

The demolition and/or construction phases shall not commence until all necessary pre-commencement measures for the relevant phase or sub-phase described in the AQDMP(s) have been put in place and set out on site. Demolition and construction shall thereafter be carried out and monitored in accordance with the details and measures approved in the AQDMP(s).

Reason: Development must not commence before this condition is discharged to manage and mitigate the impact of the development on the air quality and dust emissions in the area and London as a whole, and to avoid irreversible and unacceptable damage to the environment (London Plan Policies SD4 and SI 1, and the London Plan SPGs for Sustainable Design and Construction and Control of Dust and Emissions during Construction and Demolition).

- 10) No non-road mobile machinery (NRMM) shall be used on the site unless it is compliant with the NRMM Low Emission Zone requirements (or any superseding requirements) and until it has been registered for use on the site on the NRMM register (or any superseding register).

Reason: To ensure that air quality is not adversely affected by the development in line with London Plan Policy SI 1 and the Mayor's SPG: The Control of Dust and Emissions during Construction and Demolition.

- 11) Prior to the commencement of building works above ground within any phase or sub-phase a scheme of noise and vibration attenuation for the relevant phase or sub-phase shall be submitted to and approved in writing by the Local Planning Authority. The approved noise and vibration attenuation measures shall thereafter be retained and maintained in working order for the duration of the use in accordance with the approved details for the lifetime of the development.

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of future occupiers (Policy Q2 of the Lambeth Local Plan 2015).

- 12) The residential units shall be designed and constructed to meet the following noise standards:
- a) for living rooms, 35dB LAeq 16 hour between 0700 and 2300 hours;
 - b) for bedrooms, 30dB LAeq 8 hour between 2300 and 0700 hours; and
 - c) to not normally exceed 45dB (A) max for any individual noise event (measured with F time weighting) between 2300 and 0700 hrs.

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of future occupiers (Policy Q2 of the Lambeth Local Plan 2015).

- 13) Prior to the commencement of above ground construction works for each phase/sub-phase, a scheme of measures to ensure that all residential units have access to amenity space within the development where noise levels do not exceed 55dB LAEQ (16 hour) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of post construction validation. Thereafter the development of each phase/sub-phase shall be carried out in accordance with the approved details and thereafter retained as such for the lifetime of the development and a separate validation report shall be submitted to and approved in writing by the Local Planning Authority 3 months prior to occupation of each phase/sub-phase.

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of future occupiers (Policy Q2 of the Lambeth Local Plan 2015).

- 14) Prior to the commencement of building works above ground of the relevant part of any phase/subphase of the development, full details (including elevational drawings) of any internal and external plant equipment and trunking, including building services plant, ventilation and filtration equipment and commercial kitchen exhaust ducting / ventilation for that phase or sub-phase, shall be submitted to and approved in writing by the Local Planning Authority.

All flues, ducting and other equipment shall be installed in accordance with the approved details prior to the use commencing on site and shall thereafter be maintained in accordance with the manufacturer's instructions and retained as such for the lifetime of the development.

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of future residential occupiers or of the area generally (Policy Q2 of the Lambeth Local Plan 2015).

- 15) The operation of any building services plant, shall not commence until an assessment of the acoustic impact arising from the operation of all internally and externally located plant for each phase/subphase has been submitted to and

approved in writing by the local planning authority. The assessment of the acoustic impact shall be undertaken in accordance with BS 4142: 2014 (or subsequent superseding equivalent) and current best practice, and shall include a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed building services plant complies with the limits established by the approved Noise and Vibration ES Chapter.

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of future residential occupiers or of the area generally (Policy Q2 of the Lambeth Local Plan 2015).

16) Prior to the completion of the frame of each new building of the development hereby permitted, the following details of the materials to be used in the external elevations of that building shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be thereafter built in accordance with the approved details. The following details are required:

- a) a technical specification schedule of the materials;
- b) a sample panel to be provided on site (1m by 1m); and
- c) a photographic record of the sample panels.

Reason: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area along with setting of the nearby conservation areas (Policies Q6, Q7, Q8, and Q22 of the Lambeth Local Plan 2015).

17) Prior to construction of the glass extension hereby permitted on the roof of the west site building (8 Albert Embankment) the following details of the materials to be used for the exterior of the building shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be thereafter built in accordance with the approved details and thereafter retained as such for the lifetime of the development. The following details are required:

- a) a technical specification schedule of the materials;
- b) a sample panel to be provided on site; and
- c) a photographic record of the sample panels.

Reason: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area along with setting of the nearby conservation areas (Policies Q6, Q7, Q8, and Q22 of the Lambeth Local Plan 2015).

18) Notwithstanding the details shown on the approved drawings, prior to the commencement of works within the relevant part of each new building, construction drawings (including sections at 1:10 scale) of all external elements of the relevant new building (including rain water goods, soffits, copings, ledges, reveals, shopfronts, windows and balcony screens where required) for the relevant building shall be submitted to and approved in writing by the Local Planning Authority. The development of the relevant building shall be implemented in accordance with the approved details and retained permanently thereafter for the lifetime of the development.

Reason: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area along with setting of the nearby conservation areas (Policies Q6, Q7, Q8, and Q22 of the Lambeth Local Plan 2015).

- 19) No plumbing or pipes, other than rainwater pipes, shall be fixed to the external faces of buildings.

Reason: To ensure an appropriate standard of design (Policies Q6, Q8 and PN3 of the Lambeth Local Plan 2015).

- 20) At least ten per cent of the residential units hereby permitted shall be constructed to comply with Part M4 (3) of the Building Regulations. Any communal areas and accesses serving the M4 (3) compliant Wheelchair User Dwellings should also comply with Part M4 (3).

Reason: To secure appropriate access for disabled people, older people and others with mobility constraints (Policy D7 of the London Plan and Policy Q1 of the Lambeth Local Plan 2015).

- 21) Prior to the commencement of the relevant use hereby permitted, details of waste and recycling storage (including details of ventilation of bin stores) for that part of the development shall be submitted to and approved in writing by the local planning authority. The waste and recycling storage shall be provided in accordance with the approved details prior to the commencement of the relevant use hereby permitted, and shall thereafter be retained solely for its designated use and retained as such for the lifetime of the development. The waste and recycling storage areas/facilities shall comply with the Lambeth's Refuse & Recycling Storage Design Guide (2013), unless it is demonstrated in the submissions that such provision is inappropriate for this specific development.

Reason: To ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area (policies Q2 and Q12 of the London Borough of Lambeth Local Plan (2015)).

- 22) Prior to the occupation of the relevant use hereby permitted, a Waste Management Strategy for the relevant phase/sub-phase shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be built in accordance with the approved details and shall thereafter be retained solely for its designated use for the lifetime of the development. The uses hereby permitted shall thereafter be operated in accordance with the approved Waste Management Strategy.

Reason: To ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area (policies Q2 and Q12 of the London Borough of Lambeth Local Plan (2015)).

- 23) Prior to the occupation of the relevant phase/sub-phase of the development hereby permitted, details of the provision to be made for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking for the relevant phase/sub-phase shall thereafter be implemented in full in accordance with the approved details before the use hereby permitted

commences and shall thereafter be retained solely for its designated use and for the lifetime of the development.

Reason: To ensure adequate cycle parking is available on site and to promote sustainable modes of transport (policies T1, T3 and Q13 of the London Borough of Lambeth Local Plan (2015)).

24) Prior to the first occupation of each building/use hereby permitted, a Crime Prevention Strategy including a Security Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the following:

- a) A summary of known crime risks in the area;
- b) Details of how the development has mitigated known crime risks in the area; and
- c) Detail of how the development seeks to achieve 'Secured by Design Standards', including details of a CCTV scheme, external security, street lighting and landscaping.

The use shall thereafter be operated in accordance with the approved details, unless the written consent of the Local Planning Authority is received for any variation, for the lifetime of the development.

