The Planning Inspectorate

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

by Phillip J G Ware BSc(Hons) DipTP MRTPI

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

Date 12 September 2018

TOWN AND COUNTRY PLANNING ACT 1990

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

WILLIAM SUTTON ESTATE, CALE STREET

APPEAL BY CLARION HOUSING GROUP

(FORMERLY AFFINITY SUTTON HOMES LIMITED)

Inquiry Held on 9 – 18 May 2018

William Sutton Estate, Cale Steet, London SW3 3QY

File Ref: APP/K5600/W/17/3177810

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William Sutton Estate, Cale Street, London SW3 3QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Clarion Housing Group against the decision of The Council of The Royal Borough of Kensington & Chelsea.
- The application Ref PP/15/04878, dated 13 July 2015, was refused by notice dated 14 December 2016.
- The development proposed is the demolition of the existing estate (Blocks A-K, N and O) and ancillary office; delivery of 343 new residential homes comprising 334 apartments and 9 mews houses within buildings of 4-6 storeys; provision of Class D1 community floorspace with associated café; new Class A1-A5 and B1 floorspace; creation of new adopted public highway between Cale Street and Marlborough Street; new vehicular access from Ixworth Place; creation of a basement for car parking, cycle parking and storage; a new energy centre fuelled by CHP; and works to adjacent pavement.

Summary of Recommendation: The appeal be dismissed.

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Procedural matters

1. A Pre Inquiry Meeting was held on 19 March 2018 to discuss procedural matters relating to the Inquiry[1].

2. On 1 May 2018 the Secretary of State recovered jurisdiction in respect of the appeal. The reason was that the appeal related to a "proposal for development of over 150 units or on sites over 5 hectares, which would significantly impact on the government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities"[2].

3. The Inquiry sat for 7 days from 9 – 18 May, and an evening session was held for residents on 10 May.

4. An extensive unaccompanied site visit was undertaken before the Inquiry commenced. At the Inquiry the parties were asked to agree any locations outside the estate which should be visited on an unaccompanied basis, and also agree accompanied visits within the estate, including visiting the inside of selected individual flats. These visits were undertaken on 11 and 12 June respectively.

5. Two draft Planning Obligations (related to the Appeal Scheme and the Revised Scheme – see below) were discussed in detail at the Inquiry. At that point it was uncertain if these would be Bilateral or Unilateral Obligations. In the event, two Bilateral Planning Obligations (both dated 29 May 2018) were submitted on 30 May 2018[3]. As was agreed at the Inquiry, the other main parties were given the opportunity to comment on these Obligations, and the Council did so by letter dated 1 June 2018[4].

6. The appellant consulted upon and submitted a Revised Scheme prior to the Inquiry, and has asked that the Secretary of State consider this amended proposal. The principles and consequences of this request were discussed at the Inquiry and, without prejudice to the positions of the parties on whether it is acceptable and fair to consider the revised scheme, the evidence of the main parties addressed both schemes to varying degrees. This report will return to the principle involved below.

7. After the Inquiry closed, the revised National Planning Policy Framework was published, along with some amendments to the Planning Practice Guidance. The appellant, the Council, Save the Sutton Estate (SSE) and the Chelsea Society (both of whom are Rule 6 Parties) were asked for their comments, and the first three provided their views[5]. The Chelsea Society did not respond.

The site and surroundings

8. The William Sutton Estate is located at the south eastern end of the Royal Borough of Kensington & Chelsea within the Hans Town Ward. The appeal site

[1] Note on file, as circulated to the parties
[2] Recovery letters on file
[3] Document 29
[4] Document 30
[5] Documents 31-33

(which is common to the Appeal Scheme and the Revised Scheme) is some 1.5 hectares in extent and is roughly triangular in shape. It is bounded by Marlborough Street to the north, Ixworth Place to the west, Cale Street to the south and Elystan Street to the east[6]. It is occupied by a series of residential blocks collectively known as the William Sutton Estate – which also includes two additional blocks ('L' and 'M') which are outside the appeal site[7]. Block L is partly within the Chelsea Conservation Area.

9. The buildings within the appeal site are named and are most commonly referred to by their initial letter. There are 13 buildings within the site (A, B, C, D, E, F, G, H, I, J, K, N, and O), which comprise 383 residential units in the form of five storeys, with the top floor contained in mansards. Overall, the parties agree that there is 18,708 m^2 net residential internal area, of which 7,845 m^2 is vacant. There is an estate office on the site along with 24 parking spaces.

10. The buildings were completed in 1913 to the design of Edward Charles Philip Monson for the Sutton Model Dwellings Trust, and provided low cost housing for those on minimal incomes. At that time it was the largest estate built by any of the four main London housing trusts. It was unusual in that a number of internal features were incorporated within the flats, such as WCs. A range of shops was uncharacteristically incorporated into the layout. The buildings possess elements of detailed design which sought to blend the Queen Anne style of Chelsea housing blocks with the more widespread social housing block design.

11. One original block was subsequently demolished to create a communal space and estate office. In detail, though modified in later years, for example by the removal of timber windows, an amount of the original detailing and character remains[8].

12. Blocks A – D, comprising 159 units, are entirely vacant and boarded up. The Council agrees with the appellant that these flats fail the Decent Homes Standards. They were last occupied as short term affordable housing by around 70 residents in 2016. The remaining blocks comprise 224 units, of which 39 units were vacant at the time of the Inquiry. The majority of the occupiers are the appellant's tenants and there are three private leasehold tenants[9].

13. The whole of the appeal site is owned by the appellant, who is a Registered Provider of social housing. The Council and the appellant agree that their role as a social landlord is to provide affordable homes for people who are unable to meet their housing needs in the open market[10].

14. No part of the appeal site is within a Conservation Area, although it is adjacent to the Chelsea Conservation Area, which generally lies to the south and west of the appeal site[11]. None of the buildings are Listed or are on the Local List. There are

[6] Site plan and description at Document 3 Section 2
[7] CD 15.1 Page 13 shows the location of the site and the layout of the existing buildings
[8] CD 15.1 Paragraph 2.17 show a series of Verified Views and other photographs of the estate and the surrounding area
[9] Full breakdown of units, occupation and mix at Document 3 Tables 2.1, 2.2 and 2.3
[10] Document 3 Paragraph 2.13
[11] The Inquiry was told of a petition to the Council requesting that the Conservation Area be extended to include the estate (Documents 10 and 16)

a number of Listed Buildings nearby, the most prominent being the Grade I Listed St Luke's Church, which is the centrepiece of the Conservation Area. The gardens to the north of the church adjacent to Cale Street include a fenced football court, a playground and climbing rocks. There is a dispute between the parties as to whether this area forms part of St Luke's Garden, which is within the Register of Historic Parks and Gardens. An extract from the Register was submitted to the Inquiry[12], although the parties differ as to whether the Registered Park extends to Cale Street. This matter will be discussed below.

15. The character of the area is almost exclusively residential, with some ground floor retail uses particularly around Chelsea Green and extending back down Cale Street along its southern side. The surrounding area is varied in built form, with Samuel Lewis Trust blocks to the northwest across Ixworth Place, taller mansion blocks rising to 10 or more storeys to the north and northeast, and heritage areas to the south and west. This latter area includes grand Victorian terraces in Sydney Street, smaller residential developments along side roads such as Astell Street and Godfrey Street, the focal point of Chelsea Green, and St Luke's Church.

Planning history and the reasons for refusal

16. There are two planning decisions related to the estate[13] prior to the current appeal being considered. These are not relevant to the appeal.

17. Discussions of the current proposal began in 2009, and were lengthy and detailed. These are set out in the Statement of Common Ground[14]. Of particular note are the following points:

- In 2009 the Council confirmed that Blocks A-D failed the Decent Homes Standards and that a "Do Nothing" scenario was not acceptable.
- In 2012, following an Options Appraisal Assessment, it was agreed that demolition and redevelopment was the only option – subject to viability issues[15].
- In 2014 the Council stated that, to comply with policy, all net floorspace should be replaced as affordable floorspace.
- In 2014 the Mayor of London confirmed that the principle of redevelopment was accepted. It was additionally stated that whilst it was understood that there was no obligation to use the existing floorspace as affordable housing, the estate was in use as affordable housing and as such all floorspace was required to meet London Plan policy 3.14 (below).
- The planning application was submitted in July 2015.
- The Mayor of London Stage One Report (December 2015) confirmed support for the principle of redevelopment. A range of considerations were set out[16].

[12] Documents 18 and 20
[13] Document 3 Paragraphs 6.1-6.2
[14] Document 3 Section 6
[15] A graphic representation of the options is at CD 15.1 Paragraph 3.1.6
[16] CD 4.1.14 and summarised at Document 3 Paragraph 6.16

The Mayor did raise concerns over the net loss of affordable housing and the delivery of the maximum reasonable amount of affordable housing and viability assessment, along with a small number of technical matters.

18. The application was presented to the Council's Planning Committee in November 2016, with a recommendation to refuse planning permission[17]. The officer's report identified areas of agreement and a summary of public benefits of the proposal. The Planning Committee accepted the officer's recommendation to refuse planning permission and the application was referred back to the Mayor. The Mayor's Stage 2 response[18] was published in December 2016, confirming the position and stating the issues which should be considered at appeal or in the context of any revised proposal.

19. Planning permission was refused on 14 December 2016[19]. The reasons for refusal are:

- The proposal would result in the net loss of social rented housing and fails to demonstrate that the maximum reasonable amount of affordable housing is being provided. The proposals are contrary to policies in the London Plan 2015, in particular Policy 3.14 and the Local Plan, in particular Policies CH3 and CH4.

- The architecture of the proposed buildings would be of insufficient high design quality and would fail to contribute positively to the surrounding townscape. The proposals are contrary to policies in the London Plan 2015 in particular, policy 7.6 and policies in the Local Plan in particular, Policies CL1 and CL2.

- The proposed development, in the absence of a Legal Agreement to secure affordable housing to the meet the Council's housing needs, and appropriate provision for infrastructure that directly relates to the development, would fail to adequately mitigate the impact of the development on the wider area and provide for the necessary social and physical infrastructure improvements arising directly from the development. Therefore, the proposal would be contrary to policies in the London Plan 2015, in particular policies 3.12 and 6.1 and policies in the Local Plan, in particular policies C1, CH2 and CH4.

20. The Mayor of London did not object to the proposal on the basis of the second reason for refusal.

Planning policy

21. The adopted development plan comprises the London Plan, including alterations, (2016), the Consolidated Local Plan (CLP) (2015), the Core Strategy proposals map (2010) and the extant policies of the Unitary Development Plan (2007).

22. The Statement of Common Ground (Paragraphs 4.2 – 4.22) sets out the relevant policies as agreed between the appellant and the Council[20]. It is not proposed to rehearse the full list here.

[17] CD 5.1 – 5.1.3
[18] CD 8.4
[19] CD 6.1
[20] Document 3 Paragraphs 4.2 – 4.22

23. The London Plan policies which are relevant to the various issues between the main parties (including SSE) are:

- 3.14 (Existing Housing). Amongst other matters, this provides that the loss of housing, including affordable housing, should be resisted unless it is replaced at existing or higher densities with at least equivalent floorspace. The supporting text to this policy refers specifically to the redevelopment of affordable housing, and the need to take account of regeneration benefits and other matters.
- 7.6 (Architecture). The policy provides that architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. Further detail of the considerations is set out in the policy, including reference to details and materials complementing, but not necessarily replicating, local architectural character.
- 7.8 (Heritage assets). The policy addresses heritage assets and provides that development affecting assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.
- 3.12 (Affordable housing negotiations). The policy seeks the maximum reasonable amount of affordable housing on mixed use schemes, taking account of a range of matters including viability.

24. The CLP policies which are relevant to the various issues between the main parties (including SSE):

- CL1 (Context and character). This requires respect for existing context, character and appearance.
- CL2 (Design quality). This provides that schemes should respond to the context of the site and be of the highest architectural and urban design quality.
- CL3 and CL4 (Heritage assets). This states that the approach is to protect, preserve and enhance the cherished and familiar local scene.
- CH1 (Housing targets). This policy sets out the need to allocate sites to meet housing targets.
- CH2 (Housing diversity). This seeks to secure the maximum reasonable amount of affordable housing.
- CH3 (Protection of residential uses). This policy is in dispute in relation to the loss of social rented floorspace.
- CH4 (Estate renewal). This policy states that where the redevelopment of social rented housing estates is proposed, a compelling case should be demonstrated that the long term benefits outweigh the considerable uncertainty and disruption such projects will cause. The policy requires, amongst other matters, the maximum reasonable amount of affordable housing, with the minimum being no net loss of existing social rented provision; a guarantee is provided that all existing tenants have an opportunity of a home that meets their needs, with those wishing to stay in the neighbourhood being able to do so; and that where estate renewal is

being funded through the provision of private housing or other commercial development, schemes must be supported by a financial appraisal.

25. Two emerging planning documents have been referred to, although the main parties agree that the drafts carry little weight. There is no reason to disagree with that position.

26. Firstly the draft London Plan was published in December 2017. Although this is a material consideration, the appellant and the Council agree that it carries very limited weight. The draft plan includes a policy (H10) dealing with the redevelopment of existing housing and with estate regeneration. This provides that the loss of existing housing is only acceptable where it is replaced at existing or higher densities. Where the loss of existing affordable housing is proposed, it should be replaced by equivalent or better quality housing providing at least an equivalent level of affordable housing floorspace, and generally an uplift in affordable housing provision should be produced.

27. Secondly the Council is undertaking a partial review of the CLP, covering a range of topics[21]. The appellant and the Council agree that this can be given limited weight.

28. The appellant and the Council have agreed a range of material considerations (paragraphs 4.33 – 4.37). These include national guidance, the London Plan Supplementary Planning Guidance, and the Council's Supplementary Planning Documents[22].

Background to the Appeal Scheme and the Revised Scheme

29. A good impression of the overall proposal can be gained from the front cover of the DAS, which gives an aerial impression of the proposed development[23]. Although designed by different architects, the phases of the scheme share a common theme of buildings fronting the streets (including a new public road through the site) and open space behind[24].

30. Block One comprises two phases of development and two tenure types, although its triangular plan form reads as a single element. Block Two is at the east of the site, adjacent to Leverstock House, and seeks to address the transition between the retained buildings of the estate and the new blocks across the site. Block Three includes a community centre.

31. To seek to address the concerns raised by the Council in the reasons for refusal, and those of the Mayor of London, the appellant advised the Planning Inspectorate in November 2017 of changes that it proposed to make to the Appeal Scheme. The appellant consulted on the Revised Scheme for 21 days in February/March 2018[25], and the Revised Scheme was submitted to the Inspectorate on 13 March 2018 along with consultation responses. The Council and SSE have stated that they do not agree with the principle of the submission of the amendments at this late stage in the process.

[21] Document 3 Paragraph 4.25
[22] Document 3 Paragraphs 4.33 – 4.37
[23] CD 15.1
[24] The phases and identity of the architects can be seen at CD 15.1 Page 44
[25] Document 3 Paragraph 6.31

32. The key changes relate to the quantum of social rented housing and the number of mews houses. The Revised Scheme proposes 2,825 m^2 more social rented floorspace, an increase from 237 to 270 social rented homes. The 9 private mews houses would be removed and replaced with social rented flats. Elements of the building design would be changed[26]. The Revised Scheme results in an increase in the overall number of homes from 343 to 366[27].

33. The non-residential floorspace in the Appeal Scheme and the Revised Scheme would be the same in respect of Classes A1-A3 and B1 workspace, but there would be a decrease in the community floorspace in the Revised Scheme[28]. Both Schemes include the creation of a new public highway through the site between Cale Street and Marlborough Street, a new access from Ixworth Place and a CHP energy centre.

34. As set out above, the appellant undertook consultations on the Revised Scheme during the spring, and submitted a range of material setting out the consultation documents, details of who was consulted and the responses. The Council, the two Rule 6 parties and the Mayor of London commented on the principle of accepting these revisions.

35. The appellant's position on the Revised Scheme is largely set out in three documents. These explain out the revisions to the proposal, the consultation process which was undertaken and details of who was consulted. The Revised Scheme was stated to have been considered in the light of the 'Wheatcroft principles' which set out that the main criterion was whether the development was so changed that to grant the amendment would deprive those who should have been consulted the opportunity of such consultation. It was noted that it has been established that the power to consider such amendments is not limited to cases where the effect would be to reduce the development – so the fact that the revised scheme increases the amount of accommodation does not prevent the amendment being considered.

36. The appellant's position is that nobody has been deprived of the opportunity to have their say. A clear opportunity to express adverse views was given. The development would in essence be what was originally applied for. The consultation process was full and fair, and both the Council and the Mayor of London have had ample opportunity to consider the amendments – the Council had a scheduled meeting in good time and could have called a special meeting of the Committee to consider the revisions. On a procedural point, there is no requirement to notify the Mayor of London if amendments are made – in any event the Mayor was fully aware of the revisions.

37. The appellant notes that it would have been inappropriate to carry out a formal consultation procedure under the Environmental Impact Assessment (EIA) Regulations as the revisions were not part of the application – however this could be required as 'additional information' when the amendments are accepted.

38. The Council, SSE, the Chelsea Society and the Mayor of London have all objected to the consideration of the Revised Scheme.

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[26] Set out at Document 3 Figure 3.1 Table 3.6 and Paragraph 3
[27] Document 3 Paragraphs 3.8 – 3.11, Tables 3.1 – 3.3
[28] Document 3 Table 3.5

39. The Council stated that the Revised Scheme would involve changes to the scheme design, material amendments to the number and tenure of proposed dwellings. There would be a breach to the Wheatcroft principles as there would need to be a high level of community engagement and a respect for the local democratic process. There is no plausible reason why the appellant has not followed the normal course of submitting a new application. The implication of having to potentially address two schemes, especially in terms of viability evidence, has caused difficulty and confusion.

40. There are fairness implications if notification procedures are subverted. The shadow consultation exercise undertaken by the appellant was of necessity hypothetical, and therefore confusing, and because of the unusual source of the consultation. The questions were not put in an open ended and neutral manner. In addition the shadow consultation did not constitute valid notification under the EIA nor was the Mayor of London formally notified.

41. The Council has not had the opportunity to put the Revised Scheme to Members, due to the timescale involved for preparing and publishing a report and the constraints during the period running up to the local elections. The preparation of the report would have to have taken place before the end of the appellant's shadow consultation period – which would have defeated the essential purpose of the consultation.

42. The Chelsea Society noted the massive volume of responses to the original application, and stated that any change would be likely to generate a similar volume. Local residents and associations, and elected Members, must be given adequate time. It would be a denial of democratic rights.

43. Save the Sutton Estate stated that the substantial alterations should be the subject of a fresh planning application.

44. The Mayor of London considers the amendments to be material and should be properly considered through a revised application. They encompass redesign of the mews house blocks in Blocks 2 and 3 to facilitate the change in tenure, including increases in height and footprint.

45. Consideration of the principle of accepting these amendments is set out below.

Matters agreed between the appellant and the Council

46. There are a number of areas of agreement between the appellant and the Council[29]. The most relevant to the issues between the parties are:

- There is no planning obligation or condition requiring the existing residential floorspace to be used for affordable housing[30].
- The appropriate method of comparing existing and proposed social rented provision is net internal floorspace.

[29] Detailed at Document 3 Section 8 and Statements of Common Ground.
[30] The appellant also submitted an advice note (Document 19), the HCA Governance and Financial Viability Standard (Document 23), and the Rules of the Clarion Housing Association (Document 24) in this respect.

- The Council agrees that the Revised Scheme is the maximum reasonable amount of affordable housing.
- Redevelopment is the only option which would secure the necessary improvements to the whole estate to provide good quality affordable housing to meet modern needs.
- The proposal includes a phasing programme which ensures that all existing residents can move directly into their new accommodation.
- The proposed density, at 637 habitable rooms per hectare, is marginally below the London Plan range of 650-1100, but this is acceptable in the local context.
- The proposed market housing mix and quality is acceptable, in a range of respects.
- The proposed affordable housing mix is acceptable and would meet the needs of existing tenants.
- The proposed affordable housing meets London Plan minimum floorspace standards, and is in all detailed respects policy compliant. 11% of the units are wheelchair accessible, and this percentage is defined by the needs of the tenants. All of the units would have access to private outdoor amenity space in the form of a balcony or winter garden, along with communal outdoor space associated with each building.
- The proposed community centre accords with policy.
- The proposed non-residential floorspace is policy compliant and is acceptable.
- The perimeter block layout provides a coherent urban form with a defined street edge and open space enclosed by buildings. The scale is acceptable. The public realm is clearly defined and the new road provides permeability and connectivity. The layout is consistent with local plan policies and brings benefits in terms of urban form and public realm.
- The Council raises townscape concerns[31].
- The parking provision is acceptable – the occupiers of the market units will not be eligible for parking permits, and there would be equivalent provision of existing parking spaces at basement level.

47. In relation to the Appeal Scheme, a range of viability matters has been agreed[32] between the Council and the appellant. The outstanding issues are private values, target profit margins, residential build costs, professional fees, development management fees, other fees and benchmark land value[33].

48. In relation to the Revised Scheme a range of viability matters has been agreed[34]. The appellant concludes that the scheme includes the maximum reasonable level

[31] Document 3 Paragraph 8.51
[32] Document 4(1) Section 2
[33] Document 4(1) Section 3
[34] Document 4(2) Section 2

of affordable housing. The Council considers that the scheme marginally exceeds competitive returns having regard to reasonable tolerance, and that the Revised Scheme reflects the maximum reasonable level of affordable housing, subject to viability review.

The case for the appellant[35]

Appellant's case – background

49. The proposals will bring much needed regeneration of the estate, replacing the existing affordable housing, providing the maximum reasonable affordable housing, increasing the overall amount of housing, in a development of excellent design quality. The Framework specifically refers to the social, economic and environmental benefits of estate regeneration[36]. The Council accepts that redevelopment is necessary and that the quality of the proposed housing is high.

50. The estate was completed in 1913 and was built to provide social housing, which it has done ever since. Despite maintenance, the estate is in need of renewal and, as agreed with the Council and the Mayor of London, it is proposed to redevelop the entire estate with the exception of Blocks L and M. The existing buildings and flats do not meet modern standards. Blocks A – D are the worst, but all blocks suffer from considerable problems and most of the flats on the site fail modern space standards. There is effectively no private amenity space, standards of natural light are poor, and the buildings are inadequate in terms of energy performance and insulation.

51. Blocks A – D suffer from these deficiencies but additionally do not comply with the most basic standard – Decent Homes Standards and therefore cannot be let to social housing tenants on a permanent basis.

52. The appellant has been seeking options and a solution to the problems of the estate since Affinity Homes (now part of the Clarion Group) merged with William Sutton Homes in 2006. There has been a long and meticulous process of consultation with the Councils, residents and other interested persons, culminating in the Appeal Scheme being submitted in 2015.

53. Early in that process a detailed options review took place, culminating in two reports[37] which assessed nine options[38]. The culmination of the appraisal was that the redevelopment of all the blocks aside from L and M was the only feasible course of action. The principle of redevelopment is agreed by the Council[39] and the Mayor of London.

Appellant's case – better quality housing

54. The schemes provide social rented housing of excellent quality, far exceeding the standard of the current accommodation on the site.

[35] This summary is based on the appellant's closing submissions and evidence
[36] Paragraph 93
[37] CD 14.1 and CD 14.2
[38] Set out at Mr Ford's evidence 4.51
[39] CD 5.1.1. Paragraph 6.5

55. The report to the Mayor of London stated that the scheme is generally of a very high residential quality[40]. The Council shares that view and concludes that the scheme provides a suitable mix and good quality of accommodation, compliant with relevant policies[41].

56. The policy requirement that estate renewal must provide better quality accommodation is clearly met.

Appellant's case – maximum reasonable affordable housing and no net loss

57. Importantly the social rented housing will be more than enough to rehouse the 203 existing tenants, all of whom will be able to remain on the site and retain security of tenure. Disturbance will be minimised. There will be a surplus of 34 units (Appeal Scheme) or 67 (Revised Scheme) which can be offered to the Council. This is more than the Council delivered in 2016/17.

58. The scheme complies with the no net loss policy for the following reasons:

- Blocks A – D should not be counted as existing social rented housing as they are not in current use as social rented housing, nor can they be brought back into affordable housing on a long-term basis. They do not comply with Decent Homes Standards and the Council accepts that it is not viable to alter them so that they do comply. Therefore there cannot be a plan to bring them up to a standard to satisfy the Regulator of Social Housing.
- There is no obligation to use Blocks A – D for social rented housing. The appellant is free to use them for market housing and that is what the appellant intends to do if the appeal fails.
- Similarly there is no obligation to use the vacant floorspace in the other blocks for social housing[42]. The appellant has let some flats on a private basis.
- Therefore, for the purposes of the no net loss policy, Blocks A – D and the vacant units in the other blocks should be deducted – leaving a total of 10,864m^2. The Appeal Scheme more than satisfies the policy as it provides 16,142m^2.
- In any event, if it is found that the Appeal Scheme provides the maximum reasonable affordable housing, it would be absurd if permission were refused on the basis of the no net loss policy.

59. The maximum reasonable affordable housing policy is the subject of the appellant's viability evidence. A fundamental difference between the appellant and the Council is the assessment of Benchmark Land Value (BLV), and specifically the fact that the authority has made no allowance for the fact that that the accommodation can be used for private housing purposes.

[40] CD 8.2 Paragraph 52
[41] CD 5.1.1 Paragraphs 6.19, 6.20-6.25, 6.27, 6.28, 6.30
[42] Totalling 1,857 m^2 in Blocks E-K, N and O

60. In line with national policy and guidance, for a development to be viable it has to give the landowner a better return than the options open to them. In this case, the existing use of the site is C3 residential, with no condition or Planning Obligation restricting the use to any particular tenure.

61. There is nothing else which restricts the appellant's ability to dispose of the properties as they see fit[43]. In the past private registered proprietors required consent to dispose of land, but since April 2017 that is no longer the case. Nor is there any other control which prevents them from doing so. It would be perfectly proper to dispose of property in a very expensive area such as Chelsea in order to fund social housing elsewhere. This is the approach that the appellant will take if the appeal is unsuccessful. For all these reasons taking account of private housing use in the assessment of BLV is entirely realistic.

62. The Council's position on this aspect of BLV is perverse - the fact that this is an estate regeneration proposal has nothing to do with the calculation of BLV. There is no guidance which provides that private housing potential should be ignored.

63. The Council is wrong to rely on the policies seeking to secure the maximum amount of affordable housing as a reason for ignoring the private potential of the units for BLV purposes. This argument suggests that anything which might reduce the amount of affordable housing should be ignored. To assess the maximum reasonable amount of affordable housing which a project can sustain requires an intellectually honest assessment including the landowner's options.

64. Although land/site value should reflect policy requirements this does not mean that landowners' true options should be ignored. If planning permission is needed, one should not assume that option to be available. But there is no need for planning permission in this case to use the estate for private housing.

65. The Council asserted that the potential private use of the site should be ignored because it would equally apply to other estates which predate planning control and the emergence of affordable housing as a special form of housing recognised by policy. However each case must be treated on its merits and there must be few estates where the accommodation could be used privately – the Council did not give any examples - and where the private use would generate the high capital value available in this case.

66. It is accepted that, during negotiations, the appellant's advisors were prepared to agree a BLV based on social housing use – as the Council put forward. But this was in the context of negotiations on the Revised Scheme, and the objective was to seek agreement that this proposal provided the maximum reasonable affordable housing. At no stage has the appellant withdrawn its contention that private values inform BLV.

67. In terms of the quantification of BLV, taking account of private housing use in Blocks A - D and the remaining vacant flats, this amounts to £84,090,000. This includes the valuation of the occupied social rented flats on a social housing basis – although as they become vacant they could be used as private flats with a consequent increase in BLV. This figure, which was the subject of little comment by the Council, was based on the expertise of the appellant's advisors and the

[43] Document 19

private rental levels which have been achieved. The Council did not produce an assessment of the BLV which took account of the potential for private housing.

68. The difference between the parties on BLV demonstrates that if the reasonable approach of valuing some of the flats on a private basis is adopted, the scheme provides the maximum reasonable affordable housing – even if all the Council's other assumptions were taken into account.

69. The other differences between the Council and the appellant are set out in the Statements of Common Ground[44]. In relation to build costs, the main difference is the risk allowance and finishes. The appellant's consultants have fully justified their position on these matters.

70. The parties differed as to the sales value of private housing. The appellant's figures were produced by agents with local market expertise – as acknowledged by the Council – and the position of the authority was not supported by similar local knowledge. There was criticism by the Council of the appellant's use of secondary market examples. However there was clear evidence as to why this was the best approach to comparables, as there had been no new schemes launched in the area for some time. The Council criticised the omission of new build schemes which the appellant's agents had included in a 2015 viability assessment. But the appellant's evidence of the clear differences between those schemes and the appeal proposal was comprehensive.

71. In contrast to all this, the Council produced no comparables. There was a suggestion by the Council that the appellant's had simply taken the 2015 figure and applying a reduction – however this was not the case. The Council referred to data from Molior but this relates to asking prices, not achieved prices and are an average of all new build properties without any recognition of particular circumstances.

72. There is a difference between the Council and the appellant concerning professional fees (12% for the appellant, 10% for the Council). However the Council agreed that 12% could be appropriate for complex schemes (and the Council's previous consultants considered 13% - 15% was appropriate. This is clearly a complex estate renewal scheme, and the appellant's figure – which lies between the figures put forward by the Council's two sets of consultants – was supported by comparables, unlike the Council's position.

73. There is agreement that developer's return has to be an input into the viability assessment. The issue is whether this is assessed on the basis of IRR or profit on GDV. The up to date guidance is provided by the Mayor[45] which states that the normal approach in London is GDV. This accords with the draft guidance on viability (albeit in relation to plan-making)[46] and was the approach followed by the appellant. However the Council considered that IRR was the appropriate measure, based on 2016 guidance on estate regeneration, although this predates the draft guidance. The Council also pointed out that the appellant had used IRR in 2015 – but this predated the Mayor's SPG and the draft guidance. The appellant's blended figure of 18.76% is based on the approach in the Mayor's

[44] Documents 3 and 4
[45] CD 18.6 Paragraph 3.36
[46] CD 18.26

SPG and is within the range of 15%-20% set out in the Framework, and is to be preferred.

74. There was a dispute about the application of a development management fee. The appellant proposed a figure of 3% on costs, in addition to the target profit on GDV, and gave comparable examples. This does not take account of the individual nature of the developer (as the Council asserted) but rather the unusual nature of the development, and is reasonable.

75. In conclusion, the Appeal Scheme satisfies the policy aims of no net loss of social housing and the maximum reasonable provision. What is being provided is an increase when the condition of the flats and the appellant's ability to deal with them as they wish are taken into account.

76. The Revised Scheme is not the subject of objection by the Council on the basis of the amount of affordable housing. The Planning Obligation provides a review mechanism as sought by the Council and the Mayor. Where there are differences between the parties, these will be resolved at the time of the first review and these matters do not need to be determined at this stage.

Appellant's case – boosting the supply of housing

77. The total housing floorspace will be increased from 18,708m^2 (including the effectively derelict accommodation in Blocks A - D) to 29,967m^2 (the Appeal Scheme) or 30,727m^2 (the Revised Scheme). The provision of new high quality social rented and private housing (104 units in the Appeal Scheme and 96 in the Revised Scheme) is in line with development plan and national policy to boost the supply of housing and ensure a five year housing supply[47].

78. The Council's position is that there would be a net loss of units. But that includes the 159 flats in Blocks A-D which cannot be viably refurbished, and the reduction in the number of units is affected by the fact that many small units do not comply with modern space standards and have to be replaced with larger units. In any event the Council and the Mayor consider affordable housing in relation to floorspace rather than the number of units.

79. Even if the Council had exceeded its London Plan housing targets, it would still be expected to do more – but actually it has failed in 11 of the last 12 years[48]. This led the Council to concede that there is a persistent undersupply of housing in the Borough.

80. The Council was anxious not to debate 5 year housing land supply at the Inquiry. But the Local Plan Review is still ongoing, and no date has been fixed for the Inspector's report or the adoption of the plan.

81. The housing requirement was effectively reduced by the Council in April 2018 and a 5% buffer is used instead of 20%. In answer to the Local Plan Inspector, the Council has suggested making up the backlog over the whole plan period and not the next five years. This is not a legitimate approach.

[47] Paragraphs 59 and 67
[48] Mr Ford Table 7.1 as amended

82. A 5% buffer is not appropriate as it allows the Council to reduce its target on the basis of its own failure to deliver. The authority maintains that the London Plan takes account of any backlog – but the Council persistently fails to meet every target, and the only solution is a 20% buffer. The Sedgefield approach, meeting undersupply over a five year period, is promoted in Planning Practice Guidance and adopted in Secretary of State decisions. For all these reasons, the requirement should be 4,398 (as previously promoted by the Council, whereas now it puts forward 4,258) + 935 (shortfall) totalling 5,333.

83. There is every reason to suppose that the Council will fail to meet the requirement, as it has done before. Allocations (especially at Trellick Tower and West Cromwell Road) are unlikely to come forward in the five year period. Some large sites such as these will produce housing outside the five year period, and the Council optimistically assumes that every small site with planning permission will be completed[49]. The Council's projected completion rate is far higher than has actually been achieved in the past[50].

84. The Council therefore has a serious housing shortage, and the proposal would be a major benefit.

Appellant's case – heritage

85. The Council did not oppose redevelopment on grounds of any heritage value of the existing buildings on the site. This is appropriate as although the existing buildings are a non-designated heritage asset, their value is limited.

86. The Council did not refuse the scheme on heritage grounds and Historic England had no comments on the application – although they were a statutory consultee due to the proximity of St Luke's Church (Grade I). The Council's committee report specifically stated that the proposal would not harm the setting of St Luke's Church and, subject to further details and control of materials used in the top floors, there would be no harm to views into or out of the Conservation Area.

87. SSE argued for the preservation of the buildings, but their evidence must be tempered by the lack of balance in their expert's evidence. SSE did not suggest that the architect of the estate was a great designer, but only that he was a competent architect and that the estate was an attractive group of Edwardian flats. SSE relied heavily on the views of the Victorian Society, and referred to the reference in the correspondence to Andrew Saint. However the Society is a campaigning group rather than a decision maker, and the references to Mr Saint do not suggest that the letters reflect his views.

88. The overall quality of the estate is low as assessed in detail by the appellant's witness[51]. The main (low) interest of the buildings stems from its historic significance, and that derives largely from the inclusion of a parade of shops in the estate and the provision of internal sanitary facilities.

89. Although the proposal to demolish 13 of the 15 blocks will cause considerable harm to the estate, there is low impact in significance terms as the historic significance does not require the retention of all the blocks. The retention of

[49] Summarised at Document 28 Paragraphs 99-101
[50] Mr Ford Paragraph 7.42
[51] Mr Handcock Paragraph 5.24 onwards

Blocks L and M, which are the most successful part of the estate, will militate against any issue which might arise as a result of the loss of the remainder of the buildings. The demolition of the existing buildings and the redevelopment would be an enhancement in heritage terms.

90. Although the boundaries of the Conservation Area have been amended six times since its original creation, the appeal site has not been included in the designated area. This is despite the production of a detailed Appraisal of the Conservation Area[52] which specifically mentions Block L (which is within the Conservation Area). There would be no harm arising from demolition and an overall improved aesthetic.

91. St Luke's Church and Garden is part of the wider residential area. The loss of the existing estate buildings and their replacement with buildings of a similar scale would not cause any harm to the significance of those assets – whether the Registered Garden extends to Cale Street or not (the appellant's view is that, based on the map which is part of the listing description, it does not). In fact there would be an enhancement due to the change in permeability through the site and an aesthetic enhancement.

Appellant's case – observations on the SSE scheme

92. If the buildings on the site were to be retained, a strategy would be needed to ensure that they could provide reasonable accommodation. SSE put forward a sketch for remodelling and extension[53], but this is wholly unsatisfactory. The sketch scheme would fail to comply with standards in various respects[54] – as SSE accepted. SSE stated that the scheme could be redrawn, but this has not been done.

93. In any event, if the purpose of the SSE scheme was to show how the original buildings could be saved, the scheme fails to do this. It was agreed that the interiors of Blocks A-D would have to be gutted, and more than half of the visible external surface area would be lost or become invisible from outside the site. The buildings would lose their integrity – the Ixworth Place elevation would change from blocks at right angles to the street to a solid wall (with no submitted elevations) due to infilling. Infills were never part of the estate design, and would be an alien feature.

94. No evidence was produced of the costs of the SSE proposal or its viability. The only evidence of sales prices was very generalised and did not take any account of the specifics of the scheme. The SSE witness eventually accepted that he had not demonstrated that the scheme was viable. In contrast the 2011 options appraisal examined an infill scheme[55] and this was found to be unviable.

Appellant's case – scheme design

95. The design concerns raised by the Council and SSE are unfounded as the proposals are of excellent design and would improve the townscape. In any event, even if any of the Council's criticisms were valid, they could be addressed

[52] CD 13.1
[53] Mr Quarme Section 7
[54] Mr Cafferty Rebuttal
[55] Option 2c

by conditions. An example is the conditions put forward by the Council dealing with the elevations and penthouse storeys. The Council's witness agreed that the changes to Blocks 1 and 2 could be dealt with by conditions.

96. In relation to Block 3 the criticisms centre on the community building, the apartment building and the townhouses.

97. In relation to the community building the authority accepted that the overall scale and massing worked well, and the layout reasonably well. It was also accepted that the designs have visual interest. The community building is entirely appropriate and focusses on the community centre. Should there be any remaining issue with the details of its design, this would be covered by conditions.

98. The Council accepted that the apartment building was reasonably handled. However the criticism was that this part of the scheme would be monotonous and overbearing. However the proposal takes its cue from the mansions in the area – and the Council accepted that this was an appropriate approach. There are a number of elements, including deep reveals to the fenestration, soldier courses and tapering columns which would add richness to the building. The Council's criticism of the entrances is misplaced, as the scheme would have three entrances on the street elevation, where there are none at present.