Reason: To ensure that the development maintains and enhances community safety. (Policy Q3 of the Lambeth Local Plan 2015).

25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no aerials, antennae, satellite dishes or related telecommunications equipment shall be erected on any part of the development hereby permitted.

Reason: To ensure that the visual impact of telecommunication equipment upon the surrounding area can be considered. (Policies D3 and D9 of the London Plan and Policies T10, Q6 and Q22 of the Lambeth Local Plan 2015).

26) Prior to first occupation of the Whitgift Street Terrace building a Flood Warning and Evacuation Plan detailing residential safe access from the ground floor level to upper floor level, and a detailed flood warning system, shall be submitted to and approved in writing by the Local Planning Authority. The Flood Warning and Evacuation Plan shall thereafter be maintained for the duration of the residential use.

Reason: To minimise the risk of flooding (Policy EN6 of the Lambeth Local Plan 2015).

27) Prior to the first occupation within each phase/sub-phase of the development hereby permitted, a soft and hard landscaping scheme and ecological enhancement strategy for that phase or sub-phase shall be submitted to and approved in writing by the local planning authority. The submitted details shall include details of tree planting, boundary treatments, green/brown roofs, green walls, play areas and play equipment, seating, obelisk details, cycle parking facilities, bird, bat and bug boxes, a management and maintenance plan, together with a timetable for implementation.

Each phase or sub-phase of development shall thereafter be carried out in accordance with the approved timetable. All tree, shrub and hedge planting included within the above specification shall accord with BS3936:1992, BS4043:1989 and BS4428:1989 (or subsequent superseding equivalent) and current Arboricultural best practice.

Reason: In order to introduce high quality soft landscaping in and around the site in the interests of the ecological value of the site and to ensure a satisfactory landscaping of the site in the interests of visual amenity (Policy Q9 of the Lambeth Local Plan 2015).

- 28) All planting, seeding or turfing comprised in the approved details of landscaping for each phase/subphase shall be carried out in the first planting and seeding season following the occupation of each phase or sub-phase of development hereby permitted. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the occupation or substantial completion of the relevant phase or sub-phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to introduce high quality soft landscaping in and around the site in the interests of the ecological value of the site and to ensure a satisfactory landscaping of the site in the interests of visual amenity (Policy Q9 of the Lambeth Local Plan 2015).

- 29) Prior to the implementation of the landscaping scheme for each phase/sub-phase, a horticultural management plan for the relevant phase/sub-phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall set out how the planting will be managed for a minimum of five years to ensure full and successful establishment of plants and trees. The plans shall identify all areas that will be under communal management and clearly specify that properly qualified horticulturists will be contracted to manage the site. The planting shall be thereafter managed in accordance with the approved management plan.

Reason: In order to introduce high quality soft landscaping in and around the site in the interests of the ecological value of the site and to ensure a satisfactory landscaping of the site in the interests of visual amenity (Policy Q9 of the Lambeth Local Plan 2015).

- 30) Prior to occupation of each phase/sub-phase, an external lighting scheme for that phase or sub-phase shall be submitted to and approved by the Local Planning Authority. The scheme shall be designed by a suitably qualified person in accordance with the recommendations for environmental zone E3 in the Institute of Lighting Professional's document "Guidance Notes for the Reduction of Obtrusive Light GN01:2011. The development of each phase/sub-phase shall be implemented in accordance with the approved details and retained and properly maintained thereafter.

Reason: To ensure that the lighting enhances community safety and does not unreasonably affect residential amenity (Policies Q2, Q3 and Q7 of the Lambeth Local Plan 2015)

31) Prior to above ground construction or refurbishment works of the relevant building/use, the appropriate design stage BREEAM 2014 assessment showing how the building/use has been designed to achieve the relevant target score shall be submitted to and approved in writing by the Local Planning Authority.

The relevant buildings/units and target scores are as follows:

- a) Fire Station (BREEAM UK Non-Domestic Refurbishment & Fit-out 2014): 63% and Very Good
- b) Museum (BREEAM UK Non-Domestic Refurbishment & Fit-out 2014): 63% and Very Good
- c) Hotel (BREEAM UK New Construction 2014): 70% Excellent
- d) Restaurant (BREEAM UK New Construction 2014): 70% Excellent
- e) Offices/Workspaces (BREEAM UK New Construction 2014): 70% Excellent
- f) Retail (BREEAM UK New Construction 2014): 70% Excellent
- g) Residential Created via Change of Use within sub-phase C1 (BREEAM Domestic Refurbishment 2014): 63% and Very Good

BREEAM - Post-Construction Assessment: Within three months after final occupation of the relevant building/use, the appropriate Post-construction stage BREEAM 2014 assessment showing how the relevant building/use achieves the following target score must be submitted to and approved in writing by the Local Planning Authority. The relevant buildings/uses comprise:

- a) Fire Station (BREEAM UK Non-Domestic Refurbishment & Fit-out 2014): 63% and Very Good
- b) Museum (BREEAM UK Non-Domestic Refurbishment & Fit-out 2014): 63% and Very Good
- c) Hotel (BREEAM UK New Construction 2014): 70% Excellent
- d) Restaurant (BREEAM UK New Construction 2014): 70% Excellent
- e) Offices/Workspaces (BREEAM UK New Construction 2014): 70% Excellent
- f) Retail (BREEAM UK New Construction 2014): 70% Excellent
- g) Residential Created via Change of Use within sub-phase C1 (BREEAM Domestic Refurbishment 2014): 63% and Very Good

Reason: To ensure that the development has an acceptable level of sustainability (Policy EN4 of the Lambeth Local Plan 2015).

32) Prior to the first occupation of each residential building, evidence (schedule of fittings and manufacturer's literature) shall be submitted to, and approved in writing by the Local Planning Authority, to show that the development of the relevant building has been constructed in accordance with the approved internal water use calculations so as not to exceed 105 L/person/day.

Reason: To reduce the consumption of potable water in the home from all sources, including borehole well water, through the use of water efficient fittings, appliances and water recycling systems (Policy SI 5 of the London Plan).

- 33) Prior to the commencement of the relevant use within each building hereby permitted, the parking spaces for that use shall be laid out in accordance with the approved plans, and the disabled/accessible parking spaces shall be retained for the duration of the use. No vehicles, other than blue-badge holder vehicles, vehicles associated with the operation of the fire station and vehicles for the users of the site, shall park on the site. Vehicles shall only park within the designated spaces shown on the approved plans, and on no other part of the site.

Reason: To enable accessible parking to be provided, prevent excessive parking and minimise danger, obstruction and inconvenience to users of the site and surrounding area (policies T1, T6, T7, T8 and Q2 of the London Borough of Lambeth Local Plan (2015)).

- 34) Prior to above ground construction works within Phase P3, plans, elevations and sections of the roof showing the location of the proposed photovoltaic array(s) shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array(s) shall be implemented in accordance with the approved details and retained and properly maintained permanently thereafter.

Reason: To safeguard the appearance of the completed development and to ensure that the development has an acceptable level of sustainability (Policies Q2, Q7, Q8 and EN4 of the Lambeth Local Plan, adopted September (2015)).

- 35) No restaurant (Class A3) use hereby permitted (within the flexible unit) shall commence until details and full specifications of fume extraction and filtration equipment, and an ongoing maintenance plan, have been submitted to and approved in writing by the local planning authority. The A3 use hereby permitted shall not commence until the approved details are fully implemented. The approved fume extraction and filtration equipment shall thereafter be retained and maintained in working order for the duration of the A3 use in accordance with the approved details.

Reason: To ensure appropriate appearance and that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or to the area generally (Policies Q2 and Q7 and ED7 of the London Borough of Lambeth Local Plan (2015)).