99. The Council accepted that the townhouses eased the impact and scale of the new apartment block, and there was no criticism of their overall form. The criticism was of an alleged lack of detailing – but in fact there would be a strong sense of relief.

100. The concerns related to Blocks 1 and 2 again did not relate to scale and massing, but did deal with the top storeys and some very detailed points related to the Cale Street elevation. The treatment of the top floors is appropriate and that the detailing will lighten the effect of the top floors. Again, if necessary, conditions could address these minor points.

101. The Revised Scheme accommodates the extra affordable housing in an appropriate way. The Council accepted that the community building was improved whist criticising the mews – where there was an allegation of a 'tighter feel'. But in fact the bays will be the same height as the Appeal Scheme, or lower. The length of the mews style element is only shortened on one side and only by 3 metres.

Appellant's case – other matters and conclusion

102. There are no other matters which would justify dismissing the appeal. SSE criticised the loss of what was referred to as 'sheltered housing'. But the accommodation in question (in Blocks J and K) was not designed as sheltered housing and does not meet any definition of that use. It is let on a general needs basis, there is no policy resisting the loss of such accommodation, and the Council has not objected on that basis.

103. Overall this is a proposal which should be strongly supported, so that the new development can bring forward new social rented and private housing of excellent quality in a design of distinction.

The case for the Council[56]

104. The project is complex and has evolved in discussions over a number of years. The Council accepts that the existing buildings can be demolished, even though they are a non-designated heritage asset, and the authority raises no objections to the layout and scale of the proposal[57].

Council's case – loss of social rented floorspace

105. Development plan policy related to the net loss of social rented housing is that estate regeneration proposals must, as a minimum, re-provide the amount of social rented floorspace which exists on the estate prior to its renewal. CLP policy CH3 and policy CH4 (which is specific to estate renewal and which is accepted by the appellant to be the key development plan policy) state that the loss of social rented floorspace will be resisted and that, in relation to estate renewal, the maximum reasonable amount of affordable housing will be required, with the minimum being no net loss of existing social rented provision[58]. This local policy requirement is also found in the London Plan at 3.14 and 3.82[59].

106. These development plan policies are supported by the Mayor's Affordable Housing and Viability SPG (2007)[60] and the Good Practice Guide to Estate Regeneration (2018)[61]. These are clear as to the replacement of the same amount of affordable floorspace. Similarly the draft London Plan (2017)[62] requires the replacement of existing floorspace and makes it clear that the policy includes occupied and vacant accommodation.

107. The Appeal Scheme is in breach of these requirements - the floorspace of the existing estate is 18,706m^2 whereas the proposed development would deliver 16,142m^2 of social rented accommodation[63]. This is a 14% loss of floorspace, or 38% by unit. This shortfall stems from the appellant's instruction to their representatives to ignore the policy requirement regarding replacement floorspace – an instruction changed in relation to the Revised Scheme, where the aim was expressly to meet the estate renewal objectives.

108. Social rented housing is accepted by the appellant to be a scarce resource, that the need in the Borough has never been greater, and that the appeal site is within a location which is underprovided with affordable housing. Much social rented housing, which is in estates in need of modernisation, predates any form of planning control and is before the recognition of affordable housing as a separate planning concept. Estate regeneration policy is therefore essential to maintaining the supply of affordable housing in London.

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[56] This summary is based on the Council's closing submissions and evidence
[57] CD 8.2 Paragraph 20
[58] CD 18.13
[59] CD 18.3
[60] CD 18.6
[61] CD 18.8
[62] CD 18.4
[63] Document 3 Paragraph 3.14

109. The appellant's argument is that, as vacancy levels rise, so the policy requirement for replacement floorspace falls cannot possibly be right, as it would undermine the imperative of refreshing a vital and scarce resource. This would water down the expectations for this type of development and it cannot be sensible to disregard units which are vacant either due to their condition or due to decisions of the appellant. Increasing vacancy rates are an inevitable feature of estate renewal and cannot be treated as a reason for disregarding the floorspace implications of policy.

110. The explicit wording of the policy in the draft London Plan, which specifically recognises vacant floorspace, is not a change in policy. It is a statement of the position which is implicit in existing policy.

111. The fact that some properties do not meet the Decent Homes Standard is a reason for the estate renewal project as a whole. But if this were a reason for discounting vacant social rented floorspace from the policy requirements this would be perverse. In any event, even the floorspace which fails to meet this standard could be lawfully occupied as affordable housing pending the implementation of a plan to meet those standards – as was done for a period by Council tenants on a short term basis. Blocks A – D have not had money spent on them due to the regeneration project – if this were accepted as a reason for not counting this as social rented floorspace it would be an incentive for landowners to run down social housing estates because this would lead to lower social housing replacement requirements. Residents have stated that this is exactly what has happened in this case.

112. The decanting of tenants from properties as a preliminary step towards estate renewal cannot possibly be a basis for disregarding that floorspace for policy purposes. This would jeopardise the already woeful supply of social rented housing across London.

113. The appellant also argues that, as three flats on the estate have been let privately on a short term basis, these should not count in relation to the replacement floorspace policy requirement. But these have been let in the context of the pending redevelopment, and this does not change the fact that this is a social rented estate in need of renewal. Similarly the wider argument that the estate could be used for private housing is misconceived – if this were a reason for avoiding policy then the adopted policy would be entirely ineffective.

114. In the Revised Scheme this issue is overcome. This is an acknowledgement by the appellant that its position on the Appeal Scheme is at odds with the development plan and is untenable.

Council's case – failure to provide maximum reasonable affordable housing

115. The policy requirement is that estate renewal projects should provide the maximum reasonable amount of affordable housing. In this case the appellant's viability appraisal is not fit for purpose for a number of reasons, but particularly as it adopts an inappropriate BLV. The start point is the need to provide a minimum return at which a reasonable landowner would be willing to sell their land, whilst allowing sufficient contribution to comply with policy requirements. The need for the estate to be renewed is, in itself, an incentive for development. That is why, as the appellant's viability witness specifically confirmed, it is common for estate regeneration projects to have a nil BLV. An appropriate land

value must also reflect policy requirements and an assumption that affordable housing can be lost does not reflect policy.

116. The critical point is whether the BLV should be influenced by the proposition that there is nothing to stop the flats being sold/used as market housing. This approach distorts the viability exercise and fails a basic sense check. If it were to be accepted, as the Mayor's report notes, the implications for social housing across London would be profound due to the lack of legal agreements restricting the use of similar estates[64]. The appellant accepted that this argument could be deployed in a great many cases.

117. As agreed by the appellant's viability witness, there is nothing unusual in historic social housing being unsecured by a legal agreement, nothing unusual in that some of the flats failed the Decent Homes Standard, nor in the level of vacancy in the run up to a renewal project. It was suggested by the appellant that the high land values in the area somehow comprise a reason for adopting an unusual approach to BLV. But the fact that this is a high value area makes the retention of social housing all the more pressing and cannot be a reason for adopting a different approach to BLV.

118. The object of the exercise is to ascertain how much affordable housing can reasonably be expected. The correct approach to BLV starts from the position that the existing use is a social rented housing estate, partly impaired and in need of renewal. A viability exercise on that basis is fit for purpose, furthers development plan policy, would satisfy national guidance and the Mayor's preference for the use of EUV+.

119. To base BLV on the theoretical position that the estate were occupied as market housing would not test how much affordable housing could be delivered on a realistic basis and would not reflect the existing use. It would buck the requirement of the policies by introducing a device which would defeat the object of policy, and would create a precedent which would affect almost all estate regeneration projects in London. The correct approach is to serve the purposes of policy, based on an accepted valuation methodology.

120. A critical component of the appellant's position is that they have the right to deal with the estate as they think fit. But, while there is no planning restriction in place, any redevelopment scheme would have to engage with the planning process and the loss of affordable housing could be material. There remains a serious question as to whether the appellant could turn a social rented estate into a private asset within its regulatory framework as established by the Regulator of Social Housing. It has not been demonstrated that the appellant can deal with the estate in any manner in which it chooses.

121. In summary the appropriate benchmark is the existing value for social housing together with premium – agreed at £23.m. This is entirely reasonable.

122. There are other differences between the parties in relation to the viability appraisal. The burden for demonstrating that the proposal represents the maximum reasonable affordable housing provision falls on the appellant[65]. The

[64] CD 8.2 Paragraph 31
[65] Parkhurst Road Limited v SSCLC [2018] EWHC 991 (Admin) Paragraph 47

appellant has all the relevant information and the authority is reliant on this information being released – there are doubts as to whether this has happened. In summary, these issues are:

- The sales values used by the appellant relies on an analysis undertaken which asserted an average sales price, which is a lower figure than that previously used by the same consultants. This change is unsupported by any index movements.
- The appellant has changed their position in relation to the comparability of new build evidence. In 2015 certain new developments were accepted as comparables - but they have now been excluded for no good reason[66]. The appellant was unable to explain this change or explain the values which are out of kilter with the way in which sales values had previously been assessed.
- The use of IRR is the most appropriate approach for a long term project and is supported by RICS guidance, by the Mayor of London and was foreshadowed by the DCLG guidance on estate regeneration. The guidance on viability[67], which is generic and relates to plan making, and which the appellant's witness accepted should be given little weight, does not undermine the use of IRR. In addition IRR was a method previously used by the appellant's own consultants.
- There is no justification for the separate development management fee deducted by the appellant. This was urged on the appellant's witness by his clients and conflicts with his position that the identity of the client (who has limited experience in the private sector) should normally be disregarded. This leads to the possibility of double counting.
- The appellant's approach to build costs, which are too high, is unsatisfactory. The approach to contingency has changed as has the basis of the costs plan, but inexplicably the level of costs has not changed. In contrast the Council's approach has been benchmarked against similar schemes.

123. Overall, the appellant has not demonstrated that the Appeal Scheme provides the maximum reasonable amount of affordable housing. The proposal is therefore in breach of the development plan.

124. The Revised Scheme, which benefits from a grant from the Mayor, marginally exceeds reasonable competitive returns to a willing owner and a willing developer required to enable the scheme to be deliverable. Having regard to reasonable tolerances and subject to a viability review at each phase, the Council is satisfied that this proposal is policy compliant.

Council's case – Design and townscape

125. The appeal scheme fails to meet the requirements of the development plan[68] and the strategic objective to pass on to the next generation a Borough that is

[66] Summarised at Document 27 Paragraph 93
[67] CD 18.26 Page 10
[68] In particular CLP policies CL1 and CL2.

better than today. The bar is set high, especially as what is to be lost is a non-designated heritage asset.

126. The scheme evolved through a collaborative process including the Council, although the authority does not entirely agree with the appellant's narrative. The position of the authority is that the scheme was finalised and submitted before a resolution had been reached on all aspects of the design.

127. The key deficiencies of the Appeal Scheme are as follows:

- Block 1 – facing Cale Street has shortcomings at the penthouse level, which is not a recessive top floor but a 3 metre high eye catching roof form. In addition it does not run parallel with the building but is oddly angled away from it and features a wide expanse of glazing which would be especially dominant when lit at night.
- Block 1 – facing Ixworth Place also features an overly prominent penthouse storey which would be too dominant.
- Block 2 – the mixed use building includes a number of contextual references, but these are too subtle and underplay any contribution to local distinctiveness.
- Block 2 – the townhouses fail to capitalise on the potential for a richer more domestic design to add to a sense of place.
- Block 3 – the community building is at the heart of the scheme but will not deliver the extent of the animation which is shown in the Design and Access Statement. There is a large void to let light into the basement and there is a lack of activity along the mews frontage. The elevational framework is over-emphasised and the upper floors are too open. It has an oddly commercial appearance with unusual reveals around the windows and a squat first floor.
- Block 3 – the apartment building suffers from a range of shortcomings[69] which lead to a generally monotonous and weighty appearance and few devices to break up the elevations and which includes a single underplayed entrance. It would compare unfavourably with the richness of the surroundings.

128. The Revised Scheme makes some progress in addressing some of the concerns regarding the community building although it is not quite there. (These changes serve to highlight the inadequacies of the Appeal Scheme.) There are very limited changes to the Block 3 apartment building, and none to Block 1 or the main apartment block in Block 2. The process of grafting a new built form into a design conceived to accommodate mews housing is unsatisfactory. The result is a backwards step. The Revised Scheme still fails to accord with design policy.

[69] Summarised at Document 27 Paragraph 128

Council's case – Housing need and supply

129. Despite not being included in the Rule 6 statement, the appellant contends that the Council does not have a 5 year supply of housing. But this should be measured in units and the Appeal Scheme would result in a loss of 40 units, and the Revised Scheme a loss of 17 units – so it is hard to see how this argument supports the appellant's case.

130. The Council's position is that it can demonstrate a five year supply, using the Liverpool methodology and a 5% buffer in the light of the unique circumstances of the Borough.

131. In any event, it is not a development plan imperative to deliver housing at the expense of much needed affordable housing which could be delivered. It would not be sustainable development in terms of national policy if the amount of affordable housing is inadequate.

132. The Local Plan Review Inspector is dealing with the issue of housing land supply, and the appellant has indicated that they intend to participate in that process. That is the correct approach, in line with national guidance, especially in view of the late stage at which this issue was raised on appeal.

Council's case – Heritage assets

133. Heritage matters do not form part of the reasons for refusal. The Council does not contend that the proposal would harm any Listed Building, although adjustments to the design of Blocks 1 and 2 would be required to avoid minor harm to the Conservation Area.

134. The appellant underplays the significance of the William Sutton Estate as a non-designated asset.

135. It is clear from the description in the list entry that the full extent of St Luke's Gardens is included in the Register of Historic Parks and Gardens.

Council's case – Planning balance

136. The Appeal Scheme is contrary to the development plan, especially policy CLP CH4, which the appellant accepts is the central policy, given the nature of the proposal as an estate renewal scheme. There would be a net loss of affordable rented floorspace and a failure to provide the maximum amount of affordable housing. The proposal falls short of the expectations of the development plan in respect of design and townscape matters.

137. The Revised Scheme, were it to be considered, would overcome the affordable housing concerns subject to the provision of an appropriate review mechanism. The overall planning balance would therefore be markedly different. However the Council's design concerns would not be overcome – there would be some improvement to the community building, but a materially worse design approach to the replacement of the mews housing. The position is more finely balanced, but the Council considers that the Revised Scheme should not be granted permission for this reason.

The case for Save the Sutton Estate (SSE)[70]

138. SSE was established with the purpose of campaigning to protect the estate from demolition and redevelopment. It has members from each of the blocks which make up the estate. It is run by an elected board of tenants and residents and has received widespread support for its campaign.

139. There is considerable evidence related to the deliberate running down of the estate by the appellant and their neglect of residents[71]. There used to be a good communal atmosphere but more recently there has been poorly handled decanting of residents from Blocks A – D, a lack of maintenance/repairs, and the winding down of the sheltered accommodation in Blocks J and K. There was no need to wreck the bathrooms in Blocks A – D after they were vacated. This was deliberate vandalism.

140. Residents have been given misleading information about the proposed scheme. As an example the appellant's banners on the estate said that the new homes would be "Up to 25% bigger" – but this is a maximum not a promise. At the various meetings held by the appellant, there was little continuity in the representatives, who were poorly briefed and who therefore misled the residents. The plans of the new flats shown to residents were out of scale, showing furniture which could not possibly fit into the rooms.

141. The appellant's consultations did not accurately reflect the opinions of residents, and the questions were phrased in a manner which invited agreement. The appellant's Sutton Estate Redevelopment Steering Group (set up in 2014) was explicitly told that its role was to discuss matters of detail rather than principle. In contrast the 2015 survey of tenants by the Chelsea Association showed 80% opposed to the demolition and, in 2018 a further survey of residents showed 100 out of 103 respondents opposed to the proposal. The online petition against the proposal attracted more than 12,000 responses[72].

142. The revised Framework makes it clear that effective engagement between all parties, including communities, is essential. This has not occurred in this case.

143. SSE evidence, given by one of the country's leading historic architects, is that it is both desirable and possible to renovate the existing buildings. Six options were produced, two of which were worked up in more detail – based on the successful conversion of other blocks on the estate. The appellant's criticisms of these plans were accepted, but they were only intended to be indicative and had been prepared at short notice. They serve to illustrate that refurbishment was possible whilst preserving the heritage significance of the buildings, and that it would be possible to restore the flats gradually so that they complied with modern standards.

144. One of these options envisaged infills for private housing. These would produce a capital value of £18.1 million (based on local sales prices). This would enable one phase of the refurbishment to pay for the next phase – this was not an option considered by the appellant.

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[70] This summary is based on SSE's closing submissions and evidence
[71] In particular the evidence of Lady Denman
[72] Document 17

145. The Estate is a non-designated heritage asset, and there are other heritage assets in the vicinity – especially St Luke's Church (Grade I), St Luke's Park and Garden (Grade II) and the Chelsea Conservation Area. The proposal would cause the almost total loss of the estate, which would be a considerable impact on the asset. This contrasts with the appellant's position that, following mitigation, there would be only moderate overall harm. But the mitigation in question would be the retention of two other blocks, and this is a flawed approach to conservation. The demolition of historic buildings cannot be justified on the basis that other examples remain.

146. The two letters from the Victorian Society[73], based on detailed research, emphasises its strong objection to the scheme. The objection from the Victorian Society should be given considerable weight, as should the letter[74] from Save Britain's Heritage and the views of Historic England on the EIA Scoping report[75].

147. SSE and the appellant agree that the significance of St Luke's church is high, and that of the Garden is moderate. The estate has a significant impact on the setting of the Church due to its mass and visibility. However the current blocks are at right angles to the street, whereas the proposal would create a monolithic block facing the church and garden, with a top floor appearing as solid as the floors below. The proposal could never make the same positive contribution as the estate. Although the estate is not in the Conservation Area, the boundary has not been reviewed since 1990, and the appreciation of Victorian philanthropic social housing has grown considerably since then – there is a petition to the Council asking for the estate to be included in the Conservation Area.

148. Given the almost total loss of the estate the public benefit case would have to be very strong – and the Appeal Scheme would fail on the basis of the loss of socially rented housing. There are also other negative factors – the destruction of the community, the lack of need for luxury housing, and the disruptive consequences of the building programme on elderly residents.

149. The proposal would cause less than substantial harm to the Grade I Listed church and Grade II garden. Considerable weight should be given to this harm. There was a disagreement as to whether the northern part of the garden, closest to the appeal site, is included in the listing – but it is clear from the text and from the physical boundaries that it is included.

150. The site is just outside the Conservation Area - SSE and the appellant agree that the significance of the Conservation Area is high. The appellant's position overall is that the redevelopment would have an equally positive effect on the Conservation Area, but that view of the significance of the estate is too negative and the potential contribution of the development is too optimistic.

151. SSE has not provided detailed evidence on the design of the Appeal Scheme, but supports the Council's position. The proposal lacks townscape merit and permeability – due to the monolithic nature of the proposal. It does not have the support of the community.

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[73] On file
[74] On file
[75] CD 3.2.12 Page 11-9

152. It is common ground with the appellant that Blocks J and K were refurbished for social housing. However when the appellant took over it decided to let out the wardens' flats and it is accepted that the accommodation does not meet the definition of sheltered housing – but it is close to doing so for a range of reasons[76]. The appellant has failed to provide evidence that the residents would be able to benefit from comparable services and facilities – indeed the appellant's witness seemed to be unaware of the current facilities.

The case for The Chelsea Society[77]

153. An important amenity in Chelsea is social housing for those who cannot afford market rents. This has led to the provision of estates which are part of the fabric of the area.

154. Blocks L and M are not included in the scheme – rightly, as these are fine examples of the period. As to the proposed redevelopment of the appeal site, any new buildings should be compatible with the character of Chelsea. There are two points of view within the Society – some consider that the buildings are a well-designed series of mansion blocks, albeit diminished by some recent alterations, which ought to be preserved, whilst others find them a forbidding presence and consider that they should be replaced by buildings and open space more suitable for 21st century living. The proposed design is regarded as functional and a much higher standard of architecture should be required.

155. The appellant's argument that some of the flats should not be counted as existing social rented housing is unimpressive, as this is a result of past neglect. Although the current owners might have the legal right to let the flats on the open market, this would be contrary to the purposes for which William Sutton gave the land, and the Council are correct when they say that this distorts the assessment of benchmark land value. The owners paid nothing for the land and though they should cover their costs, they should not make a profit

156. A balance has to be struck between the importance of providing social housing and providing private housing to fund it. If redevelopment is allowed, it is important that existing tenants are able to remain on the estate, and that they are properly housed and cared for during the process. Equally the interests of local people must be protected by way of a Construction Management Plan and a Construction Traffic Management Plan.

The case for others appearing at the Inquiry

157. Mr G Robertson (Dovehouse TA) stated that he represented 20/30 households. He was a representative of traditional local opinion. Chelsea is a traditionally mixed community and the deliberate running down of the estate to the detriment of the social housing mix in the area was entirely unacceptable. Any loss of social housing should be resisted. The quality of the replacement buildings was inadequate.

[76] Summarised at Document 26 Paragraph 105

[77] The Chelsea Society was a Rule 6 party but did not call any witnesses. This summary is based on their correspondence and Opening and Closing Submissions

158. Ms L Motileb[78] had viewed the typical flats in Carshalton as the appellant had recommended. She found them small and cramped in comparison with the accommodation which is currently provided on the estate.

159. Mr I Henderson[79] is the Chair of Save the Sutton Estate and Councillor for Colville Ward. He explained his involvement with the estate and stated that tenants have been misinformed throughout. The consultation has been skewed in favour of the appellant. Most residents are opposed to the proposal. The appellant has reserves which could be used to improve the estate rather than demolish it and realise its value, and have deliberately kept flats empty which should be used for social housing.

160. Ms Bamber had lived on the estate for 27 years and had brought up two children there. The buildings and entrances are being closed off, with a resultant decrease in security. Maintenance is poor despite service charges – there is no fire alarm, she had missing floor tiles and the response to her lack of hot water was the suggestion that she should boil a kettle. The proposal would put social housing at the back and housing for the affluent at the front.

161. Ms J Keal[80] criticised the appellant's approach towards the estate and its tenants, which has led to considerable distress. There is considerable confusion as to the offer from the appellant to the existing tenants.

162. Ms V Reilly had lived on the estate since 1975. She fully supported the Council's position on the poor architecture of the proposal. The maintenance is deplorable – she has been waiting since mid-March for repairs to take place to her burst sitting room radiator.

163. Mr R Burgess[81] referred to the attempt to get the estate included in a Conservation Area. The design of the proposal is out of keeping with the surrounding area and would not preserve or enhance the adjacent Conservation Area.

164. Mr M Clarke was born and brought up on the estate, where his father had been a porter. There was always a need for social housing, which he contrasted with the appellant's desire for profit. Properties on the estate should not be sold.

165. Mr H Schumi has a hairdressing business close to the estate. The Sutton Estate was a blessing for the tenants and used to be a safe and secure place. There was no need for demolition, and other estates in the area had been refurbished.

166. Mr M Motileb[82] grew up on the estate and explained its attractions. The proposed underground parking would not be used as it would be insecure. The community should not be split up.

167. Ms S Brown had lived on the estate all her life and has a flat with a small garden. She would bitterly regret losing this facility. Her parents had lived on the estate until 3 years ago, when the state of the estate forced them to move

[78] Document 7
[79] Document 6
[80] Document 8
[81] Document 15
[82] Document 11

out due to depression. They would like to return but could not face living on a building site.

Written representations

168. A considerable volume of representations and online petitions (attracting around 12,000 signatures) were submitted to the Council during its consideration of the application[83]. In addition, a number of letters from individuals and groups have been submitted at the appeal stage. In addition to individual residents' letters. attention is drawn to representations (in relation to the Appeal Scheme) from:

- The Mayor of London[84] who issued comments on the Appeal Scheme at Stage 1 and Stage 2[85]. The net loss of social rented floorspace is unacceptable and contrary to the London Plan. The position of the Council is fully supported in relation to the Appeal Scheme. If the Revised Scheme were to be considered, the Mayor would need to be assured that the proposal constituted the maximum reasonable amount of affordable housing – this is not agreed and the Mayor of London's position is that the Revised Scheme should be dismissed on that basis.
- The Victorian Society (2 letters) – objection on the basis of the loss of an impressive and important complex of historic buildings. The blocks feature a good level of architectural and aesthetic merit. The buildings contribute positively to the adjacent Conservation Area and to the Grade I Listed church. Support for the refurbishment of the buildings is expressed. The appellant's reliance on the difficult relationship between the architect and the London County Council is misplaced and does not provide evidence that the design was regarded at the time to be of poor quality.
- Save Britain's Heritage – object to the loss of a non-designated heritage asset which is of architectural and historic importance.
- Milner Street Area Residents' Association – object to the loss of social housing in favour of profit for the developer, concern that the buildings have been deliberately voided and vandalised by the appellant.
- Dovehouse Street Residents Association – object to the loss of the existing buildings and of affordable housing.
- Councillor Linda Wade – objects to the principle of enabling proposals, the loss of the existing architecture, the loss of social housing, and the poor quality of the proposed design.
- Anstell Street et Al Residents' Association – object on the basis of the loss of the existing buildings, the loss of social housing and the poor design of the proposal.
- Kempsford Gardens Residents Association – object to the loss of the existing buildings, supporting refurbishment, and describing the proposal as a "type of social cleansing".

[83] On file
[84] Summarised at Document RS9
[85] CD 8.2 and 8.4

- Earls Court Square Residents' Association – object to the loss of social housing, the loss of the existing buildings and the poor design of the proposal.

- Ms L Sherlock[86] submitted a written submission at the evening session of the Inquiry, explaining the disrepair into which the estate has fallen. She criticised the consultation undertaken by the appellant. The existing buildings are an iconic part of the area and the proposed scheme is unattractive and out of keeping.

Conditions and obligations

169. Two sets of conditions have been prepared, without prejudice, and agreed between the Council and the appellant. These address the Appeal Scheme and the Revised Scheme respectively, with the only differences being the plan numbers and the inclusion of a condition related to permitted development rights applying to the mews houses in the Appeal Scheme (the Revised Scheme omits the mews houses). The conditions form two appendices to this report.

170. Two Unilateral Planning Obligations have been submitted dealing with the Appeal Scheme and the Revised Scheme and the appellant has explained their position as to the approach taken[87]. Leaving aside the Council's planning objections to the proposals, the authority has expressed concerns at the way in which the Obligations are drafted[88].

[86] Document 9
[87] Document 29
[88] Document 30

Inspector's conclusions

[Numbers in square brackets denote source paragraphs]

Background and main considerations

172. Based on the evidence of the main parties (including Save the Sutton Estate (SSE) and the Chelsea Society) and residents there are three main considerations in this case. These were identified at the Pre Inquiry Meeting [1] and, although some other matters have fallen away or been introduced as the evidence progressed, these considerations have remained largely the same:

- The effect on the provision of social rented housing in terms of quantum and whether the offer in totality is the maximum reasonable
- The effect of the proposal on the character and appearance of the area
- The effect on the setting of heritage assets (incl. St Luke's Church and Garden and the Chelsea Conservation Area)

Whether the Revised Scheme should be considered and determined

173. Before progressing to address these main topics and other considerations it is necessary to consider whether the Revised Scheme should be determined in place of the appeal scheme. The background to the history of the proposal and the submission of the Revised Scheme are set out above [17, 18].

174. Until around a week before the Inquiry opened it had been indicated by PINS that a decision on the principle of accepting the Revised Scheme would be made at the start of the Inquiry, in the light of the representations already made in writing and any further submissions made at the Inquiry. (In the event the parties were largely content to rely on the written submissions.) However the Secretary of State's recovery of the appeal [2] meant that this decision could not be made at the Inquiry, but (as agreed by the parties) falls to be made by the Secretary of State in the light of the submissions of the parties and the recommendation in this report.

175. The proposed Revised Scheme was put forward by the appellant as it was considered that the new proposal would overcome one of the reasons for refusal, related to the amount of affordable housing and viability. (In the event that proved to be the case as the Council raised no objections on that basis to the Revised Scheme [48].)

176. The preferred and usual approach is that, under these circumstances, the appellant would make a fresh planning application to the local planning authority. However the appellant was reluctant to follow that course of action because of the lengthy process which had already been undertaken, and concern about further delays. It is clear that a new application would be the normal course of action, and one which would have avoided the concerns raised by the approach taken by the appellant. Advice to that effect was issued by the Planning Inspectorate well before the Revised Scheme progressed to consultation.

177. The general advice is that the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector, and the

Secretary of State in this case, is essentially what was considered by the Council, and on which interested peoples' views were sought. An important issue is whether the Revised Scheme is 'essentially' what was considered by and consulted upon by the Council. The Revised Scheme includes a number of significant changes to the proposed mix and tenure of the development, with consequent elevational changes and, importantly, alterations to the viability/affordable housing position [32, 33]. It is noted that although there is an increase in the proposed number of homes, this is not determinative, especially as the site area and boundaries are unchanged.

178. When amendments are proposed during the appeal process account should be taken of the 'Wheatcroft principles' when deciding if the amended proposal can be formally considered. In the Wheatcroft judgment the High Court considered the issue of amendments in the context of conditions and established that "the main, but not the only, criterion on which… judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation". Based on that principle, although amendments to a scheme might be thought to be of little significance, in some cases even minor changes can materially alter the nature of an application and lead to possible prejudice to other interested parties.

179. Before turning to the key issues raised in this instance, there are some more minor matters raised in relation to the Revised Scheme and the appellant's consultation thereon which should be considered:

- It has been suggested that the appellant's consultation was not a substitute for notification of the Mayor of London under statutory provisions [40]. However it has not been demonstrated that there is anything which requires re-notification of the Mayor if a scheme were revised [36]. In any event there is nothing in this point as the Mayor has been fully aware of the progress of the Revised Scheme and no prejudice would be caused.

- It had been suggested that there are shortcomings in the evidence (especially related to daylight and sunlight and inconsistencies between the floorplans and the elevations) in respect of the Revised Scheme. However this was disputed by the appellant and not pursued by the Council at the Inquiry, and there is nothing which demonstrates any shortcoming in the evidence.

- It has been suggested that there is a deficiency in relation to EIA consultation. The appellant's position is that the changes were clearly known and considered in full but that it would not have been appropriate to carry out EIA consultations at this stage as the revisions are not part of the planning application – and will not be until the Secretary of State resolves to accept the Revised Scheme. At that point, the necessary EIA consultation could be undertaken and considered, prior to the Secretary of State's consideration of the planning merits of the case. There does not appear to be any reason why this could not be done and this does not represent a clear reason for not accepting the Revised Scheme [37].

180. There are three main areas of concern related to the principle of accepting the Revised Scheme:

- The consultation undertaken by the appellant on the Revised Scheme, as detailed in evidence and submissions, was between 13 February 2018 and 5 March 2018 [35, 36]. There has been criticism of the nature of the consultation forms and discussion of whether the forms were open ended and fair [40, 141, 142] . In particular attention has been drawn to the Feedback Form which asked "Do you support the proposals to amend the scheme to provide 33 additional homes for social rent?" The criticism is that this question was likely to skew the answer in favour of the Revised Scheme, as respondents (even if they were opposed to the scheme as a whole) would not be likely to object to additional social housing. It is appreciated that many of those responding would be aware of the background to the proposal, and that one option was to not support the Revised Scheme. However the phraseology of the question could certainly be said to favour the revised proposal. There could also have been confusion about the nature of the consultation related to the fact that it originated from the appellant and that - by its nature – the consultation was hypothetical (based on the possibility that the revised scheme was accepted as part of the appeal). The nature of the question and this potential confusion is an important consideration in considering whether to deal with the Revised Scheme.

- The Rule 6 parties (SSE and the Chelsea Society) have stated that, although they were aware of the Revised Scheme, they have not been able to assimilate it into their evidence, due to the scale and complexity of the proposals and their limited resources [42,43]. In the case of SSE the evidence therefore dealt only with the Appeal Scheme as decided by the Council. The Chelsea Society chose to rely on their written submissions, which predated the Revised Scheme and therefore did not address it. Other parties, such as the Victorian Society, made representations on the Appeal Scheme. These matters are of significance in deciding whether to accept the Revised Scheme.

- An important concern is that the submission of the Revised Scheme, over a year after the Council's decision to refuse planning permission, could prejudice the position of the Council (as a corporate body as opposed to the position of officers). There is a dispute as to whether the Council could have formally considered the revisions in time, due to the effect of the local elections and the Committee timetable. The parties differ as to whether the Revised Scheme could have been considered by Members, but it seems unlikely that the opportunity to do so was realistically available given the very late production of the Revised Scheme [36, 41]. It appears that the Council's report on the matter would have had to be written and published before the results of the appellant's consultation were known. That is not a proper way to deal with public consultation. In a similar vein, the Mayor of London has not formally considered the Revised Scheme [44]. These matters are of considerable importance in considering the acceptability of the Revised Scheme.

181. There are a number of issues raised by the appellant's decision to seek to amend the proposal at the appeal stage, rather than submitting a new application. These are set out above. But the main concern is that the Council has not formally considered the revised scheme, and the evidence to the Inquiry on the Revised Scheme was an officer view only. It seems unlikely that the authority could have given proper consideration to the Revised Scheme in view of the timeframe, but in any event the fact is that it has not done so. The position is that the Council, and other statutory and non-statutory parties, have not fully addressed the Revised Scheme (if at all). This – along with the factors relating to the consultation exercise – makes it inappropriate to make a decision based on the Revised Scheme in the light of the Wheatcroft principles. It is recommended that only the Appeal Scheme be considered.

182. At the Inquiry each witness considered the Appeal Scheme followed by (where appropriate) the Revised Scheme. This report adopts the same approach, should the Secretary of State consider that the Revised Scheme should be determined.

The visual quality of the existing buildings

183. SSE and some local residents argued strongly in favour of the retention and refurbishment of the existing buildings – both in heritage terms and in relation to the accommodation provided [145, 146]. SSE put forward a scheme to demonstrate that the retention/extension of the buildings was possible [143] – this will be considered in a separate section below.

184. The Chelsea Society explained that there were two distinct views within the Society, with some members feeling that the estate is a well-designed series of mansion blocks which ought to be preserved, whilst others find them an unwelcome and over dominant presence [154].

185. The Council raised no objections to the demolition and redevelopment of the estate. This has been the consistent position of the authority since the outcome of the consideration of options for the estate [46]. However the loss of this asset means that, in the Council's view, the bar is set high in relation to the quality of architecture needed as a replacement – this is considered below. The Mayor of London did not raise any objection on these grounds.

186. The estate was built to provide social housing and was completed in 1913 to the design of Charles Monson. There are varying opinions as to the architectural quality of the estate [85, 88, 104, 133, 134, 143, 163, 168] but the balance of the evidence is that it was a good example of its type although, whilst it possessed some interesting detailing and embellishments, it was a generally workaday design. The main interest in the estate appears to have been historic – both in relation to the inclusion of shops and the provision of internal sanitary facilities. It is also of some further historical interest in relation to the differences of opinion between the architect and the London County Council.

187. In recent years there have been a number of unsympathetic alterations to the buildings, most notably the use of non-traditional windows. There was evidence from residents and SSE that the current condition of the estate is as a result of deliberate neglect by the owners [139, 157, 168], and from a visual inspection there is certainly a need for external and internal maintenance, and it is

common ground that the estate is in need of renewal. However there is no evidence that the buildings are in a structurally poor condition.

188. All parties agree that the estate is a non-designated heritage asset [85, 104, 145, 168]. It is not included on the Statutory List of Historic Buildings nor is it within the Chelsea Conservation Area. (Block L, outside the appeal site, is within the Conservation Area apparently in relation to its contribution to Chelsea Green rather than in specific recognition of its intrinsic quality.)

189. The current proposal, involving the demolition of all the estate within the appeal site, has evolved from a lengthy process of design and consultation [17]. Although the Council considers that this process was not concluded by the time the application was submitted, it has long been agreed by the Council, the Mayor and the appellant that demolition (aside from Blocks L and M) and redevelopment was the only realistic option.

190. SSE criticise the Council for not conducting its own detailed evaluation of the impact of the proposals on heritage assets, including the estate itself. However the Council's consideration of the proposals has been long and detailed, and there can be no serious criticism that they have failed to properly consider the heritage significance of the estate.

191. SSE place great weight on the correspondence from the Victorian Society and representations from Save Britain's Heritage [146, 168]. These give useful background and opinions on the estate and its development. The appellant notes that these are campaigning organisations, but their expertise and views are clearly material.

192. The views of Historic England at the time of the EIA Scoping Report [146] are noted, although no further representations have been made. This is perhaps unsurprising as the site is neither in a Conservation Area nor does it include a Grade I Listed Building. The absence of views from Historic England (since the scoping report) cannot be taken to imply satisfaction or dissatisfaction with the proposal. If Historic England had wished to make their views known on the proposal they could have done so.

193. Overall, the William Sutton Estate is a non-designated heritage asset whose main significance lies in its historical associations, especially as the original design of the estate has been somewhat altered. A reference to these associations would remain in Blocks L and M. But in urban design terms the arrangement of the blocks at right angles to the roads is out of character with the prevailing form of development in the area. Although this could be argued to provide some visual relief from the predominant frontage developments, the narrow spaces between most of the blocks are not a positive addition to the urban form.

194. The proposal to demolish 13 of the 15 blocks would clearly cause considerable harm to the estate, but there would be low impact in significance terms due to the limited contribution made by the buildings is streetscape terms, and the fact that the historic significance would partially remain in the form of those retained blocks outside the appeal site. The buildings on the site are not covered by any form of protection in historic or conservation terms, despite extensive consideration by all parties over a considerable period. Overall the loss of the

existing buildings is not a matter which weighs heavily against either the Appeal Scheme or the Revised Scheme.

The quality of the existing accommodation on the estate

195. The accompanied site visit included an inspection of a number of flats in Blocks A-D and others. All parties present (the Council, the appellant and SSE) agreed that these were a reasonably representative sample.