- 36) Prior to the commencement of each drinking establishment (Class A4) or assembly and leisure (Class D2) use hereby permitted, a scheme of noise assessment and scheme of mitigation shall be undertaken for that use and shall be submitted to and approved in writing by the Local Planning Authority to ensure that the noise impacts from all/the relevant A4 and D2 uses shall be suitably mitigated and that the spaces shall be suitably ventilated to enable effective delivery of the proposed scheme. A suitably qualified independent person shall undertake all work and the scheme of mitigation. The scheme shall ensure that operational noise levels from the commercial use do not exceed NR25 Leq,5mins between 22:00 - 07:00hrs within potentially adversely affected residential or other noise sensitive locations during typical activities. The scheme shall include a post construction scheme of validation and measurement to demonstrate compliance.

Details of the post construction validation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the amenities of adjoining occupiers and the surrounding area (policy Q2 of the London Borough of Lambeth Local Plan (2015)).

- 37) Prior to commencement of the use of a unit to be used for drinking establishment (Class A4) or assembly and leisure (Class D2) use, a scheme of noise control and Patron Management for that use shall be submitted to and approved in writing by the local planning authority. The scheme shall be written by a suitably qualified person and shall specify but not be limited to;
- (i) The noise level at which amplified music shall be played;
 - (ii) The control measures that shall be used;
 - (iii) The frequency with which live music shall be played; and
 - (iv) Details of the complaint recording and management plan.

The development shall be carried out in accordance with the approved details.

Reason: To protect the amenities of adjoining occupiers and the surrounding area (policy Q2 of the London Borough of Lambeth Local Plan (2015)).

- 38) Construction of the approved development shall be undertaken in accordance with the approved Phasing Plan ref. 1528-PP-Z0-XX-DR-A-00-1009 rev P3 and phasing and sub-phasing as described in Section 5 of the ES addendum (30 August 2019).

Reason: To protect the amenities of adjoining occupiers and the surrounding area (policy Q2 of the London Borough of Lambeth Local Plan (2015)).

- 39) Prior to the demolition of any building (excluding asbestos removal/soft strip, but including partial demolition) within each phase/sub-phase, a Demolition Management Plan (DMP) for the demolition of that building/part of a building in the relevant phase/sub-phase shall be submitted to and approved in writing by the local planning authority.

The DMP shall include details of the following relevant measures:

- (i) An introduction consisting of demolition phase environmental management plan, definitions and abbreviations and project description and location;
- (ii) A description of management responsibilities;
- (iii) A description of the demolition programme which identifies activities likely to cause high levels of noise or dust;
- (iv) Site working hours and a named person for residents to contact;
- (v) Detailed Site demolition logistics arrangements, including confirmation that the developer will join the VNEB construction working group.;
- (vi) Details regarding parking, deliveries, and storage;
- (vii) Details of an air quality and dust management plan;
- (viii) Details of noise mitigation measures to be deployed including identification of sensitive receptors and ongoing monitoring;
- (ix) Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;

- (x) Measures to prevent the deposit of mud and debris on the public highway; and
- (xi) Communication procedures with the LBL and local community regarding key construction issues The DMP shall be implemented as approved.

In addition, for the DMP relating to the Central site (phase P2) a construction programme shall be submitted to, and approved in writing by the local planning authority, prior to demolition of the Workshop building and construction shall be carried out in accordance with the approved programme.

Reason: Development must not commence before this condition is discharged to manage and mitigate the impact of the development on the air quality and dust emissions in the area and London as a whole, and to avoid irreversible and unacceptable damage to the environment (London Plan Policies SD4 and SI 1, and the London Plan SPGs for Sustainable Design and Construction and Control of Dust and Emissions during Construction and Demolition).

- 40) Prior to occupation of the residential units, submission of an updated air quality neutral assessment which includes the transport led mitigation measures to demonstrate that the proposals are air quality neutral shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved mitigation measures.

Reasons: To minimise increased exposure to existing poor air quality and make provision to address local problems of air quality (particularly within AQMAs) (Policy SI 1 of the London Plan).

Listed Building Application (19/01305/LBC)

- 1) The development to which this permission relates must be begun no later than four years from the date of this decision notice.

Reason: To comply with the requirements of Section 18(1) (a) of the Planning (Listed Buildings and Conservation Areas) Act 1990).

- 2) The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in Appendix C to this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) Notwithstanding the information provided within the application, the colour of the steel windows and external ironwork colours shall be blue/ black colour. Exact details of that colour shall be submitted to and approved in writing by the Council prior to the commencement of window replacement works. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 4) Notwithstanding the details shown on the drawings hereby approved, prior to commencement of the relevant part of development of the Former Fire Brigade Headquarters Building (including partial demolition of the Former Fire Brigade Headquarters Building but excluding demolition of the CMC Building and soft strip works and asbestos removal within the Former Fire Brigade Headquarters Building) drawings at a 1:10 scale (including sections) showing construction detailing shall be submitted to and approved in writing by the Local Planning Authority in writing, unless otherwise agreed in writing by the Local Planning Authority. The drawings shall include details of the following as relevant to the individual phase/sub phases:

- a) the rooftop extension and glazed additions at levels 8 and 9;
- b) the restaurant bridge;
- c) ventilation grilles and ducts;
- d) acoustic treatments;
- e) the rooftop works;
- f) details of boundary walls & access gates.

The development shall not be carried out otherwise than in accordance with the details and drawings thus approved.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 5) A sample window for each type (including French doors) shall be erected on-site adjacent to an original example for comparison and agreement, and the specification shall be approved in writing by the local planning authority before the relevant parts of the works are begun.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 6) Sample panels (1m by 1m) of all new facing brickwork for the Head Quarters Building, showing the proposed brick types, colour, texture, face bond and pointing shall be provided on site and the specification approved in writing by the local planning authority before the relevant parts of the works are begun.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 7) Construction of the approved development shall be undertaken in accordance with the approved phasing plan ref. 1528-PP-Z0-XX-DR-A-00-1009 Rev 3. Phasing and Sub-phasing as described in Section 5 of the ES addendum (30 August 2019).

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 8) With the exception of the demolition of the CMC Building, no works to the listed buildings authorised by this consent shall take place until the applicant has implemented a programme of asbestos removal and building recording and analysis by a person or body approved by the local planning authority that supplements the HRRS. This programme of recording and asbestos removal shall be in accordance with a written scheme that has been submitted to and approved in writing by local planning authority.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 9) Before commencement of the relevant phase/sub-phase of development, full details of the proposed demolition methodology, in the form of a detailed Demolition Method Statement, shall be submitted to and approved in writing by the Local Planning Authority.

Demolition works shall thereafter be undertaken in accordance with the approved Method Statement.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 10) The works of demolition or alteration by way of partial demolition hereby approved at the West Site (excluding the demolition of the CMC Building, basement, soft strip and asbestos removal) shall not be commenced before contract(s) for the carrying out of the completion of the works on the West Site for which consent is hereby granted, including the works contract, have been made and evidence of such contract(s) has been submitted to and accepted in writing by the local planning authority.

Reason: To ensure that the development protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 11) Prior to the relevant part of the internal works commencing within the listed Fire Brigade Headquarters (excluding demolition of the CMC Building, basement, soft strip and asbestos removal) a Works Method Statement shall have been submitted to and approved in writing by the Local Planning Authority. The relevant internal works shall include details and a programme about:
- a) the construction methods and techniques used to reveal/restore the retained artefacts as identified in the artefacts catalogue Appendix A1.2;
 - b) the restoration of the Memorial Hall;
 - c) the restoration / decoration of the Northern Entrance Hall;
 - d) the restoration and adaptations of the primary staircase circulation in the main cores;
 - e) agreed features to be retained within the LFB Museum (fireman's pole);
 - f) linking stair between museum extension and Memorial Hall;
 - g) scheme for interior decoration.