196. From the evidence at the Inquiry and from the site visit it is clear that all the blocks on the estate suffer from a range of internal problems related to size and layout. The appellant's evidence is that most fail to meet modern space standards as set out in The Mayor's SPG, and this has not been disputed [50, 78, 198]. In addition there is virtually no private amenity space and the spaces between blocks are overshadowed and dominated by the blocks themselves. There is no reason to doubt that the buildings are inadequate in terms of energy performance and insulation.

197. In addition, Blocks A - D, which are empty, do not comply with Decent Homes Standards [12, 17, 51, 58, 111]. This is the most basic standard and without compliance with this they cannot be let to social housing tenants on a permanent basis. There was a debate at the Inquiry as to whether they could be let on a temporary basis, as some had been in the past. Although it appears that this would be theoretically possible, it is largely academic as the appellant has removed sanitary and other fittings and the flats are not currently habitable. Considerable work would be required to make them fit.

198. Overall, despite the refurbishment which has taken place (although the last refurbishment of a block was in 1998 and some have apparently not been fully refurbished or modernised since the 1970s), it is apparent that most of the flats fail to meet modern standards, including those now required by the Building Regulations. A few of the deficiencies, such as damp penetration, could be addressed whilst retaining the existing flats, but the majority of issues, for example space standards and amenity areas, cannot be rectified by improvement work within the flats, and require a more radical approach.

199. It is fully appreciated that many of the tenants on the estate have expressed a strong preference for remaining in their flats. This preference is entirely understood but in wider terms it is clear that the estate cannot remain as it is and needs to be brought up to modern standards. The fact that the Appeal Scheme and the Revised Scheme would both provide good quality modern accommodation obviously weighs significantly in their favour.

200. A wide range of options, including a number which featured the retention and remodelling of some/all of the existing flats and blocks, have been considered over the years. In particular the 2011 report [94] concluded that demolition and redevelopment was the only feasible option, and this was agreed by the Council and the Mayor. The appellant considers that this is the only viable option. The only dissenting voice amongst the main parties is that of SSE, who consider that refurbishment and infill is a preferable option, and this is considered in the next section of this report.

The refurbishment/infill option put forward by SSE

201. The position of SSE is that it is both desirable and possible to renovate the existing buildings [143, 144]. This was illustrated by a range of options, with one in particular worked up in more detail in relation to Blocks A-D. In essence the concept was that the ends of the parallel blocks should be infilled by private housing, which would produce a capital value which would enable the first phase to fund the next phase. This option was stated by SSE not to have been considered by the appellant [144].

202. SSE accepted that their worked up option was only indicative and had been prepared at short notice [143]. The approach was said to preserve the heritage significance of the buildings and adapt the flats to modern standards. SSE accepted that the scheme would fail to meet many standards, although their position was that the concept could be amended so that this was achieved [143]. However there is no further evidence to demonstrate the consequences of any such amendments or whether they would be possible or realistic.

203. In any event the heritage significance of the buildings would be very substantially harmed by the concept. The estate was designed as a series of parallel blocks running at right angles to the streets, and was never intended to have infill blocks linking the ends – these would be entirely out of character. SSE accepted that the interiors would have to be gutted and remodelled to achieve the necessary improvements and it is clear that a substantial proportion of the elevations would become invisible from outside the site.

204. The 2011 options appraisal report considered a not dissimilar infill scheme in detail (Option 2C) [94]. This included lateral extensions to the existing buildings by infilling the gaps with new build extensions. However this was found to be unviable and the conclusion was that the quantum of additional homes above those existing would not create sufficient cross subsidy to balance the increased costs. In contrast SSE only produced very general evidence of potential sales prices in the area, which did not reflect the specifics of the proposed infill scheme and no evidence of costs or viability was produced.

205. In summary, whilst it is appreciated that the SSE proposal was only intended to be indicative and some detailed issues could doubtless be resolved, it is considered that the significance of the asset would be substantially harmed by the insertion of infill blocks. This harm would be occasioned both by the principle of infilling and by the effect on the fabric and the concealment of a significant amount of its original elevations. In addition, there is no evidence to contradict the detailed findings of the 2011 appraisal, which was that the approach would not be viable. It is therefore considered that very limited weight can be accorded to the SSE scheme and it does not represent a reason for objecting to the appeal schemes.

The effect on the provision of social rented housing in terms of quantum and whether the offer in totality is the maximum reasonable

206. The development plan and emerging policy requirements are set out above, but it is useful to summarise the position as a precursor to considering the position [23, 24, 26]:

- CLP policy CH4 deals with estate renewal and is directly relevant to this proposal. It is supported by policies dealing with housing diversity and the protection of residential uses. The policy requires, amongst other matters, the provision of the maximum reasonable amount of affordable housing, with the minimum position being no net loss of existing social rented provision.

- London Plan policy 3.14 provides that the loss of housing, including affordable housing, should be resisted unless it is replaced at existing or higher densities with at least equivalent floorspace.

- Draft London Plan policy H10 deals with the redevelopment of existing housing and estate regeneration. It provides that where the loss of existing affordable housing is proposed, it should be replaced by equivalent or better quality housing providing at least an equivalent level of affordable housing floorspace, and generally an uplift in affordable housing provision should be produced.

207. These policies can best be considered under two topics (though there is some overlap) - no net loss of existing social rented provision and the provision of the maximum reasonable amount of affordable housing.

208. In terms of the 'no net loss' aspect of policy, the factual position is that, measured in floorspace the social rented floorspace – regardless of whether it is vacant or not, is currently 18,706m^2. The Appeal Scheme would deliver 16,142m^2 of social rented accommodation (i.e. a 14% reduction). (The Revised Scheme includes 18,967m^2 of social rented floorspace.) On the face of it the Appeal Scheme clearly fails the 'no net loss' policy. (Whereas the Revised Scheme complies with the policy.)

209. However the difference between the parties for this part of the policies relates to what should be counted as 'existing social rented provision', in the terms of CLP policy CH4 and others. If one excludes the whole of Blocks A - D (which are vacant and boarded up) (5,989m2) and the vacant floorspace in the other blocks (1,857m2) , the total existing social rented floorspace is 10,860m2 and, on that basis, the Appeal Scheme more than satisfies the policy.

210. The appellant's reasons for omitting the floorspace in Blocks A - D is that the floorspace is not in use as social rented housing, is unfettered and could be used for market housing. Nor could it be used as social housing on a long-term basis due to the failure to meet Decent Homes Standards [51, 58]. The first of those matters also applies to the vacancies on the remainder of the estate and, even though it is not suggested that they fail Decent Homes Standards, they exhibit a number of deficiencies in terms of modern standards [50].

211. It is common ground that there is no planning obligation or condition requiring the existing residential floorspace to be used for affordable housing [46]. Nor could there be given the age of the estate, established long before planning control and before the recognition of affordable/social housing. The appellant has let three flats on a private rented basis.

212. The Council has raised a question as to whether the appellant could turn a social rented estate into a private housing development within the regulatory framework established by the Regulator of Social Housing. The appellant has

submitted advice from their solicitors [58], but there is no direct evidence from the Regulator as to the extent of the appellant's discretion. That said, the statutory requirement to obtain the consent of the Regulator related to the disposal of land was repealed in April 2017. This matter is not entirely resolved and does serve to cast some limited doubt on the appellant's ability to deal with the estate in any manner in which it chooses.

213. Leaving aside the legal position, and assuming that the appellant is not fettered by any legal or regulatory controls which would prevent private market rental/sale, there is the question as to whether the appellant would actually choose to deal with the estate as a private asset. The appellant has stated that if the appeal fails they would have no option but to keep the estate as it is, and utilise the value of the asset by maximising revenue from it to fund affordable housing elsewhere. It could do this by renting out flats on the private market.

214. The estate as a whole was built as a social housing development and continues to function as such (leaving aside the three private flats). It is owned and managed by a Registered Provider as a social housing development, which is accepted by all parties to be a scarce resource in the Borough as a whole and in this part of the Borough in particular. The Rules of the Association (effectively the appellant) provide that it was formed for the benefit of the community, and its charitable objects are to be carried on for community benefit. The Rules refer (amongst other matters) to the business of providing housing, including social housing, and providing assistance to help house people and associated facilities.

215. The fact that parts of the estate, especially Blocks A – D are in a superficially poor condition and are vacant is not a persuasive reason in itself for considering the vacant floorspace as a potential private asset for the appellant. It is appreciated that Blocks A - D cannot be occupied as social housing on a permanent basis due to their failure to meet Decent Homes Standards, although they might be capable of being lawfully occupied as affordable housing pending the implementation of a plan to meet those standards. It is accepted that there is no such plan in place. However parts of the blocks were occupied, presumably lawfully, for a period by Council tenants on a short term basis.

216. Increasing vacancies are a common manifestation of estate renewal and the appellant's choice not to commit expenditure on improvements to the estate is not considered to be a sound planning reason for not counting the estate as social rented floorspace. This would be an incentive for landowners to run down social housing estates to reduce social housing replacement policy requirements. The vacation of a property by a Registered Provider as a preliminary step towards estate renewal cannot reasonably be a basis for disregarding that floorspace for policy purposes.

217. Turning back to policy, it was argued by the appellant that the draft London Plan, which includes in the reasoned justification a statement that existing affordable housing floorspace includes both occupied and vacant floorspace, is recognition that existing policy does not do this. However this is unpersuasive, as it could equally be a statement to recognise the approach currently taken by parties in relation to the existing policy.

218. There is nothing to suggest that the appellant's approach of discounting vacant floorspace from policy aimed at replacement provision has been applied

elsewhere. That is unsurprising since, whatever the legal ability of the appellant to deal with vacant social housing floorspace, the raison d'etre of the adopted development plan policies would be entirely undermined if this argument were accepted. As further flats fell vacant, the requirement for replacement affordable housing would be reduced. This would entirely defeat the object of the policy. The Appeal Scheme therefore fails to comply with the 'no net loss' element of development plan policy.

219. In relation to the 'maximum reasonable affordable housing' element of policy the fundamental difference between the appellant and the Council relates to the assessment of Benchmark Land Value (BLV), and specifically the fact that the authority has made no allowance for the argument that the accommodation can be used for private housing purposes. The key question in this case is whether the existing use should be assessed as a social housing development, or make allowance for the use of vacant properties as market housing. This matter has been considered above and there is no need to repeat all the points already covered.

220. There is no guidance as to whether private housing potential should be factored into the calculation of BLV. However this is perhaps unsurprising as, based on the evidence at the Inquiry, this is not an argument which has been put forward previously.

221. The appellant accepts that, during negotiations on the Revised Scheme, its advisers were prepared to agree a BLV based on social housing use, which is the position which the Council continues to support [66, 115, 116, 117]. This was stated to be in the context of seeking to reach agreement that the Revised Scheme provided the maximum reasonable affordable housing [66]. However although the appellant criticises the Council for not adopting an objective professional approach towards the calculation of BLV, the appellant's own advisors clearly adopted a different BLV basis as part of negotiations. This sits uneasily with the appellant's criticism of lack of an objective approach on the part of the Council's advisors. The appellant's position that, as further social rented flats became vacant, they could be used as private flats with a consequent effect on BLV, is of limited consequence as there was no evidence of the timescale or likelihood of further flats becoming vacant. In any case, the decision on the appeal has to be based on the current situation.

222. Turning to the quantification of BLV, if the vacant flats were valued on a private basis, there is little doubt that the conclusion would be that the Appeal Scheme would provide the maximum reasonable amount of affordable housing, even if all the Council's other assumptions were accepted. The Council, whist maintaining an objection to the principle of valuing the empty flats on a private sector basis, offered little criticism of the appellant's figures. On the basis that this is the key issue in terms of this aspect of policy, the other matters can be addressed more briefly.

223. In relation to build costs, the main difference relates to the risk allowance and finishes. Both parties have justified their position on these matters, although the appellant's position is weakened by the fact that the approach to contingency has apparently changed, as has the costs plan, but the costs themselves have not varied [122]. However it is not necessary to reach a conclusion on this element in view of the much greater impact of other matters.

224. The sales value of the private housing was well supported by the appellant's evidence. Although there was some criticism by the Council of the fact that only secondary market examples were relied on, unlike an earlier exercise by the appellant which included some new build developments, the appellant's explanation of the differences between those schemes and the appeal proposal was convincing. The appellant's estimates of sales values was more persuasive than that put forward by the authority which, in large part, relied on asking prices rather than the achieved figure [71].

225. The issue of professional fees was another area of disagreement. However the appellant's figure of 12% was in fact below the figures put forward by previous consultants acting for the Council. In addition the Council agreed that 12% could be appropriate in the case of complex schemes and, whilst there is no evidence of difficult physical issues, the problems inevitably raised by the particularly complex nature of this estate renewal project more than justifies the appellant's figure.

226. The approach to developers' return is not agreed between the parties, with the appellant preferring to use GDV whilst the Council considered that IRR was the appropriate measure [73, 122]. However the latter approach was based on 2016 guidance on estate regeneration, although this predates the latest guidance. The appellant's approach is in accordance with the Mayor's guidance and Planning Practice Guidance. The appellant's blended figure of 18.76% is to be preferred to the Council's approach.

227. Finally there was a dispute about the appropriateness of a development management fee. Although the Council alleged that this was related to the limited private sector experience of the appellant as a developer, the unusual nature of the development justifies the fee.

228. National policy urges that the social, economic and environmental benefits of estate regeneration should be considered. In this case, the Appeal Scheme fails to satisfy the policy aims of no net loss of social housing and maximum reasonable provision, largely for reasons related to the way in which the existing vacant units of social housing are treated. This is a very important consideration weighing against the Appeal Scheme. In order to comply with the policy a greater amount of affordable housing would need to be provided – as has been done in the Revised Scheme. In that case it is concluded that the Revised Scheme reflects the maximum reasonable level of affordable housing, subject to viability review.

The effect on the character and appearance of the area

229. The Appeal Scheme was the subject of very lengthy discussions and consultations with a range of participants [17]. There is some slight disagreement as to the details of the discussion, and in particular it is noted that the Council's position is that the discussions were still ongoing when the appellant announced the intention to submit the application [126].

230. The policy context is that the London Plan provides that architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. Further details of the approach are set out in the policy. The CLP similarly requires respect for the existing context and states that schemes should be of the highest architectural and urban design quality.

231. Whatever the detail of the pre-application discussions and the precise position reached at the time of the submission of the application, given the duration of the pre-application consultations it is unsurprising that there are a wide range of matters agreed between the Council and the appellant [46]. In particular the proposed perimeter block layout, with buildings fronting the surrounding streets (as opposed to the generally right angled configuration of the current buildings) is agreed and this would sit comfortably with the general pattern of development in the area. The broad scale of the development, leaving aside the matter of the treatment of rooftop floors, is also in keeping with much of the surrounding area and is uncontentious. Finally the new roadway through the development would bring enhanced permeability and the public realm would be more clearly defined – this is agreed between the Council and the appellant [46]. There is no reason to disagree with this position, which applies equally to the Appeal Scheme and the Revised Scheme.

232. The matters in dispute are largely points of detail, for example the treatment of the rooftop floors [95-101, 127]. The principle of rooftop floors is unobjectionable, but the criticism is that they are not recessive forms. This is, to a degree, accepted and it is considered that in this context less dominant detailing would be appropriate and would serve to lighten the effect of the top floors. However, as accepted by the Council at the Inquiry, this is a matter of detail which could be addressed by agreed conditions.

233. There was some criticism of the detailing of the townhouses in Block 2 and the apartment building in Block 3 [127]. But again these concerns did not relate to the overall form of the buildings, but an alleged lack of detailing. However, as discussed at the Inquiry, the detailing of these buildings demonstrates a strong sense of relief, including deep reveals and tapering columns. They reflect the massing of the mansion blocks elsewhere in the area, and the need for further detailing and relief has not been demonstrated. In any event, as with the treatment of the rooftop floors, the Council accepted that the agreed conditions could include further detailing if that were considered necessary at a later stage.

234. All parties agreed that the community building would be at the heart of the scheme, both in terms of its location and function. Some time was taken up at the Inquiry debating the accuracy of the illustrative material related to this building in the Design and Access Statement. This related to the fact that there would be a large void, giving light to the basement, directly behind the external windows, and this would mean that the activity inside the community centre would be further recessed from the frontage than might be understood from the illustrations. However the submitted plans are quite clear in this respect and there would be a good view from the public domain into the community centre and of whatever activity might be taking place therein.

235. As with other elements of the overall scheme, there was concern expressed at the detailing of the community building, for example related to the reveals around the windows. However any such concern falls far short of a criticism which, on its own or in combination with other matters, could lead either the Appeal Scheme or the Revised Scheme being considered deficient in townscape terms. In any event, as before, conditions requiring further details could address any perceived shortcomings if necessary.

236. Overall the Appeal Scheme is well designed and would sit comfortably in its context. This is in line with development plan and Framework policy. Any minor criticisms of the design, were they considered of significance, could be addressed by the agreed conditions requiring further details to be submitted for approval.

237. The Revised Scheme accommodates the additional affordable housing and includes various consequential design changes. The Council accepts that this 'makes some progress' in relation to the concerns regarding the community building although the position of the authority is that this part of the development still requires further refinement [128].

238. The incorporation of additional affordable housing in the Revised Scheme in place of the mews houses has been undertaken in a perfectly satisfactory manner. The Council's criticism of this element of the Revised Scheme focussed on an allegedly 'tighter feel' to this element of the development [128]. But the bays would be the same height as in the Appeal Scheme and this element of the development only extends for a very short distance. It would have no discernible effect on the overall development. The Revised Scheme would comply with policy and would reflect its context.

239. Finally it is noted that the Council contends that the amendments in the Revised Scheme emphasise the shortcomings of the Appeal Scheme. However each proposal must be considered on its merits and it is inappropriate to criticise one proposal on the basis that another is, arguably, 'better'.

The effect on the setting of heritage assets

240. The part of the estate within the site is not in the Conservation Area, nor do the buildings themselves benefit from any statutory protection. However, as discussed above, the buildings are agreed by all parties to be non-designated heritage assets. The other heritage assets in the area are the Grade I Listed St Luke's Church, St Luke's Garden (on the Register of Historic Parks and Gardens) and the Chelsea Conservation Area.

241. The Council did not refuse the scheme on heritage grounds [19]. In addition Historic England made no comment on the application/appeal – although they were a statutory consultee due to the proximity of St Luke's Church, and did express views at the stage of the EIA Scoping report [146].

242. St Luke's Church is the central feature of the Conservation Area and is a fine building worthy of its Grade I Listing. However it is set some distance from the appeal site and, even though the existing buildings and the proposed development are of a substantial mass, it is debatable whether the proposal falls within the setting of the church itself (as opposed to the garden). In any event, even if the appeal site were considered to be within the setting of the church, a change to its setting would not equate to a harmful impact on that setting, or on significance. The proposal would increase the permeability of the site and open up routes to and views of the church, and would be a benefit. Even if the site were considered to be within the setting of the church, the change from mansion blocks set at right angles to the road to modern buildings of a similar scale running parallel to the road (in common with most buildings frontages in the area) would be, at worst, neutral.

243. Turning to St Luke's Church Garden, which is clearly part of the setting of the church as well as being a heritage asset in its own right, there is some debate as to the extent of the Registered Park [14, 91, 135]. The gardens to the north of the church adjacent to Cale Street include modern features such as a fenced football court, a playground and climbing rocks, and it this area which is in dispute. The plans associated with the Register of Historic Parks and Gardens show this area as excluded, however the text describes it as being within the area and the measurement of the area on plan tallies with the area of the garden as set out in the documentation. Perhaps most telling is the evidence on site, where the original railings suggest that it was part of the original garden – whatever more modern developments have taken place within that area.

244. Taking the entire garden up to Cale Street as being the designated area, part of the appeal site is directly opposite the garden, and forms part of its setting. However, as set out above, the proposed redevelopment would at worst be neutral on the setting and thereby the significance of the garden.

245. The Chelsea Conservation Area lies to the south and west of the appeal site. It is not a conservation area which, once designated, has never been reconsidered. The boundary has been changed on a number of occasions since designation and a detailed Appraisal has been prepared [147, 245]. It is reasonable to infer that the appeal site has been considered (especially as part of the estate was mentioned in the Appraisal) and deliberately excluded. The replacement of the existing estate buildings with good quality buildings of a similar scale would not cause any harm to the significance of the Conservation Area. No conclusion is drawn on the petition to the Council, current at the time of the Inquiry, urging the extension of the Conservation Area to include the estate.

246. In conclusion, the only heritage asset which would be adversely affected by the proposal is the non-designated asset of the estate buildings themselves, as discussed in the separate section above. However the total loss of the buildings on the appeal site – which are of limited significance at best - must be balanced against the benefits of the provision of new market and affordable housing and other advantages of the proposal. These benefits clearly outweigh the loss of the estate buildings. For all the above reasons the Appeal Scheme (and the Revised Scheme) complies with the relevant development plan and national heritage policies.

Housing requirement and supply

247. There is little between the Council and the appellant in terms of the pressing need for housing, and especially affordable housing, in both policy and site-specific terms [47]. This is a factor which weighs in favour of the proposal in terms of the development plan and national policy, subject to the forgoing matters related to the amount and tenure of the new development. But this is a different matter from consideration of whether the Council can demonstrate a five year housing land supply, as required by the Framework.

248. As a preamble to this consideration it is noted that the question of housing land supply was not raised in the appellant's Statement of Case, nor was it mentioned at the Pre Inquiry Meeting at which the considerations were listed which – at that stage – seemed to be the main issues in the case. This was confirmed in the note of the PIM and was not contested by the appellant.

249. However the appellant now belatedly contends that the Council does not have a 5 year supply of housing, and produced evidence to support that position [77-84]. The Council's position is that it can demonstrate a five year supply, using the 'Liverpool methodology' and a 5% buffer in the light of the allegedly unique circumstances of the Borough [129-132].

250. The Inquiry was told that the Inspector considering the Local Plan Partial Review is actively dealing with the issue of housing land supply, and the appellant stated that they intend to participate in that process. The Local Plan Inspector has apparently provisionally accepted the Council's approach as set out in the Housing Trajectory Supplementary Statement [7]. This appeal is not the forum for a detailed consideration of up-to-date housing requirements and the deliverability of sites, nor is it necessary to come to a precise conclusion on the position.

251. However, in the light of the policies in the Framework (both as they existed at the time of the Inquiry and subsequently) it is necessary to make an assessment of housing need and supply based on the available evidence. This is not a case where the evidence was so lacking that it is impossible to come to such a judgement. The Council's concern as to the stage at which this matter was raised is understood, but it would have been possible for the authority to request an adjournment to more fully respond to the appellant's evidence – but no such adjournment was requested and the Council gave some evidence on housing land supply.

252. In coming to a view on the position, any conclusion based on the evidence as presented for this appeal is clearly not binding on the Local Plan Review Inspector, who will have a far wider range of evidence to consider. As an example of this point, it appears that he has received evidence on the matter from a number of bodies, and this evidence (which led him to his provisional position) has not been submitted at this appeal.

253. Dealing with the evidence as presented, up to April this year the Council calculated its housing supply requirement (April 2017 to the end of March 2022) as 4,398 dwellings, then amended to 4,258. It appears that this did not include the backlog of under delivery since the start of the plan period. If this were addressed over the next five years (the 'Sedgefield approach') and with a 20% buffer, it is clear that the Council would not be able to demonstrate a five year supply.

254. This is in the context of a relatively constrained supply, largely made up of allocations, and various sites with planning permission. In relation to allocations, the largely uncontested evidence is that one allocated site will probably not come forward and that another will probably not deliver as fast as the Council expects. In a similar vein the evidence points to both larger and smaller sites not coming on-stream as fast as the Council anticipates [83].

255. The critical matters are the time period over which the backlog is addressed and the size of the buffer. Although the Sedgefield approach is promoted in Planning Practice Guidance and features in many (but not all) appeal decisions, the Liverpool approach remains a legitimate methodology. The evidence indicates that there has been a record of persistent under delivery in the Borough, below 85% of the housing requirement. This was accepted by the

Council. On that basis, the Framework states that a 20% buffer should be applied, so as to improve the prospect of achieving the planned supply[89].

256. Overall, only if the Council's position – a 5% buffer spread across the whole plan period (the Liverpool approach) – were adopted would the authority would have a five year supply.

257. The Council has argued that there is little point in using a 20% buffer and the Sedgefield approach if there is no realistic likelihood of meeting the housing requirement. This argument relates largely to the limited extent to which additional capacity could be found given the constraints caused by the heritage assets in the Borough, coupled with the need to protect existing uses.

258. The appellant's position is that this is not a legitimate approach because it allows the Council to limit delivery consequent on its own failure to deliver. This is not necessarily accepted, and this is a matter which will need to be debated in a wider context during the Local Plan Examination. However, in the context of this appeal, the approach to the methodology and buffer set out in current policy and guidance is preferred.

259. Whatever the conclusion on the five year supply issue, there is an additional factor specific to this proposal as the result of the comparison between the existing and proposed accommodation. This differs depending on whether unit numbers or floorspace is considered. If the floorspace is considered the total would be increased from 18,708m^2 (including Blocks A-D) to 29,967m^2 (in the Appeal Scheme) or 30,727m^2 (in the Revised Scheme). However housing requirements and delivery are conventionally considered in terms of units and, if that approach is taken, the Appeal Scheme would result in a loss of 40 units, and the Revised Scheme a loss of 17 units).

260. There is no necessity to reach a precise conclusion on the question of housing land supply, especially in the light of the relatively limited evidence at this appeal and in view of the very advanced stage of consideration of the issue, on the basis of much more extensive evidence, at the Local Plan Partial Review examination. However, based on the methodology advised in policy and guidance it is considered that the Council cannot demonstrate a five year supply of housing land.

261. The so-called tilted balance in paragraph 11 of the Framework is therefore engaged, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Other matters

262. Residents of the estate who spoke at the Inquiry and others who made written submissions complained in some detail about the allegedly poor maintenance and delays in attending to even urgent works. Various complaints were referenced including the lack of hot water, the failure to repair leaks to the heating system and missing fire alarms [157-168].

[89] Should the appeal be determined after November 2018 paragraph 73c) of the Framework, related to the Housing Delivery Test, will apply

263. More specifically some residents stated that there was no reason for the appellant to remove sanitary fittings and kitchens from Blocks A - D when the residents were decanted. The appellant stated that this was to address potential squatting issues (though no evidence of this was provided) whilst some residents referred to these actions as "deliberate vandalism".

264. It is not possible without further evidence to conclude on this matter, and in any event it would add very little to the consideration of the appeal. However what is certainly the case, to judge from the representations made, is that relations between some tenants and the appellant are very poor. Evidence from some residents was that there used to be a good communal atmosphere but that more recently this has deteriorated due to the maintenance situation and the allegedly poorly handing of the decanting of residents from Blocks A – D.

265. In the view of some residents the consultation undertaken at various times by the appellant was skewed against the wishes of existing residents, and there were problems in relation to the size and design of the potential new dwellings as they were presented to residents.

266. What is certainly the case is that there has been considerable confusion and disquiet in the minds of some residents. While this in itself is not a planning objection to the proposal, it provides a backdrop to the level of material planning objections to the development.

267. One additional specific concern raised by a resident which could be capable of being a material consideration in its own right was the desirability and safety of the proposed underground parking [166]. However the appellant persuasively explained that this would be provided with ample lift access and would be more secure than the rather haphazard surface level parking which exists at the moment. It is not considered that the proposed parking would be deficient in terms of accessibility or safety.

Conditions

268. Two sets of conditions are included in this report, the first dealing with the Appeal Scheme and the second with the Revised Scheme. The plan numbers are conditioned in the interests of clarity (conditions 2) and are obviously different between the two schemes. The only other difference relates to the inclusion of a condition (65) withdrawing permitted development rights from the townhouses/mews houses in the Appeal Scheme (they have been removed in the Revised Scheme). Otherwise all the conditions, which have been agreed without prejudice between the appellant and the Council, are identical.

269. The development would be undertaken in phases (condition 3) and there is a considerable amount of additional detailed material which would need to be submitted before work commences in the interests of the appearance and proper functioning of the development. A major element of this would be full details, including trees and landscaping, (14, 17, and 37 - 45). Conditions would also cover mechanical ventilation, details of any combustion plant, control over telecommunications apparatus, play space details, the car park access ramp and details of the management of the car park (19, 20, 22, 23, 47 - 49, 51, 52, 54, 55, and 60 - 63).

270. The manner in which the development would be carried out would need to be controlled in the interests of other residents of the estate during the development and others in the surrounding area, along with highway safety considerations. These conditions would cover pollution, the Considerate Contractors Scheme, and control over non road mobile machinery (4 – 7, 18, 35, 36, 50 and 57). In addition, given the long history of occupation and development on the site, conditions are needed to address contamination investigation and remediation so as to protect the health of future residents (8 – 13).

271. During the course of the development, for heritage reasons, an archaeological watching brief needs to be the subject of a condition (15).

272. In the interests of the residential amenity of future occupiers of the development and those in the surrounding area, a range of matters need to be controlled. These include noise limits related to services, the control of odours, the provision of mounts for air conditioning equipment, refuse and recycling facilities, controls over the hours of use of the retail and community floorspace, and sound insulation above commercial/community uses (27, 28, 30, 31, 32, 53, 58, 59).

273. In order to promote sustainable transport, conditions are required relating to bicycle parking, the adoption of a Travel Plan and the provision of electric car charging points (19, 25 and 26). Car parking also needs to be provided (56).

274. So as to encourage sustainable construction and use, conditions are required to require an Air Quality Neutral Assessment, establish control over water efficiency and energy performance, to require a BREEAM rating for non-residential floorspace and provide an energy strategy (21, 33, 34, 46 and 64). Water attenuation measures and sustainable urban drainage, along with pumps for basements, are necessary (16 and 29).

275. In order to ensure accessibility, a condition is needed requiring wheelchair accessible units (24).

Planning Obligations

276. Two Unilateral Planning Obligations (relating to the Appeal Scheme and the Revised Scheme) were considered in almost final form at the Inquiry. At that time it was hoped that agreement could be reached on the drafting between the appellant and the Council, and a short period of time after the Inquiry was given to enable this to take place. In the event agreement was not possible and they were submitted in the form of Unilateral Obligations [5].

277. There remained some matters between the parties, especially related to the viability provisions and the review mechanism and the way in which the assumptions should be dealt with if there was disagreement between the parties. But these Obligations have been drafted over a considerable period of time and the appellant's position as set out after the Inquiry with the submission of the Obligations is persuasive . However the Obligations are drafted so as to allow the Secretary of State to vary the assumptions as he thinks fit especially in the light of the Council's position as set out in a letter dated 1 June 2018 and associated documents [5]. But the balance of the evidence is that the Obligations are fit for purpose. (If there is no specific

determination then the appellant's approach as set out in the Obligations comes into effect.)

278. Both Obligations cover essentially the same ground and deal with affordable housing, service charges, parking permits, fees related to a Construction Traffic Management Plan, a Demolition Traffic Management Plan, and Travel Plan Monitoring. A Construction Training Contribution would be payable and Local Procurement Obligations would be required. Highway Works and Contributions are covered, including New Street Works and a Quietway Contribution. Arrangements for the Community Space are addressed and as are contributions related to Tree Removal and Planting. Finally a Carbon Offsetting Contribution is included.

279. Both Obligations include a clause (a so-called 'blue pencil clause') whereby if the Secretary of State expressly states that any part of the Obligation fails to satisfy one of the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 or that it may not constitute a reason for the grant of planning permission, then the relevant element falls.

280. However, aside from the question of the assumptions on which the review mechanism is based, the terms of the Obligations are uncontested and there is no suggestion that they do not comply with the Council's Planning Obligations SPD, development plan or national policy. All the contributions are directly related to the proposed development and are necessary to make the development acceptable in planning terms. Therefore it is considered that the Obligations meet the policy in paragraph 56 of the National Planning Policy Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. The contents of the Obligations can therefore be given weight in the determination of the appeal – allowing for the fact that a number of provisions are intended to mitigate the effects of the development. However the provision of affordable housing is one of the significant benefits of the proposal.

Planning balance and conclusion

281. In terms of the main considerations in this appeal, the only matter which weighs against the Appeal Scheme is the failure to provide the policy aims of no net loss of social housing and maximum reasonable provision. In the light of development plan and national policy this is a very important consideration weighing against the Appeal Scheme.

282. There would be no harm to the character and appearance of the area, and any remaining minor concerns could be dealt with by conditions. The only heritage asset which would be adversely affected is the non-designated asset of the estate buildings themselves, but this harm is outweighed by the provision of new market and affordable housing and the other advantages of the proposal.

283. Turning to the other issues raised by the parties, for the reasons set out above, the quality of the existing buildings is of limited significance at best and their loss is outweighed by the benefits of the provision of new market and affordable housing and the other advantages of the proposal. There is no other heritage harm.

284. It is clear that the estate needs to be brought up to modern standards and that the existing accommodation on the estate suffers from a range of deficiencies. The appellant, the Council and the Mayor all agree that redevelopment is the only feasible option, and there is no persuasive reason to disagree. The refurbishment/infill option put forward by SSE can be accorded very limited weight.

285. There are a number of benefits stemming from the proposal, most significantly the provision of housing, especially affordable housing, and the provision of community facilities, retail and employment floorspace, and the sustainability improvements brought about by the redevelopment of buildings with low energy efficiency.

286. As set out above, based on the methodology advised in policy and guidance it is considered that the Council cannot currently demonstrate a five year supply of housing land. Under these circumstances the so-called 'tilted balance' in paragraph 11 of the Framework is engaged, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

287. However that does not automatically lead to the grant of permission. In this case development plan and national policies emphasise the importance of estate regeneration, and the need for a satisfactory level of replacement of social housing. In the case of the Appeal Scheme this has not been achieved – although it has been met in the Revised Scheme. This is an adverse impact which significantly and demonstrably outweighs the benefits stemming from the Appeal Scheme and leads to the conclusion that this appeal should be dismissed.

288. Turning finally to the Revised Scheme, if the Secretary of State were minded to consider it, the balance is different. In that case the Council agrees that the proposal complies with estate renewal policies (subject to viability review) and there is no reason to disagree. The other elements of the balance remain largely unaltered, leading to the conclusion that this appeal should be allowed.

Recommendations

289. It is recommended that the Appeal Scheme be dismissed.

290. It is recommended that the Revised Scheme should not be determined, for the reasons set out above. However should the Secretary of State resolve to determine the Revised Scheme, it is recommended that the Revised Scheme be approved, subject to the conditions set out below.

P. J. G. Ware

Inspector

LIST OF CONDITIONS – APPEAL SCHEME

1. Time Limit
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. Compliance with approved drawings
The development shall not be carried out except in complete accordance with the details shown on submitted plans L(05)001 Rev P3, L(05)002 Rev P3, X(05)100 Rev P3, X(05) 101 Rev P4, X(05)104 Rev P3, X(05)105 Rev P3, L(05)099 Rev P4, L(05)100 Rev P5, L(05)101 Rev P4, L(05)102 Rev P4, L(05)102 Rev P4, L(05)103 Rev P4, L(05)104Rev P4, L(05)105 Rev P4, L(05)106 Rev P4, E(05)102 Rev P7, S(05)100 Rev P4, S(05)101 Rev P4, L(04)119 Rev P4, L(04)120 Rev P5, L(04)121 Rev P4, L(04)122 Rev P4, L(04)123 Rev P4, L(04)124 Rev P4, L(04)125 Rev P4, L(04)126 Rev P4, E(04)100 Rev P6, E(04)101 Rev P4, E(04)104 Rev P6, E(04)200 Rev P6, E(04)201 Rev P4, E(04)120 Rev P6, E(04)122 Rev P4, E(04) 220 Rev P6, L(04)319 Rev P4, L(04)320 Rev P5, L(04)321 Rev P4, L(04)322 Rev P4, L(04)323 Rev P4, L(04) 324 Rev P4, L(04)325 Rev P4, L(04)326 Rev P4, E(04)300 Rev P4, E(04)301 Rev P4, E(04)302 Rev P4, E(04)400 Rev P4, E(04)320 Rev P4, E(04) 321 Rev P4, E(04) 420 Rev P4, L (90) 002 Rev P8, L(90)010 Rev P7, L(90)020 Rev P8, L(91)003 Rev P3, L(92)001 Rev P2, L(92)002 Rev P5, L(92)004 Rev P3, L(92)005 Rev P3, L(92)006 Rev P3, S(91)001 Rev P2, S(91)002 Rev P3, S(91)004 Rev P3, S(91)006 Rev P3, SK(91)006 Rev P6, SK(91)007 Rev P6,SK(91)008 Rev P8, SK(91)010 Rev P4, SK(91)013 Rev P7

3. Prior to the commencement of development a phasing plan showing the location of phases shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the phasing plan.

Demolition Environmental Management Plan (DEMP)

4. No development shall commence until a site specific Demolition Environmental Management Plan (DEMP) by phase has been submitted to, and approved in writing by, the local planning authority, and the development shall be carried out only in accordance with the Plan so approved. The DEMP shall as a minimum:
    a) comply with and follow the chapter order (4-7) and appendices (5, 7,8,9) of the Mayors of London 'The Control of Dust and Emissions during Construction and Demolition', SPG, July 2014 Mayors SPG;
    b) include an inventory and timetable of dust generating activities during demolition;
    c) include dust and emission control measures including on-road demolition traffic e.g. use of Ultra Low Emission Vehicles; Non-Road Mobile Machinery (NRMM) (to include on-site monitoring of PM10 and reporting);
    d) include noise and vibration mitigation measures (to include s61 procedure and on-site monitoring and reporting).

5. Demolition Traffic Management Plan (DTMP)
No development shall commence until a Demolition Traffic Management Plan

(DTMP) by phase has been submitted to and approved in writing by the local planning authority. The statement should include:

a) routeing of demolition, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
b) access arrangements to the site;
c) the estimated number and type of vehicles per day/week;
d) details of any vehicle holding area;
e) details of the vehicle call up procedure;
f) estimates for the number and type of parking suspensions that will be required;
g) details of any diversion or other disruption to the public highway during preparation and demolition work associated with the development;
h) work programme and/or timescale for each phase of preparation and demolition work associated with the development;
i) details of measures to protect pedestrians and other highway users from demolition activities on the highway;
j) a strategy for coordinating the connection of services on site with any programme work to utilities upon adjacent land; and
k) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved Demolition Traffic Management Plan.