The relevant internal works shall be constructed in accordance with the methodology specified in the approved statement, unless the written consent of the Local Planning Authority is received for any variation.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 12) Prior the removal of the Obelisk a method statement for its removal and detailed drawings and timetable for its relocation shall be submitted to and approved by in writing by the local planning authority. The obelisk shall then be relocated in accordance with the approved in details and timetable and shall thereafter be retained for the lifetime of the development.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 13) All new external and internal works and finishes and works of making good to the retained fabric of the listed buildings, shall match the existing adjacent work with

regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any conditions attached to this consent.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 14) Prior to any brick cleaning being undertaken, a brick cleaning method statement shall be submitted to and approved in writing by the local planning authority. The brick cleaning shall be undertaken in accordance with the approved details.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 15) No new grilles, security alarms, lighting, CCTV cameras or other fittings shall be fixed on the external faces of the Head Quarters building unless otherwise approved in writing by the local planning authority.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

- 16) No plumbing or pipes, other than rainwater pipes, shall be fixed to the external faces of the HQ Building and Drill Tower unless shown on the drawings hereby approved or as otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the building is satisfactory and that it protects or enhances the character and appearance of the listed building and the Albert Embankment Conservation Area (policies Q2, Q11 and Q22 of the London Borough of Lambeth Local Plan (2015)).

APPENDIX C**8 Albert Embankment, Drawings and Documents to be listed on the Planning Decision Notice**

Updated 16.12.20

Supporting Documents

- Planning Statement (Lichfields) and Addendums (Covering Letters dated 30 August, 27 September and 6 November 2019)
- Financial Viability Assessment (JLL) and Addendum (28th November 2019)
- Design and Access Statement (Pilbrow and Partners) and Addendums (August, September and November 2019)
- Landscape and Public Realm Strategy (Townshend Landscape Architects) and Addendums (August, September and November 2019)
- Statement of Community Involvement (London Communications Agency)
- Daylight, Sunlight & Overshadowing Report (Point2 Surveyors) and updates issued 11 September 2019
- Environmental Statement, March 2019, including: Non-Technical Summary; Volume I: Main Text and Figures (Chapters 1-17); Volume II: Technical Appendices; Volume III: Townscape, Built Heritage and Visual Impact Assessment
- Environmental Statement ES Addendum (dated 30th August 2019), including the following appendices:
 - Appendix A: Detailed Project Construction Phases (Proposed Diagram)
 - Appendix B: Updated Socio-Economics Assessment
 - Appendix C: ES Appendix 8.5 (Traffic Data Used in the Assessment); and ES Appendix 8.8 (Model Results)
 - Appendix D: Internal Daylight and Sunlight - Addendum Statement
 - Appendix E: Updated Non-Technical Summary
- Response to letter from Planning Inspectorate (3254203), WSP December 2020
- Transport Assessment Addendum (WSP) (August 2019)
- Energy Statement GLA Response Memo Notes (WSP) (dated 25 July, 4 September, 17 October, 19 November, 3 December 2019)

Planning Application Drawing Schedule

Package No	Zone	Drawing Title	Drawing Number	Rev
00		Site Location and Ownership		
00	Z0	Proposed Plan in Urban Context	1528 -PP Z0- XX -DR -A- 00- 1000	P0
00	Z0	Urban Location Plan – Existing	1528 -PP Z0- XX -DR -A- 00- 1001	P0
00	Z0	Urban Location Plan – Existing	1528 -PP Z0- XX -DR -A- 00- 1002	P0
00	Z0	Urban Location Plan – Proposed	1528- PP- Z0- XX -DR -A- 00- 1003	P0
00	Z0	Existing Block Plan	1528- PP- Z0- XX -DR -A- 00- 1004	P0
00	Z0	Proposed Block Plan	1528- PP- Z0- XX -DR -A- 00- 1005	P2
00	Z0	Location Plan	1528- PP- Z0- XX -DR -A- 00- 1006	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
00	Z0	Detailed Project Construction Phases	1528- PP- Z0- XX -DR -A- 00- 1009	P3
01		Existing Buildings		
01	Z0	Masterplan - Basement Plan	1528- PP- Z0- 99 -DR -A- 01- 0099	P0
01	Z0	Masterplan - Ground Floor	1528- PP- Z0- 00 -DR -A- 01- 0100	P0
01	Z0	Masterplan - First Floor	1528- PP- Z0- 01 -DR -A- 01- 0101	P0
01	Z0	Masterplan - Second Floor	1528- PP- Z0- 02 -DR -A- 01- 0102	P0
01	Z0	Masterplan - Third Floor	1528- PP- Z0- 03 -DR -A- 01- 0103	P0
01	Z0	Masterplan - Fourth Floor	1528- PP- Z0- 04 -DR -A- 01- 0104	P0
01	Z0	Masterplan - Fifth to Eighth Floor	1528- PP- Z0- 05 -DR -A- 01- 0105	P0
01	Z0	Masterplan - Floor 09-10 (Lower Roof & Roof)	1528- PP- Z0- 09 -DR -A- 01- 0106	P0
01	Z0	West & South Elevation	1528- PP- Z0- XX -DR -A- 01- 2000	P0
01	Z0	North & East Elevation	1528- PP- Z0- XX -DR -A- 01- 2001	P0
01	Z0	East-West and North-South sections	1528- PP- Z0- XX -DR -A- 01- 3000	P0
01	A2	Basement Plan	1528- PP- A2- 99 -DR -A- 01- 4000	P0
01	A2	Ground Floor Plan	1528- PP- A2- 00 -DR -A- 01- 4001	P0
01	A2	First & Second Floor Plans	1528- PP- A2- 01 -DR -A- 01- 4002	P0
01	A2	Third & Fourth Floor Plans	1528- PP- A2- 03 -DR -A- 01- 4003	P0
01	A2	Fifth & Sixth Floor Plans	1528- PP- A2- 05 -DR -A- 01- 4004	P0
01	A2	Seventh & Eighth Floor Plans	1528- PP- A2- 07 -DR -A- 01- 4005	P0
01	A2	Ninth & Tenth (Roof) Floor Plans	1528- PP- A2- 09 -DR -A- 01- 4006	P0
01	A2	West Elevation	1528- PP- A2- XX -DR -A- 01- 5000	P0
01	A2	East Elevation	1528- PP- A2- XX -DR -A- 01- 5001	P0
01	A2	North Elevation	1528- PP- A2- XX -DR -A- 01- 5002	P0
01	A2	South Elevation	1528- PP- A2- XX -DR -A- 01- 5003	P0
01	B0	West Site - Basement Plan	1528- PP- B0- 99 -DR -A- 01- 6000	P0
01	B0	West Site - Ground Floor	1528- PP- B0- 00 -DR -A- 01- 6001	P1
01	B0	West Site - First & Second Floor	1528- PP- B0- 01 -DR -A- 01- 6002	P0
01	B0	West Site - Third & Fourth Floor	1528- PP- B0- 03 -DR -A- 01- 6003	P0
01	B0	West Elevation	1528- PP- B0- XX -DR -A- 01- 7000	P0
01	B0	East Elevation	1528- PP- B0- XX -DR -A- 01- 7001	P0
01	B0	North & South Elevation	1528- PP- B0- XX -DR -A- 01- 7002	P0
02		Demolition		
02	Z0	Masterplan - Basement Plan	1528- PP- Z0- 99 -DR -A- 02- 0099	P0
02	Z0	Masterplan - Ground Floor	1528- PP- Z0- 00 -DR -A- 02- 0100	P0
02	Z0	Masterplan - First Floor	1528- PP- Z0- 01 -DR -A- 02- 0101	P0
02	Z0	Masterplan - Second Floor	1528- PP- Z0- 02 -DR -A- 02- 0102	P0
02	Z0	Masterplan - Third Floor	1528- PP- Z0- 03 -DR -A- 02- 0103	P0
02	Z0	Masterplan - Fourth Floor	1528- PP- Z0- 04 -DR -A- 02- 0104	P0
02	Z0	Masterplan - Fifth to Eighth Floor	1528- PP- Z0- 05 -DR -A- 02- 0105	P0
02	Z0	Masterplan - Ninth Floor	1528- PP- Z0- 09 -DR -A- 02- 0106	P0
02	Z0	Existing Site - Roof Plan	1528- PP- Z0- 10 -DR -A- 02- 0107	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
02	Z0	West and South Elevation	1528- PP- Z0- XX -DR -A- 02- 2000	P0
02	Z0	North and East Elevation	1528- PP- Z0- XX -DR -A- 02- 2001	P0
02	Z0	East-West and North-South sections	1528- PP- Z0- XX -DR -A- 02- 3000	P0
02	A0	West Site - Basement Plan	1528- PP- A2- 99 -DR -A- 02- 4000	P0
02	A0	West Site - Ground Floor	1528- PP- A2- 00 -DR -A- 02- 4001	P0
02	A0	West Site - First & Second Floor	1528- PP- A2- 01 -DR -A- 02- 4002	P0
02	A0	West Site - Third & Fourth Floor	1528- PP- A2- 03 -DR -A- 02- 4003	P0
02	A0	West Site - Fifth & Sixth Floor	1528- PP- A2- 05 -DR -A- 02- 4004	P0
02	A0	West Site - Seventh & Eighth Floor	1528- PP- A2- 07 -DR -A- 02- 4005	P0
02	A0	West Site - Ninth & Tenth Floor	1528- PP- A2- 09 -DR -A- 02- 4006	P0
02	A0	West Elevation	1528- PP- A2- XX -DR -A- 02- 5000	P0
02	A0	East Elevation	1528- PP- A2- XX -DR -A- 02- 5001	P0
02	A0	North Elevation	1528- PP- A2- XX -DR -A- 02- 5002	P0
02	A0	South Elevation	1528- PP- A2- XX -DR -A- 02- 5003	P0
02	B0	West Site - Basement Plan	1528- PP- B0- 99 -DR -A- 02- 6000	P0
02	B0	West Site - Ground Floor	1528- PP- B0- 00 -DR -A- 02- 6001	P0
02	B0	West Site - First & Second Floor	1528- PP- B0- 01 -DR -A- 02- 6002	P0
02	B0	West Site - Third Floor & Roof	1528- PP- B0- 03 -DR -A- 02- 6003	P0
02	B0	West Elevation	1528- PP- B0- XX -DR -A- 02- 7000	P0
02	B0	East Elevation	1528- PP- B0- XX -DR -A- 02- 7001	P0
02	B0	North Elevation	1528- PP- B0- XX -DR -A- 02- 7002	P0
02	B0	South Elevation	1528- PP- B0- XX -DR -A- 02- 7003	P0
03		GA Masterplan Proposed		
03	Z0	Proposed Basement 2 Masterplan	1528- PP- Z0- B2 -DR -A- 03- 0097	P1
03	Z0	Proposed Basement 1 Masterplan	1528- PP- Z0- B1 -DR -A- 03- 0098	P1
03	Z0	Proposed Lower Ground Floor Masterplan	1528- PP- Z0- LG -DR -A- 03- 0099	P1
03	Z0	Proposed Ground Floor Masterplan	1528- PP- Z0- 00 -DR -A- 03- 0100	P3
03	Z0	Proposed First Floor Masterplan	1528- PP- Z0- 01 -DR -A- 03- 0101	P2
03	Z0	Proposed Second Floor Masterplan	1528- PP- Z0- 02 -DR -A- 03- 0102	P2
03	Z0	Proposed Third Floor Masterplan	1528- PP- Z0- 03 -DR -A- 03- 0103	P2
03	Z0	Proposed Fourth Floor Masterplan	1528- PP- Z0- 04 -DR -A- 03- 0104	P2
03	Z0	Proposed Fifth Floor Masterplan	1528- PP- Z0- 05 -DR -A- 03- 0105	P2
03	Z0	Proposed Sixth Floor Masterplan	1528- PP- Z0- 06 -DR -A- 03- 0106	P2
03	Z0	Proposed Seventh Floor Masterplan	1528- PP- Z0- 07 -DR -A- 03- 0107	P3
03	Z0	Proposed Eighth Floor Masterplan	1528- PP- Z0- 08 -DR -A- 03- 0108	P3
03	Z0	Proposed Ninth Floor Masterplan	1528- PP- Z0- 09 -DR -A- 03- 0109	P3
03	Z0	Proposed Tenth Floor Masterplan	1528- PP- Z0- 10 -DR -A- 03- 0110	P2
03	Z0	Proposed Eleventh to Thirteenth Floor Masterplan	1528- PP- Z0- 11 -DR -A- 03- 0111	P2