6. Construction Environmental Management Plan (CEMP)
No development shall commence (save for demolition) until a site specific Construction Environmental Management Plan (CEMP) by phase has been submitted to, and approved in writing by, the local planning authority, and the development shall be carried out only in accordance with the Plan so approved. The CEMP shall as a minimum:

a) comply with and follow the chapter order (4-7) and appendices (5, 7,8,9) of the Mayors of London 'The Control of Dust and Emissions during Construction and Demolition', SPG, July 2014 Mayors SPG;
b) include an inventory and timetable of dust generating activities during construction;
c) include dust and emission control measures including on-road construction traffic e.g. use of Ultra Low Emission Vehicles; Non-Road Mobile Machinery (NRMM) (to include on-site monitoring of PM10 and reporting);
d) include noise and vibration mitigation measures (to include s61 procedure and on-site monitoring and reporting).

7. Construction Traffic Management Plan (CTMP)
No development shall commence (save for demolition) until a Construction Traffic Management Plan (CTMP) by phase has been submitted to and approved in writing by the local planning authority. The statement should include:

a) routeing of excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
b) access arrangements to the site;
c) the estimated number and type of vehicles per day/week;
d) details of any vehicle holding area;
e) details of the vehicle call up procedure;
f) estimates for the number and type of parking suspensions that will be required;
g) details of any diversion or other disruption to the public highway during excavation and construction work associated with the development;
h) work programme and/or timescale for each phase of excavation and construction work associated with the development;
i) details of measures to protect pedestrians and other highway users from construction activities on the highway;
j) a strategy for coordinating the connection of services on site with any programme work to utilities upon adjacent land; and
k) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved Construction Traffic Management Plan.

8. Contamination – Preliminary Risk Assessment Report
No development of a phase shall commence until a Preliminary Risk Assessment Report for that phase comprising:

a) a desktop study which identifies all current and previous uses at the site and surrounding area as well as the potential contaminants associated with those uses;
b) information from site inspection;
c) a conceptual model indicating potential pollutant linkages between sources, pathways and receptors, including those in the surrounding area and those planned at the site; and
d) a qualitative risk assessment of any potentially unacceptable risks arising from the identified pollutant linkages to human health, controlled waters and the wider environment including ecological receptors and building materials

has been prepared in accordance with CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK

requirements for sampling and testing, and submitted to, and approved in writing by, the local planning authority.

9. Contamination – Site Investigation Scheme
No development of a phase shall commence until a Site Investigation Scheme for that phase has been prepared (if required) in accordance with CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing, and has been submitted to, and approved in writing by, the local planning authority.

10. Contamination – Site Investigation and Quantitative Risk Assessment
No development of a phase shall commence (save for demolition) until a site investigation (if required) for that phase has been undertaken in compliance with the approved Site Investigation Scheme and a Quantitative Risk Assessment Report (if required) has been submitted to, and approved in writing by, the local planning authority.

11. Contamination – Remediation Method Statement
No development shall commence (save for demolition) for a phase until a Remediation Method Statement (if required) for that phase to address the results of the Site Investigation Scheme has been submitted to, and approved in writing by, the local planning authority.

12. Contamination – Verification Report
No development shall commence (save for demolition) for a phase until the approved Remediation Method Statement (if required) for that phase has been carried out in full and a Verification Report (if required) confirming:

a) completion of these works;
b) details of the remediation works carried out;
c) results of any verification sampling, testing or monitoring including the analysis of any imported soil;
d) classification of waste, its treatment, movement and disposal;
e) and the validation of gas membrane placement

has been submitted to, and approved in writing, by the local planning authority.

13. Contamination – Unexpected
If during development of a phase, contamination not previously identified is found to be present within that phase, development work shall cease and not be recommenced until a report indicating the nature of the contamination and how it is to be dealt with has been submitted to, and approved in writing by, the local planning authority. The approved measures shall be implemented in full.

14. Protection of trees during construction – Details required
No development shall commence for a phase until full particulars of the method(s) by which all existing trees on adjacent land of that phase are to be protected during site preparation, demolition, construction, landscaping, and other operations on the site including erection of hoardings, site cabins, or other temporary structures, shall be submitted to and approved in writing by the local planning authority and the development shall be carried out only in accordance with the details so approved.

15. Archaeology – Watching brief
No development shall commence for a phase until details of an archaeological watching brief for that phase has been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details

16. Sustainable drainage systems

No development shall commence for a phase (save for demolition and below ground works) until a surface water drainage scheme for that phase has been submitted to and approved in writing the local planning authority. This plan will need to identify existing run off rates together with proposed sustainable urban drainage (SuDS) measures to be included in the development. The SuDS measures so approved shall be implemented in full prior to occupation of the development and shall be so retained

17. Planting and replanting
All tree and shrub planting forming part of the plans and details approved through this planning permission shall be carried out for a phase in the first planting and seeding season following the first occupation of the development or the completion of the development whichever is the sooner. Any trees or shrubs which, within a period of five years from the first planting and seeding season referred to above, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

18. Odours from swimming pool ventilation/ filtration equipment
Fumes or odours expelled from any flue serving the hygiene plant or providing ventilation to the pool area shall not be detectable at the property boundary. If at any time the extraction plant is determined by the local planning authority to be failing to comply with this condition, it (or the source equipment) shall be switched off and not used again until it is able to comply.

19. Details of bicycle parking
A phase of development shall not be occupied until details of the bicycle parking within that phase have been submitted to and approved in writing by the local planning authority. The details shall include the specification of the racks to be used. A total of 562 bicycle parking spaces and associated facilities shall be provided in accordance with the approved plans and be retained for use at all times.

20. Ventilation
No development of a phase shall commence (save for demolition and below ground works) until details of a system of mechanical ventilation, with filtration to remove airborne pollutants, for the proposed residential properties for that phase shall be submitted to and agreed in writing by the LPA. Filtration should ensure that the national Air Quality Objectives for Nitrogen Dioxide (NO_2) and Particulate Matter (PM_{10}) are not exceeded in residential properties. The approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained. The

maintenance and cleaning of the systems shall be undertaken in accordance with manufacturer specifications and shall be the responsibility of the primary owner of the building for the social rented homes and shall be the responsibility of the owner of property for the private homes

21. Low Emission Strategy required
No development of a phase shall commence (save for demolition and below ground works) until a suitable Air Quality Neutral Assessment for that phase has been submitted to and approved in writing by the Local Planning Authority. This should include a comparison of emissions against London Plan emission benchmarks for buildings and transport and Band B emission standards for combustion plant. This shall include all traffic and combustion plant emissions generated by the development and include measures to reduce emissions from the operational development. The assessment shall detail the emission reduction strategies to be incorporated including proposals for boiler /plant abatement equipment. Measures for transport emissions should include details of the electric charging facilities in parking areas, permit free, and a travel plan The development shall be undertaken in accordance with the Assessment.

22. Combustion plant - pre installation
Prior to installation or use of any combustion plant within a phase of development including temporary installations evidence must be provided to show that any chimney stack/flue will be located so that it is away from ventilation intakes or accessible areas and at a sufficient height and discharge velocity etc to disperse the exhaust emissions (a minimum of 3m above accessible areas). Details of the selected combustion plant (including abatement equipment), their emissions and maintenance schedules for that phase shall be provided to the Local Planning Authority for approval in writing and shall be implemented in accordance with the approved details. Boilers shall have NOx emissions not exceeding 40mg/kWh of dry NOx (at 0% O2) and CHP plant not exceeding the CHP plant not exceeding 95mg/Nm2 (at 5% 02) as per assessment.

23. Combustion plant – prior to occupation
Prior to occupation of a phase no CHP plant within that phase shall come into use without the fitting of the appropriate abatement equipment or technologies to meet as a minimum the Band B emissions standard (95mg/Nm2 (at 5% 02). A NOX emissions test must be carried out by an accredited laboratory/ competent person. The test certificate and evidence of equipment maintenance schedule and agreement must be provided to the local planning authority for approval.

24. Wheelchair Adaptable Units
The allocated wheelchair units subject of this permission shall achieve compliance with optional requirement M4(3)(2)(a) of the building regulations and none of the specified units within a phase shall be occupied until Building Regulations approval has been issued certifying that these criteria have been achieved.

25. Travel Plan – Details reserved
A phase of development hereby approved shall not be occupied until a Final travel plan has been submitted to, and approved in writing by, the local planning authority for that phase. The travel plan shall be monitored and reviewed in

accordance with any targets within the plan, and such record made available upon request by the local planning authority.

26. Electric Car Charging points
No development of a phase shall commence (save for demolition and below ground works) until details of the electric car charging points for that phase have been submitted to and approved in writing by the local planning authority. The development should be carried out in accordance with the approved details and be so retained

27. Details of sound insulation –Block 3
A phase of development shall not be occupied until a scheme of sound insulation for that phase designed to prevent the transmission of excessive airborne and impact noise between the proposed community use at ground and lower ground floor levels and the residential uses above shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to occupation and be so retained

28. Details of sound insulation –Block 2
A phase of development shall not be occupied until a scheme of sound insulation for that phase designed to prevent the transmission of excessive airborne and impact noise between the proposed commercial uses at ground and lower ground floor levels and the residential uses above shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to occupation and be so retained

29. Pumped Devices
A phase of development shall not be occupied until the basement of the that phase hereby permitted is protected against sewer flooding through the installation of positively pumped devices, the details of which shall be submitted to and approved by the local planning authoroty. The pumped devices shall be so retained

30. Noise from building services plant and vents
Noise emitted by all building services plant, plant room intake, extract, louvre or vent shall not exceed a level 10dBA below the existing lowest LA90(15min) background noise level at any time when the plant is operating, and where the source is tonal it shall not exceed a level 15dBA below. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio. The plant shall be serviced regularly in accordance with the manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is determined by the local planning authority to be failing to comply with this condition, it shall be switched off upon written instruction from the local planning authority and not used again until it is able to comply.

31. Odours from extraction equipment
Fumes or odours expelled from any flue serving a stove, oven or other cooking device shall not be detectable at the site boundary. If at any time the extraction plant is determined by the local planning authority to be failing to comply with this condition, it (or the source device) shall be switched off and not used again

until it is able to comply.

32. Anti-vibration mounts for air-conditioning/ extraction equipment
All building services plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

33. Water Efficiency
The residential dwellings shall achieve compliance with optional requirement G2 (2) (b) and none shall be occupied until Building Regulations approval has been issued for it certifying that these criteria have been achieved.

34. Energy Performance
The dwelling(s) shall achieve Level 4 of the Code for Sustainable Homes equivalent in relation to energy performance and no phase of development shall be occupied until final SAP calculations (specifically DER and TER worksheets) are provided for that phase to demonstrate that the Code Level 4 equivalent in energy performance has been achieved.

35. Considerate Constructors Scheme (CCS)
No development of a phase shall commence until such time as the lead contractor is signed to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by passing members of the public, and shall thereafter be maintained on display throughout the duration of the works of that phase forming the subject of this permission.

36. Non Road Mobile Machinery (NRMM)
No development of a phase shall commence until details are submitted to and approved in writing by the Council of all Non-Road Mobile Machinery (NRMM) to be used for that phase of development. All NRMM should meet as minimum the Stage IIIA emission criteria of Directive 97/68/EC and its subsequent amendments unless it can be demonstrated that Stage IIIA equipment is not available. An inventory of all NRMM must be registered on the NRMM register https://nrmm.london/user-nrmm/register. All NRMM should be regularly serviced and service logs kept on site for inspection. Records should be kept on site which details proof of emission limits for all equipment.

37. Details to be submitted- Block 1
Notwithstanding Condition 02 no development shall commence on Block 1 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) detailed elevations, plans and sectional drawings of external materials including windows (at scale 1:20);
b) all railings or balustrades;
c) samples of all facing materials including metalwork;

d) details of typical bay including windows and reveals;
e) details of penthouse floor storey including sections;
f) details of main entrances including reveals.

38. Details to be submitted- Block 1
No development shall commence on Block 1 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) parapet details;
b) plant to main roof and screening;
c) flue to main roof;
d) details of rear boundary treatment to courtyard area;
e) details of access gates to courtyard garden;
f) details of refuse stores.

39. Details to be submitted- Block 2
Notwithstanding Condition 02 no development shall commence on Block 2 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) detailed elevations, plans and sectional drawings of external materials including windows (at scale 1:20);
b) all railings and balustrades;
c) samples of all facing materials including metalwork;
d) details of typical bay including windows and reveals;
e) details of penthouse floor storey including sections;
f) details of main entrances including reveals.

40. Details to be submitted- Block 2
No development shall commence on Block 2 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) parapet details;
b) plant to main roof and screening;
c) flue to main roof;
d) details of rear boundary treatment to courtyard area;
e) details of access gates to courtyard garden;
f) details of refuse stores.

41. Details to be submitted- Block 3
Notwithstanding Condition 02 no development shall commence on Block 3 (save for demolition, below ground works and temporary works) until full particulars of

the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) detailed elevations, plans and sectional drawings of external materials including windows (at scale 1:20);
b) all railings and balustrades;
c) details of typical bay including windows and reveals;
d) details of penthouse floor storey including sections;
e) details of main entrances including reveals;
f) details of frontage to community use ;
g) samples of all facing materials including metalwork.

42 Details to be submitted- Block 3
No development shall commence on Block 3 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) parapet details;
b) plant to main roof and screening;
c) flue to main roof;
d) details of rear boundary treatment to courtyard area;
e) details of access gates to courtyard garden;
f) details of refuse stores.

43 On site sample panel- Block 1
No development shall commence pursuant to Block 1 (save for demolition, below ground works and temporary works) until sample panels of facing materials, as approved in condition 38 showing the colour, texture, facebond and joints, to be used on the external faces of the building have been provided on site and approved in writing by the Local Planning Authority and the sample panels shall be retained on site until the work is completed. The development shall be carried out in accordance with the details so approved and shall be so maintained.

44. On site sample panel- Block 2
No development shall commence pursuant to Block 2 (save for demolition, below ground works and temporary works) until sample panels of facing materials, as approved in condition 40 showing the colour, texture, facebond and joints, to be used on the external faces of the building have been provided on site and approved in writing by the Local Planning Authority and the sample panels shall be retained on site until the work is completed. The development shall be carried out in accordance with the details so approved and shall be so maintained.

45. On site sample panel- Block 3
No development shall commence pursuant to Block 3 (save for demolition, below ground works and temporary works) until sample panels of facing materials, as approved in condition 42 showing the colour, texture, facebond and joints, to be used on the external faces of the building have been provided on site and

approved in writing by the Local Planning Authority and the sample panels shall be retained on site until the work is completed. The development shall be carried out in accordance with the details so approved and shall be so maintained.

46. BREEAM Rating - New build non-residential
The non-residential floorspace shall achieve a BREEAM Shell Only rating of Very Good, and a Post Construction Review Certificate shall be submitted within 3 months of occupation of the floorspace within a phase of development, certifying that a BREEAM Shell Only rating of Very Good has been achieved.

47. Playspace- Block 1
None of the residential units within Block 1 shall be occupied until details of the playspace in the courtyard garden to Block 1 has been submitted to and approved in writing by the local planning authority and the approved details have been implemented in full

48. Playspace- Block 2
None of the residential units within Block 2 shall be occupied until details of the playspace in the courtyard garden to Block 2 has been submitted to and approved in writing by the local planning authority and the approved details have been implemented in full

49. Playspace - Block 3
None of the residential units within Block 3 shall be occupied until details of the play space in the courtyard garden to Block 3 has been submitted to and approved in writing by the local planning authority and the approved details have been implemented in full

50. Construction Method Statement (CMS)
No development of a phase shall commence until a Construction Method Statement detailing how the proposed basement excavation for each phase is to be undertaken, spoil removed, and the basement constructed, has been submitted to and approved in writing by the local planning authority. The Method Statement shall be prepared by a suitably qualified person, namely a Member of the Institute of Structural Engineers (M.I. Struct. E.) or a Member of the Institution of Civil Engineers (M.I.C.E.).

51 Restricting planning permission granted by GPDO - Removal of PD Rights

Notwithstanding the provisions of Article 3, Schedule 2, Part 16, of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any future amendments as enacted, no telecommunications equipment shall be fixed to the buildings subject of this planning permission in the absence of an express grant of planning permission for such development.

52. Details of car park ramp
No development of any phase shall commence (save for demolition) until details of the ramp to the basement car park to Block 1 shall be submitted to and approved in writing by the Local Planning Authority and shall be installed as so approved

53. Refuse and recycling
A phase of development shall not be occupied until all refuse and recycling storage facilities for that phase indicated on the approved plans have been fully implemented and made available for immediate use. The facilities shall thereafter be retained for use at all times.

54. Details of car park access management plan
Prior to commencement of the relevant phase of development (save for demolition, below ground works and temporary works) details of the access management plan to the basement car park to Block 1 shall be submitted to and approved in writing by the Local Planning Authority and shall be installed as so approved prior to first occupation of Block 1

55. Details of subterranean structures- new road
Notwithstanding the details shown on the approved drawings no structures shall be provided within 750mm of any new road being provided by the proposal

56. Parking - Provide before residential occupation
Prior to commencement of a phase of development (except for demolition), the provision of car parking including layouts and number of spaces for that phase shall be submitted to the local planning authority. The development shall not be occupied until the whole of the car parking spaces for that phase (including all disabled bays and motorcycle parking spaces) are provided. The parking spaces shall be permanently retained for the parking of vehicles of the residents of the building hereby approved and for no other purpose.

57. Stage 2 Safety Audit
Prior to commencement of a phase of development which requires a Stage 2 Road Safety Audit, a Stage 2 Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority. Any works required by the audit as so approved shall be carried out prior to occupation of the development and shall be so retained

58. Hours of operation – (A Class uses)
The retail uses (within Class A1/A2/A3) subject of this permission shall not be carried out other than between 08:00 hours and 23:00 hours, Monday to Saturday and 08:00 hours and 22:00 hours on Sunday or public holidays.

59. Hours of operation – (community facility)
The community facility (and ancillary facilities) uses subject of this permission shall not be carried out other than between 07:00 hours and 23:00 hours, Monday to Saturday and 08:00 hours and 22:00 hours on Sunday or public holidays.