Package No	Zone	Drawing Title	Drawing Number	Rev
03	Z0	Proposed Fourteenth to Nineteenth Floor Masterplan	1528- PP- Z0- 14 -DR -A- 03- 0114	P2
03	Z0	Proposed Twentieth Floor Masterplan	1528- PP- Z0- 20 -DR -A- 03- 0120	P2
03	Z0	Proposed Twenty First Floor Masterplan	1528- PP- Z0- 21 -DR -A- 03- 0121	P2
03	Z0	Proposed Twenty Second Floor Masterplan	1528- PP- Z0- 22 -DR -A- 03- 0122	P2
03	Z0	Proposed Twenty Third Floor Masterplan	1528- PP- Z0- 23 -DR -A- 03- 0123	P2
03	Z0	Proposed Twenty Fourth Floor Masterplan	1528- PP- Z0- 24 -DR -A- 03- 0124	P3
03	Z0	Proposed Twenty Fifth Floor Masterplan	1528- PP- Z0- 25 -DR -A- 03- 0125	P2
03	Z0	Proposed Twenty Sixth Floor Roof Masterplan	1528- PP- Z0- 26 -DR -A- 03- 0126	P3
10		Proposed General Arrangement Plans		
10	A0	West Site - Proposed Basement Plan	1528- PP- A0- B1 -DR -A- 10- 0098	P0
10	A0	West Site - Proposed Basement Mezzanine Plan	1528- PP- A0- LG -DR -A- 10- 0099	P0
10	A0	West Site - Proposed Ground Floor Plan	1528- PP- A0- 00 -DR -A- 10- 0100	P2
10	A0	West Site- Proposed First Floor Plan	1528- PP- A0- 01 -DR -A- 10- 0101	P1
10	A0	West Site - Proposed Second Floor Plan	1528- PP- A0- 02 -DR -A- 10- 0102	P1
10	A0	West Site - Proposed Third Floor Plan	1528- PP- A0- 03 -DR -A- 10- 0103	P1
10	A0	West Site - Proposed Fourth Floor Plan	1528- PP- A0- 04 -DR -A- 10- 0104	P1
10	A0	West Site - Proposed Fifth Floor Plan	1528- PP- A0- 05 -DR -A- 10- 0105	P1
10	A0	West Site- Proposed Sixth Floor Plan	1528- PP- A0- 06 -DR -A- 10- 0106	P1
10	A0	West Site - Proposed Seventh Floor Plan	1528- PP- A0- 07 -DR -A- 10- 0107	P1
10	A0	West Site- Proposed Eighth Floor Plan	1528- PP- A0- 08 -DR -A- 10- 0108	P1
10	A0	West Site - Proposed Ninth Floor Plan	1528- PP- A0- 09 -DR -A- 10- 0109	P1
10	A0	West Site - Proposed Tenth Floor Plan	1528- PP- A0- 10 -DR -A- 10- 0110	P1
10	A0	West Site- Proposed Roof Plan	1528- PP- A0- 11 -DR -A- 10- 0111	P1

Package No	Zone	Drawing Title	Drawing Number	Rev
10	B0	Central Site -Proposed Basement 2 Floor Plan	1528- PP- B0- B2 -DR -A- 10- 0097	P1
10	B0	Central Site -Proposed Basement 1 Floor Plan	1528- PP- B0- B1 -DR -A- 10- 0098	P1
10	B0	Central Site -Proposed Lower Ground Floor Plan	1528- PP- B0- LG -DR -A- 10- 0099	P1
10	B0	Central Site -Proposed Ground Floor Plan	1528- PP- B0- 00 -DR -A- 10- 0100	P3
10	B0	Central Site -Proposed First Floor Plan	1528- PP- B0- 01 -DR -A- 10- 0101	P2
10	B0	Central Site -Proposed Second Floor Plan	1528- PP- B0- 02 -DR -A- 10- 0102	P2
10	B0	Central Site -Proposed Third Floor Plan	1528- PP- B0- 03 -DR -A- 10- 0103	P2
10	B0	Central Site -Proposed Fourth Floor Plan	1528- PP- B0- 04 -DR -A- 10- 0104	P2
10	B0	Central Site -Proposed Fifth Floor Plan	1528- PP- B0- 05 -DR -A- 10- 0105	P2
10	B0	Central Site -Proposed Sixth to Seventh Floor Plan	1528- PP- B0- 06 -DR -A- 10- 0106	P3
10	B0	Central Site -Proposed Eighth to Ninth Floor Plan (Previously Eighth Floor Plan)	1528- PP- B0- 08 -DR -A- 10- 0108	P3
10	B0	Central Site -Proposed Tenth to Twelfth Floor Plan (Previously Ninth to Twelfth Floor Plan)	1528- PP- B0- 10 -DR -A- 10- 0110	P3
10	B0	Central Site -Proposed Thirteenth Floor Plan	1528- PP- B0- 13 -DR -A- 10- 0113	P2
10	B0	Central Site -Proposed Fourteenth to Nineteenth Floor Plan	1528- PP- B0- 14 -DR -A- 10- 0114	P2
10	B0	Central Site -Proposed Twentieth Floor Plan	1528- PP- B0- 20 -DR -A- 10- 0120	P2
10	B0	Central Site -Proposed Twenty First Floor Plan	1528- PP- B0- 21 -DR -A- 10- 0121	P2
10	B0	Central Site -Proposed Twenty Second Floor Plan	1528- PP- B0- 22 -DR -A- 10- 0122	P2
10	B0	Central Site -Proposed Twenty Third Floor Plan	1528- PP- B0- 23 -DR -A- 10- 0123	P2
10	B0	Central Site -Proposed Twenty Fourth Floor Plan	1528- PP- B0- 24 -DR -A- 10- 0124	P3
10	B0	Central Site -Proposed Twenty Fifth Floor Plan	1528- PP- B0- 25 -DR -A- 10- 0125	P2
10	B0	Central Site -Proposed Roof Plan	1528- PP- B0- 26 -DR -A- 10- 0126	P3
10	C0	East Site - Proposed Lower Ground Floor Plan	1528- PP- C0- 00 -DR -A- 10- 0099	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
10	C0	East Site - Proposed Ground Floor Plan	1528- PP- C0- 00 -DR -A- 10- 0100	P2
10	C0	East Site - Proposed Typical Floor Plan 1st to 10th	1528- PP- C0- 01 -DR -A- 10- 0101	P0
10	C0	East Site - Proposed 11th Floor Plan	1528- PP- C0- 11 -DR -A- 10- 0111	P0
10	C0	East Site - Proposed Roof Plan	1528- PP- C0- 12 -DR -A- 10- 0112	P0
11		Proposed GA Elevations		
11	Z0	Existing and Proposed West Elevation in the wider Context	1528- PP- Z0- XX -DR -A- 11- 1000	P0
11	Z0	Proposed West and South Elevation in the wider Context	1528- PP- Z0- XX -DR -A- 11- 1100	P0
11	Z0	Proposed East and North Elevation in Context	1528- PP- Z0- XX -DR -A- 11- 1101	P2
11	A0	West Site - Proposed West Elevation	1528- PP- A0- XX -DR -A- 11- 2100	P0
11	A0	West Site - Proposed South Elevation	1528- PP- A0- XX -DR -A- 11- 2101	P0
11	A0	West Site - Proposed East Elevation	1528- PP- A0- XX -DR -A- 11- 2102	P0
11	A0	West Site- Proposed North Elevation	1528- PP- A0- XX -DR -A- 11- 2103	P0
11	B0	Central Site - Proposed West Elevation	1528- PP- B0- XX -DR -A- 11- 2200	P0
11	B0	Central Site - Proposed South Elevation	1528- PP- B0- XX -DR -A- 11- 2201	P0
11	B0	Central Site - Proposed East Elevation	1528- PP- B0- XX -DR -A- 11- 2202	P0
11	B0	Central Site - Proposed North Elevation	1528- PP- B0- XX -DR -A- 11- 2203	P2
11	B0	Central Site - Proposed Tower Elevation on East Square	1528- PP- B0- XX -DR -A- 11- 2204	P1
11	B0	Central Site - Proposed Whitgift Street Resi elevation	1528- PP- B0- XX -DR -A- 11- 2205	P2
11	B0	Central Site - Proposed Office Building elevation on Central Garden	1528- PP- B0- XX -DR -A- 11- 2206	P1
11	B0	Central Site - Proposed Office Building elevation on Central Garden	1528- PP- B0- XX -DR -A- 11- 2207	P1
11	C0	East Site - Proposed North, East, South and West Elevations	1528- PP- C0- XX -DR -A- 11- 2300	P0
12		Proposed GA SECTIONS		

Package No	Zone	Drawing Title	Drawing Number	Rev
12	A0	West Site - Proposed East/West Section Looking North	1528- PP- A0- XX -DR -A- 12- 2100	P0
12	A0	West Site - Proposed East/West Section Looking North	1528- PP- A0- XX -DR -A- 12- 2101	P0
12	A0	West Site - Proposed East/West Section Looking South	1528- PP- A0- XX -DR -A- 12- 2102	P0
12	A0	West Site - Proposed North/South Section Looking West	1528- PP- A0- XX -DR -A- 12- 2103	P0
12	A0	West Site - Proposed North/South Section Looking East	1528- PP- A0- XX -DR -A- 12- 2104	P0
12	A0	West Site - Proposed North/South Section Looking East	1528- PP- A0- XX -DR -A- 12- 2105	P0
12	B0	Central Site - Proposed North/South Section Looking East	1528- PP- B0- XX -DR -A- 12- 2200	P2
12	B0	Central Site - Proposed East/West Section Looking North	1528- PP- B0- XX -DR -A- 12- 2201	P2
12	B0	Central Site- Proposed North/South Section Looking West	1528- PP- B0- XX -DR -A- 12- 2203	P1
12	C0	East Site - Proposed North/South Section Looking West	1528- PP- C0- XX -DR -A- 12- 2300	P0
15	DETAILED ARRANGEMENT FLOOR PLANS			
15	A1	Firestation - Ground Floor	1528- PP- A1- XX -DR -A- 15- 0100	P0
15	A1	Fire station- Levels 01-02	1528- PP- A1- XX -DR -A- 15- 0101	P0
15	A1	Fire station - Roof/Basement	1528- PP- A1- XX -DR -A- 15- 0102	P0
15	A2	Listed Building Proposed Level 01 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0101	P0
15	A2	Listed Building Proposed Level 02 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0102	P0
15	A2	Listed Building Proposed Level 03 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0103	P0
15	A2	Listed Building Proposed Level 04 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0104	P0
15	A2	Listed Building Proposed Level 05 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0105	P0
15	A2	Listed Building Proposed Level 06 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0106	P0
15	A2	Listed Building Proposed Level 07 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0107	P0
15	A2	Listed Building Proposed Level 08 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0108	P0
15	A2	Listed Building Proposed Level 09 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0109	P0
15	A2	Listed Building Proposed Level 10 Floor Plan	1528- PP- A2- XX -DR -A- 15- 0110	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
15	B1	Central Square Building - Proposed Levels 01-07 Floor Plans (Previously 01-06)	1528- PP- B1- 01 -DR -A- 15- 0101	P2
15	B1	Central Square Building - Proposed Levels 08-21 Floor Plans (Previously 07-21)	1528- PP- B1- 08 -DR -A- 15- 0108	P2
15	B1	Central Square Building - Proposed Levels 22-24 Floor Plans	1528- PP- B1- 22 -DR -A- 15- 0122	P1
15	B1	Central Square Building - Proposed Level 25 & Roof plan	1528- PP- B1- 25 -DR -A- 15- 0125	P1
15	B3	Eastern Garden Building - Proposed Levels 01-02 Floor Plans	1528- PP- B3- 01 -DR -A- 15- 0101	P1
15	B3	Eastern Garden Building - Proposed Levels 03-04 Floor Plans	1528- PP- B3- 03 -DR -A- 15- 0103	P1
15	B3	Eastern Garden Building - Proposed Levels 05-09 Floor Plans (Previously 05-06)	1528- PP- B3- 05 -DR -A- 15- 0105	P2
15	B3	Eastern Garden Building - Proposed Levels 10-19 Floor Plans (Previously 07-19)	1528- PP- B3- 10 -DR -A- 15- 0110	P2
15	B3	Eastern Garden Building - Proposed Levels 20-22 Floor Plans	1528- PP- B3- 20 -DR -A- 15- 0120	P1
15	B3	Eastern Garden Building - Proposed Level 23 & Roof Plan	1528- PP- B3- 23 -DR -A- 15- 0123	P1
15	B4	Whitgift Street Building - Proposed Ground & Level 01 Floor Plans	1528- PP- B4- 00 -DR -A- 15- 0100	P2
15	B4	Whitgift Street Building - Proposed Levels 02-03 Floor Plans	1528- PP- B4- 02 -DR -A- 15- 0102	P1
15	B4	Whitgift Street Building - Proposed Level 04 & Roof Plans	1528- PP- B4- 04 -DR -A- 15- 0104	P1
15	C1	Newport Street Building- Proposed Levels 01-10 & Roof Plans	1528- PP- C1- 00 -DR -A- 15- 0101	P0
21		Façade		
21	A1	The Fire Station Building - Proposed Façade Detail Study Typical Floor Bay	1528- PP- A1- XX -DR -A- 21- 0011	P0
21	A1	The Fire Station Building - Proposed Façade Study Typical Bay	1528- PP- A1- XX -DR -A- 21- 0021	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
21	A1	The Fire Station Building - Proposed Façade Study Front Entrance	1528- PP- A1- XX -DR -A- 21- 0022	P0
21	A1	The Fire Station Building - Proposed Façade Study North Boundary Wall	1528- PP- A1- XX -DR -A- 21- 0023	P0
21	A1	Proposed Firestation Façade Study East Glazed Connection	1528- PP- A1- XX -DR -A- 21- 0024	P0
21	A3	The Hotel Building - Proposed Façade Study Typical Bay	1528- PP- A3- XX -DR -A- 21- 0051	P0
21	A3	The Hotel Building - Proposed Façade Detail Study Typical Floor Bay	1528- PP- A3- XX -DR -A- 21- 0011	P0
21	A4	Proposed Restaurant Façade Study Typical Bay	1528- PP- A4- XX -DR -A- 21- 0021	P0
21	A4	Proposed Restaurant Façade Study Bridge Connection	1528- PP- A4- XX -DR -A- 21- 0022	P0
21	B1	Central Square and Eastern Garden Buildings - Proposed Wintergarden Bay Assembly	1528- PP- B1- XX -DR -A- 21- 0021	P0
21	B1	Central Square and Eastern Garden Buildings - Proposed Central Wintergarden Façade Assembly	1528- PP- B1- XX -DR -A- 21- 0051	P0
21	B3	Central Square and Eastern Garden Buildings - Prow Wintergarden Bay Assembly	1528- PP- B3- XX -DR -A- 21- 0021	P0
21	B3	Central Square and Eastern Garden Buildings - Facade Bay Assembly	1528- PP- B3- XX -DR -A- 21- 0022	P0
21	B3	Eastern Garden Building - Bustle Façade Bay Assembly	1528- PP- B3- XX -DR -A- 21- 0023	P0
21	B3	Central Square and Eastern Garden Buildings - Prow Wintergarden Façade Assembly	1528- PP- B3- XX -DR -A- 21- 0051	P0
21	B3	Eastern Garden Building - Bustle Façade Assembly	1528- PP- B3- XX -DR -A- 21- 0052	P1
21	B2	The Office - Proposed West Façade Bay Assembly	1528- PP- B2- XX -DR -A- 21- 0021	P0
21	B2	The Office - Proposed North Façade Bay Assembly	1528- PP- B2- XX -DR -A- 21- 0022	P0
21	B2	The Office - Proposed West Façade Assembly	1528- PP- B2- XX -DR -A- 21- 0051	P0
21	B2	The Office - Proposed North Façade Assembly	1528- PP- B2- XX -DR -A- 21- 0053	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
21	B2	The Office - Proposed South Core Façade Assembly	1528- PP- B2- XX -DR -A- 21- 0055	P0
21	B4	Whitgift Street Building - Proposed Façade Bay Window	1528- PP- B4- XX -DR -A- 21- 0022	P1
21	B4	Whitgift Street Building - Proposed Core Façade Assembly	1528- PP- B4- XX -DR -A- 21- 0051	P0
21	B4	Whitgift Street Building - Proposed Façade Assembly	1528- PP- B4- XX -DR -A- 21- 0052	P2
21	C1	Newport Street Proposed South Façade Lower Bay Assembly	1528- PP- C1- XX -DR -A- 21- 0021	P0
21	C1	Newport Street Proposed West Façade Bay Assembly	1528- PP- C1- XX -DR -A- 21- 0023	P0
21	C1	Newport Street Proposed South Façade Assembly	1528- PP- C1- XX -DR -A- 21- 0051	P0
21	C1	Newport Street Proposed West Façade Assembly	1528- PP- C1- XX -DR -A- 21- 0052	P0
22		Fabric Alterations – Listed Building Drill Tower		
22	A1	Firestation Drill Tower	1528- PP- A1- XX -DR -A- 22- 1020	P0
22	A1	Firestation Drill Tower	1528- PP- A1- XX -DR -A- 22- 1021	P0
22	A1	Firestation Drill Tower	1528- PP- A1- XX -DR -A- 22- 1022	P0
22	A1	Firestation Drill Tower	1528- PP- A1- XX -DR -A- 22- 1200	P0
22	A1	Firestation Drill Tower	1528- PP- A1- XX -DR -A- 22- 1201	P0
22	A1	Firestation Drill Tower	1528- PP- A1- XX -DR -A- 22- 1202	P0
22	A1	Firestation Drill Yard Comparison Sections	1528- PP- A1- XX -DR -A- 22- 1300	P0
22	A1	Firestation Drill Yard Comparison Sections	1528- PP- A1- XX -DR -A- 22- 1301	P0
22	A1	Firestation Drill Yard	1528- PP- A1- XX -DR -A- 22- 1350	P0
22	A1	Drill Yard - Obelisk	1528- PP- A1- XX -DR -A- 22- 1500	P0
22	A1	Drill Yard - Obelisk	1528- PP- A1- XX -DR -A- 22- 1501	P0
22	A1	Existing External Stair Details	1528- PP- A1- XX -DR -A- 22- 1550	P0
22	A1	External Stair	1528- PP- A1- XX -DR -A- 22- 1551	P0
22	A2	Ground Floor Plan	1528- PP- A2- 00 -DR -A- 22- 2100	P0
22	A2	First & Second Floor Plans	1528- PP- A2- 01 -DR -A- 22- 2101	P0
22	A2	Third & Fourth Floor Plans	1528- PP- A2- 03 -DR -A- 22- 2102	P0
22	A2	Fifth & Sixth Floor Plans	1528- PP- A2- 05 -DR -A- 22- 2103	P0
22	A2	Seventh & Eighth Floor Plans	1528- PP- A2- 07 -DR -A- 22- 2104	P0
22	A2	Ninth & Tenth (Roof) Floor Plans	1528- PP- A2- 09 -DR -A- 22- 2105	P0
22	A2	Basement Plan	1528- PP- A2- B1 -DR -A- 22- 3150	P0
22	A2	Ground Floor Plan	1528- PP- A2- 00 -DR -A- 22- 3151	P0
22	A2	First Floor Plan	1528- PP- A2- 01 -DR -A- 22- 3152	P0
22	A2	Second Floor Plan	1528- PP- A2- 02 -DR -A- 22- 3153	P0
22	A2	Third Floor Plan	1528- PP- A2- 03 -DR -A- 22- 3154	P0
22	A2	Fourth Floor Plan	1528- PP- A2- 04 -DR -A- 22- 3155	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
22	A2	Fifth Floor Plan	1528- PP- A2- 05 -DR -A- 22- 3156	P0
22	A2	Sixth Floor Plan	1528- PP- A2- 06 -DR -A- 22- 3157	P0
22	A2	Seventh Floor Plan	1528- PP- A2- 07 -DR -A- 22- 3158	P0
22	A2	Eighth Floor Plan	1528- PP- A2- 08 -DR -A- 22- 3159	P0
22	A2	Ninth Floor Plan	1528- PP- A2- 09 -DR -A- 22- 3160	P0
22	A2	Tenth Floor Plan	1528- PP- A2- 10 -DR -A- 22- 3161	P0
22	A2	Proposed Fabric Alteration Interface Details Key	1528- PP- A2- XX -DR -A- 22- 5000	P0
22	A2	West Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5100	P0
22	A2	West Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5102	P0
22	A2	West Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5105	P0
22	A2	West Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5107	P0
22	A2	East Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5125	P0
22	A2	East Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5126	P0
22	A2	East Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5127	P0
22	A2	East Elevation Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5128	P0
22	A2	East Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5130	P0
22	A2	South Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5150	P0
22	A2	South Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5151	P0
22	A2	North Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5175	P0
22	A2	North Elevation Proposed Fabric Alterations	1528- PP- A2- XX -DR -A- 22- 5176	P0
22	A2	South Lantern Extension - Proposed Details	1528- PP- A2- XX -DR -A- 22- 5180	P0
22	A2	North Stair Existing Plans - Basement to Level 09	1528- PP- A2- XX -DR -A- 22- 6100	P0
22	A2	North Stair Proposed Fabric Alteration Plans - Basement to Level 09	1528- PP- A2- XX -DR -A- 22- 6101	P0
22	A2	North Entrance Lobby	1528- PP- A2- XX -DR -A- 22- 6110	P0
22	A2	North Entrance Lobby	1528- PP- A2- XX -DR -A- 22- 6111	P0
22	A2	North Entrance Lobby	1528- PP- A2- XX -DR -A- 22- 6112	P0
22	A2	North Stair Sections	1528- PP- A2- XX -DR -A- 22- 6170	P0
22	A2	North Stair Sections	1528- PP- A2- XX -DR -A- 22- 6171	P0

Package No	Zone	Drawing Title	Drawing Number	Rev
22	A2	North Stair Sections	1528- PP- A2- XX -DR -A- 22- 6172	P0
22	A2	North Stair Details	1528- PP- A2- XX -DR -A- 22- 6180	P0
22	A2	South Stair Plans - Basement to Level 09	1528- PP- A2- XX -DR -A- 22- 6200	P0
22	A2	South Stair Plans - Basement to Level 09	1528- PP- A2- XX -DR -A- 22- 6201	P0
22	A2	South Entrance / Memorial Hall	1528- PP- A2- XX -DR -A- 22- 6210	P0
22	A2	South Entrance / Memorial Hall	1528- PP- A2- XX -DR -A- 22- 6211	P0
22	A2	Museum Sht 1of 2	1528- PP- A2- XX -DR -A- 22- 6220	P0
22	A2	Museum Sht 2of 2	1528- PP- A2- XX -DR -A- 22- 6221	P0
22	A2	South Entrance Lobby	1528- PP- A2- XX -DR -A- 22- 6230	P0
22	A2	South Stair Sections	1528- PP- A2- XX -DR -A- 22- 6270	P0
22	A2	South Stair Sections	1528- PP- A2- XX -DR -A- 22- 6271	P0
22	A2	South Stair Sections	1528- PP- A2- XX -DR -A- 22- 6272	P0
22	A2	South Stair Sections	1528- PP- A2- XX -DR -A- 22- 6280	P0
22	A2	Games Room - Existing	1528- PP- A2- XX -DR -A- 22- 6500	P0
22	A2	Games Room - Proposed	1528- PP- A2- XX -DR -A- 22- 6501	P0
22	A2	Second Floor Conference Room – Existing	1528- PP- A2- XX -DR -A- 22- 6510	P0
22	A2	Second Floor Conference Room – Proposed	1528- PP- A2- XX -DR -A- 22- 6511	P0
22	A2	Appliance Bay Stair - Existing	1528- PP- A2- XX -DR -A- 22- 6520	P0
22	A2	Appliance Bay Stair - Proposed	1528- PP- A2- XX -DR -A- 22- 6521	P0
22	A2	Fire Poles - Existing Sheet 1 of 2	1528- PP- A2- XX -DR -A- 22- 6530	P0
22	A2	Fire Poles - Proposed Sheet 1 of 2	1528- PP- A2- XX -DR -A- 22- 6531	P0
22	A2	Fire Poles - Existing Sheet 2 of 2	1528- PP- A2- XX -DR -A- 22- 6532	P0
22	A2	Fire Poles - Proposed Sheet 2 of 2	1528- PP- A2- XX -DR -A- 22- 6533	P0

1. Landscape Drawings Final Set (Townshend Landscape Architects)

Package No	Zone	Drawing Title	Drawing Number	Revision	Scale @ A1	Scale @ A3
		Landscape surface finishes plan Ground Floor	TOWN634(08) 3000	R05	1:500	
		Landscape surface finishes plan Ground Floor	TOWN634(08) 3001	R03	1:100	
		Landscape surface finishes plan Ground Floor	TOWN634(08) 3002	R03	1:100	
		Landscape surface finishes plan Ground Floor	TOWN634(08) 3003	R04	1:100	
		Landscape surface finishes plan Ground Floor	TOWN634(08) 3004	R04	1:100	
		Landscape surface finishes plan Ground Floor	TOWN634(08) 3005	R03	1:500	

		Levels plan ground floor	TOWN634(08) 3011	R02	1:100	
		Levels plan ground floor	TOWN634(08) 3012	R02	1:100	
		Levels plan ground floor	TOWN634(08) 3013	R03	1:100	
		Levels plan ground floor	TOWN634(08) 3014	R03	1:100	
		Levels plan ground floor	TOWN634(08) 3015	R02	1:500	
		Landscape surface finishes plan Roof Terraces	TOWN634(08) 3100	R02	1:500	
		B2 Roof terrace LEVEL 08	TOWN634(08) 3101	R03	1:100	
		A2/A3 Roof terrace LEVEL 01, 04,09	TOWN634(08) 3120	R03	1:50	
		C1 Roof terrace	TOWN634(08) 3130	R02	1:100	
		B4 Roof terrace LEVEL 03,04,05	TOWN634(08) 3140	R02	1:100	
		B3 Roof terrace LEVEL 03,04	TOWN634(08) 3150	R02	1:100	
		A2/A3 Roof terrace LEVEL 02	TOWN634(08) 3160	R03	1:50	
		Residential Towers Roof Level	TOWN634(08) 3170	R00	1:50	
		Indicative S278 boundary line plan	TOWN634(08) 3030	R02	1:500	



Ministry of Housing, Communities & Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.