60. Trees and landscaping – Details required- Courtyard Area (Block 1)
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Courtyard Area shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

61. Trees and landscaping – Details required- Courtyard Area (Block 2)
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Courtyard Area shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

62. Trees and landscaping – Details required- Courtyard Area (Block 3)
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Courtyard Area shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

63. Trees and landscaping – Details required- Public Square
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Public Square shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

64. Energy Strategy
Prior to the commencement of development, a revised Energy Strategy, which shall provide for no less than 35% onsite total carbon dioxide reduction (or an alternative percentage as shall be agreed by the Local Planning Authority and Greater London Authority) in comparison with total emissions from building(s) which comply with Building Regulations 2013 shall be submitted for approval. The revised Energy Strategy shall be prepared in line with the Greater London Authority guidance on preparing energy assessments – March 2016 (or any successor document). Any communal heating system shall be designed to permit a future connection to a District Heat Network should a feasible and viable connection become available in the future. The final agreed scheme shall be installed and in operation prior to the first occupation of the development (or any phasing programme agreed in writing with the Local Planning Authority) The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter

65. Restricting planning permission granted by GPDO - Removal of PD Rights- Townhouses/ Mews Houses
Notwithstanding the provisions of Article 3, Schedule 2, Part 1, of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any future amendments as enacted, no extensions, additions, insertion of windows, or external alterations shall be carried out to the Townhouses and Mews Houses to Blocks 2 and 3 in the absence of an express grant of planning permission for such development.

LIST OF CONDITIONS - REVISED SCHEME

1. Time Limit
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. Compliance with approved drawings
The development shall not be carried out except in complete accordance with the details shown on submitted plans L(05)001 Rev P3, L(05)002 Rev P3, X(05)100 Rev P3, X(05)101 Rev P4, X(05)104 Rev P3, X(05)105 Rev P3, L(05)099 Rev P6, L(05)100 Rev P7, L(05)101 Rev P6, L(05)102 Rev P6, L(05)103 Rev P6, L(05)104 Rev P6, L(05)105 Rev P5, L(05)106 Rev P5, E(05)102 Rev P8, S(05)100 Rev P5, S(05)101 Rev P5, L(04)119 Rev P6, L(04)120 Rev P5, L(04)121 Rev P4, L(04)122 Rev P4, L(04)123 Rev P4, L(04)124 Rev P4, L(04)125 Rev P4, L(04)126 Rev P4, E(04)100 Rev P6, E(04)101 Rev P4, E(04)104 Rev P6, E(04)200 Rev P8, E(04)201 Rev P4, E(04)120 Rev P6, E(04)122 Rev P4, E(04)220 Rev P6, L(04)319 Rev P6, L(04)320 Rev P7, L(04)321 Rev P6, L(04)322 Rev P6, L(04)323 Rev P6, L(04)324 Rev P6, L(04)325 Rev P6, L(04)326 Rev P6, E(04)300 Rev P6, E(04)301 P6, E(04)302 Rev P6, E(04)400 Rev P6, E(04)101 Rev P1, E(04)320 Rev P5, E(04)321 Rev P5, E(04)401 Rev P1, E(04)420 Rev P4, L(90)002 Rev P9, L(90)010 Rev P8, L(90)020 Rev P9, L(91)003 Rev P4, L(92)001 Rev P2, L(92)002 Rev P6, L(92)004 Rev P3, L(92)005 Rev P3, L(92)006 Rev P3, S(91)001 Rev P2, S(91)002 P3, S(91)004 Rev P4, S(91)006 P4, SK(91)006 Rev P7, SK(91)007 Rev P6, SK(91)008 Rev P9, SK(91)010 Rev P5, SK(91)013 Rev P8.

3. Prior to the commencement of development a phasing plan showing the location of phases shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the phasing plan.

4. Demolition Environmental Management Plan (DEMP)
No development shall commence until a site specific Demolition Environmental Management Plan (DEMP) by phase has been submitted to, and approved in writing by, the local planning authority, and the development shall be carried out only in accordance with the Plan so approved. The DEMP shall as a minimum;
    a) comply with and follow the chapter order (4-7) and appendices (5, 7,8,9) of the Mayors of London 'The Control of Dust and Emissions during Construction and Demolition', SPG, July 2014 Mayors SPG;
    b) include an inventory and timetable of dust generating activities during demolition;
    c) include dust and emission control measures including on-road demolition traffic e.g. use of Ultra Low Emission Vehicles; Non-Road Mobile Machinery (NRMM) (to include on-site monitoring of PM10 and reporting);
    d) include noise and vibration mitigation measures (to include s61

procedure and on-site monitoring and reporting).

5. Demolition Traffic Management Plan (DTMP)

No development shall commence until a Demolition Traffic Management Plan (DTMP) by phase has been submitted to and approved in writing by the local planning authority. The statement should include:

a) routeing of demolition, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
b) access arrangements to the site;
c) the estimated number and type of vehicles per day/week;
d) details of any vehicle holding area;
e) details of the vehicle call up procedure;
f) estimates for the number and type of parking suspensions that will be required;
g) details of any diversion or other disruption to the public highway during preparation and demolition work associated with the development;
h) work programme and/or timescale for each phase of preparation and demolition work associated with the development;
i) details of measures to protect pedestrians and other highway users from demolition activities on the highway;
j) a strategy for coordinating the connection of services on site with any programme work to utilities upon adjacent land; and
k) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved Demolition Traffic Management Plan.

6. Construction Environmental Management Plan (CEMP)

No development shall commence (save for demolition) until a site specific Construction Environmental Management Plan (CEMP) by phase has been submitted to, and approved in writing by, the local planning authority, and the development shall be carried out only in accordance with the Plan so approved. The CEMP shall as a minimum:

a) comply with and follow the chapter order (4-7) and appendices (5, 7,8,9) of the Mayors of London 'The Control of Dust and Emissions during Construction and Demolition', SPG, July 2014 Mayors SPG;
b) include an inventory and timetable of dust generating activities during construction;
c) include dust and emission control measures including on-road construction traffic e.g. use of Ultra Low Emission Vehicles; Non-Road Mobile Machinery (NRMM) (to include on-site monitoring of PM10 and reporting);
d) include noise and vibration mitigation measures (to include s61

procedure and on-site monitoring and reporting).

7. Construction Traffic Management Plan (CTMP)
No development shall commence (save for demolition) until a Construction Traffic Management Plan (CTMP) by phase has been submitted to and approved in writing by the local planning authority. The statement should include:

a) routeing of excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
b) access arrangements to the site;
c) the estimated number and type of vehicles per day/week;
d) details of any vehicle holding area;
e) details of the vehicle call up procedure;
f) estimates for the number and type of parking suspensions that will be required;
g) details of any diversion or other disruption to the public highway during excavation and construction work associated with the development;
h) work programme and/or timescale for each phase of excavation and construction work associated with the development;
i) details of measures to protect pedestrians and other highway users from construction activities on the highway;
j) a strategy for coordinating the connection of services on site with any programme work to utilities upon adjacent land; and
k) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved Construction Traffic Management Plan.

8. Contamination – Preliminary Risk Assessment Report
No development of a phase shall commence until a Preliminary Risk Assessment Report for that phase comprising:

a) a desktop study which identifies all current and previous uses at the site and surrounding area as well as the potential contaminants associated with those uses;
b) information from site inspection;
c) a conceptual model indicating potential pollutant linkages between sources, pathways and receptors, including those in the surrounding area and those planned at the site; and
d) a qualitative risk assessment of any potentially unacceptable risks arising from the identified pollutant linkages to human health, controlled waters and the wider environment including ecological receptors and building materials

has been prepared in accordance with CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing, and submitted to, and approved in writing by, the local planning authority.

9. Contamination – Site Investigation Scheme
No development of a phase shall commence until a Site Investigation Scheme for that phase has been prepared (if required) in accordance with CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing, and has been submitted to, and approved in writing by, the local planning authority.

10. Contamination – Site Investigation and Quantitative Risk Assessment
No development of a phase shall commence (save for demolition) until a site investigation (if required) for that phase has been undertaken in compliance with the approved Site Investigation Scheme and a Quantitative Risk Assessment Report (if required) has been submitted to, and approved in writing by, the local planning authority.

11. Contamination – Remediation Method Statement
No development shall commence (save for demolition) for a phase until a Remediation Method Statement (if required) for that phase to address the results of the Site Investigation Scheme has been submitted to, and approved in writing by, the local planning authority.

12. Contamination – Verification Report
No development shall commence (save for demolition) for a phase until the approved Remediation Method Statement (if required) for that phase has been carried out in full and a Verification Report (if required) confirming:

a) completion of these works;
b) details of the remediation works carried out;
c) results of any verification sampling, testing or monitoring including the analysis of any imported soil;
d) classification of waste, its treatment, movement and disposal;
e) and the validation of gas membrane placement

has been submitted to, and approved in writing, by the local planning authority.

13. Contamination – Unexpected
If during development of a phase, contamination not previously identified is found to be present within that phase, development work shall cease and not be recommenced until a report indicating the nature of the contamination and how it is to be dealt with has been submitted to, and approved in writing by, the local planning authority. The approved measures shall be implemented in full.

14. Protection of trees during construction – Details required
No development shall commence for a phase until full particulars of the method(s) by which all existing trees on adjacent land of that phase are to be protected during site preparation, demolition, construction, landscaping, and other operations on the site including erection of hoardings, site cabins, or other temporary structures, shall be submitted to and approved in writing by the local planning authority and the development shall be carried out only in accordance with the details so approved.

15. Archaeology – Watching brief
No development shall commence for a phase until details of an archaeological watching brief for that phase has been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved details.

16. Sustainable drainage systems
No development shall commence for a phase (save for demolition and below ground works) until a surface water drainage scheme for that phase has been submitted to and approved in writing the local planning authority. This plan will need to identify existing run off rates together with proposed sustainable urban drainage (SuDS) measures to be included in the development. The SuDS measures so approved shall be implemented in full prior to occupation of the development and shall be so retained.

17. Planting and replanting
All tree and shrub planting forming part of the plans and details approved through this planning permission shall be carried out for a phase in the first planting and seeding season following the first occupation of the development or the completion of the development whichever is the sooner. Any trees or shrubs which, within a period of five years from the first planting and seeding season referred to above, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

18. Odours from swimming pool ventilation/ filtration equipment
Fumes or odours expelled from any flue serving the hygiene plant or providing ventilation to the pool area shall not be detectable at the property boundary. If at any time the extraction plant is determined by the local planning authority to be failing to comply with this condition, it (or the source equipment) shall be switched off and not used again until it is able to comply.

19. Details of bicycle parking
A phase of development shall not be occupied until details of the bicycle parking within that phase have been submitted to and approved in writing by the local planning authority. The details shall include the specification of the racks to be used. A total of594 bicycle parking spaces and associated facilities shall be provided in accordance with the approved plans and be retained for use at all times.

20. Ventilation
No development of a phase shall commence (save for demolition and below ground works) until details of a system of mechanical ventilation, with filtration to remove airborne pollutants, for the proposed residential properties for that phase shall be submitted to and agreed in writing by the LPA. Filtration should ensure that the national Air Quality Objectives for Nitrogen Dioxide (NO_2) and Particulate Matter (PM_{10}) are not exceeded in residential properties. The approved details shall be fully implemented prior to the occupation/use of the development and thereafter permanently retained and maintained. The maintenance and cleaning of the systems shall be undertaken in accordance with manufacturer specifications and shall be the responsibility of the primary owner of the building for the social rented homes and shall be the responsibility of the owner of property for the private homes

21. Low Emission Strategy required
No development of a phase shall commence (save for demolition and below ground works) until a suitable Air Quality Neutral Assessment for that phase has been submitted to and approved in writing by the Local Planning Authority. This should include a comparison of emissions against London Plan emission benchmarks for buildings and transport and Band B emission standards for combustion plant. This shall include all traffic and combustion plant emissions generated by the development and include measures to reduce emissions from the operational development. The assessment shall detail the emission reduction strategies to be incorporated including proposals for boiler /plant abatement equipment. Measures for transport emissions should include details of the electric charging facilities in parking areas, permit free, and a travel plan The development shall be undertaken in accordance with the Assessment.

22. Combustion plant -pre installation
Prior to installation or use of any combustion plant within a phase of development including temporary installations evidence must be provided to show that any chimney stack/flue will be located so that it is away from ventilation intakes or accessible areas and at a sufficient height and discharge velocity etc to disperse the exhaust emissions (a minimum of 3m above accessible areas). Details of the selected combustion plant (including abatement equipment), their emissions and maintenance schedules for that phase shall be provided to the Local Planning Authority for approval in writing and shall be implemented in accordance with the approved details. Boilers shall have NOx emissions not exceeding 40mg/kWh of dry NOx (at 0% O2) and CHP plant not exceeding the CHP plant not exceeding 95mg/Nm2 (at 5% 02) as per assessment.

23. Combustion plant – prior to occupation
Prior to occupation of a phase no CHP plant within that phase shall come into use without the fitting of the appropriate abatement equipment or technologies to meet as a minimum the Band B emissions standard (95mg/Nm2 (at 5% 02). A NOX emissions test must be carried out by an accredited laboratory/ competent person. The test certificate and evidence of equipment maintenance schedule and agreement must be provided to the local planning authority for approval.

24. Wheelchair Adaptable Units
The allocated wheelchair units subject of this permission shall achieve compliance with optional requirement M4(3)(2)(a) of the building regulations and none of the specified units within a phase shall be occupied until Building Regulations approval has been issued certifying that these criteria have been achieved.

25. Travel Plan – Details reserved
A phase of development hereby approved shall not be occupied until a Final travel plan has been submitted to, and approved in writing by, the local planning authority for that phase. The travel plan shall be monitored and reviewed in accordance with any targets within the plan, and such record made available upon request by the local planning authority.

26. Electric Car Charging points
No development of a phase shall commence (save for demolition and below ground works) until details of the electric car charging points for that phase have been submitted to and approved in writing by the local planning authority. The development should be carried out in accordance with the approved details and be so retained

27. Details of sound insulation –Block 3
A phase of development shall not be occupied until a scheme of sound insulation for that phase designed to prevent the transmission of excessive airborne and impact noise between the proposed community use at ground and lower ground floor levels and the residential uses above shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to occupation and be so retained

28. Details of sound insulation –Block 2
A phase of development shall not be occupied until a scheme of sound insulation for that phase designed to prevent the transmission of excessive airborne and impact noise between the proposed commercial uses at ground and lower ground floor levels and the residential uses above shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to occupation and be so retained

29. Pumped Devices
A phase of development shall not be occupied until the basement of the that phase hereby permitted is protected against sewer flooding through the installation of positively pumped devices, the details of which shall be submitted to and approved by the local planning authoroty. The pumped devices shall be so retained

30. Noise from building services plant and vents
Noise emitted by all building services plant, plant room intake, extract, louvre or vent shall not exceed a level 10dBA below the existing lowest LA90(15min) background noise level at any time when the plant is operating, and where the source is tonal it shall not exceed a level 15dBA

below. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio. The plant shall be serviced regularly in accordance with the manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is determined by the local planning authority to be failing to comply with this condition, it shall be switched off upon written instruction from the local planning authority and not used again until it is able to comply.

31. Odours from extraction equipment
Fumes or odours expelled from any flue serving a stove, oven or other cooking device shall not be detectable at the site boundary. If at any time the extraction plant is determined by the local planning authority to be failing to comply with this condition, it (or the source device) shall be switched off and not used again until it is able to comply.

32. Anti-vibration mounts for air-conditioning/ extraction equipment
All building services plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

33. Water Efficiency
The residential dwellings shall achieve compliance with optional requirement G2 (2) (b) and none shall be occupied until Building Regulations approval has been issued for it certifying that these criteria have been achieved.

34. Energy Performance
The dwelling(s) shall achieve Level 4 of the Code for Sustainable Homes equivalent in relation to energy performance and no phase of development shall be occupied until final SAP calculations (specifically DER and TER worksheets) are provided for that phase to demonstrate that the Code Level 4 equivalent in energy performance has been achieved.

35. Considerate Constructors Scheme (CCS)
No development of a phase shall commence until such time as the lead contractor is signed to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by passing members of the public, and shall thereafter be maintained on display throughout the duration of the works of that phase forming the subject of this permission.

36. Non Road Mobile Machinery (NRMM)
No development of a phase shall commence until details are submitted to and approved in writing by the Council of all Non-Road Mobile Machinery (NRMM) to be used for that phase of development. All NRMM should meet as minimum the Stage IIIA emission criteria of Directive 97/68/EC and its

subsequent amendments unless it can be demonstrated that Stage IIIA equipment is not available. An inventory of all NRMM must be registered on the NRMM register https://nrmm.london/user-nrmm/register. All NRMM should be regularly serviced and service logs kept on site for inspection. Records should be kept on site which details proof of emission limits for all equipment.

37. Details to be submitted- Block 1
Notwithstanding Condition 02 no development shall commence on Block 1 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) detailed elevations, plans and sectional drawings of external materials including windows (at scale 1:20);
b) all railings or balustrades;
c) samples of all facing materials including metalwork;
d) details of typical bay including windows and reveals;
e) details of penthouse floor storey including sections;
f) details of main entrances including reveals.

38. Details to be submitted- Block 1
No development shall commence on Block 1 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) parapet details;
b) plant to main roof and screening;
c) flue to main roof;
d) details of rear boundary treatment to courtyard area;
e) details of access gates to courtyard garden;
f) details of refuse stores.

39. Details to be submitted- Block 2
Notwithstanding Condition 02 no development shall commence on Block 2 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) detailed elevations, plans and sectional drawings of external materials including windows (at scale 1:20);
b) all railings and balustrades;
c) samples of all facing materials including metalwork;
d) details of typical bay including windows and reveals;
e) details of penthouse floor storey including sections;

f) details of main entrances including reveals.

40. Details to be submitted- Block 2
No development shall commence on Block 2 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) parapet details;
b) plant to main roof and screening;
c) flue to main roof;
d) details of rear boundary treatment to courtyard area;
e) details of access gates to courtyard garden;
f) details of refuse stores.

41. Details to be submitted- Block 3
Notwithstanding Condition 02 no development shall commence on Block 3 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) detailed elevations, plans and sectional drawings of external materials including windows (at scale 1:20);
b) all railings and balustrades;
c) details of typical bay including windows and reveals;
d) details of penthouse floor storey including sections;
e) details of main entrances including reveals;
f) details of frontage to community use;
g) samples of all facing materials including metalwork.

42 Details to be submitted- Block 3
No development shall commence on Block 3 (save for demolition, below ground works and temporary works) until full particulars of the following have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the details so approved and shall be so maintained:

a) parapet details;
b) plant to main roof and screening;
c) flue to main roof;
d) details of rear boundary treatment to courtyard area;
e) details of access gates to courtyard garden;
f) details of refuse stores.

43 On site sample panel- Block 1
No development shall commence pursuant to Block 1 (save for demolition,

below ground works and temporary works) until sample panels of facing materials, as approved in condition 38 showing the colour, texture, facebond and joints, to be used on the external faces of the building have been provided on site and approved in writing by the Local Planning Authority and the sample panels shall be retained on site until the work is completed. The development shall be carried out in accordance with the details so approved and shall be so maintained.

44. On site sample panel- Block 2
No development shall commence pursuant to Block 2 (save for demolition, below ground works and temporary works) until sample panels of facing materials, as approved in condition 40 showing the colour, texture, facebond and joints, to be used on the external faces of the building have been provided on site and approved in writing by the Local Planning Authority and the sample panels shall be retained on site until the work is completed. The development shall be carried out in accordance with the details so approved and shall be so maintained.

45. On site sample panel- Block 3
No development shall commence pursuant to Block 3 (save for demolition, below ground works and temporary works) until sample panels of facing materials, as approved in condition 42 showing the colour, texture, facebond and joints, to be used on the external faces of the building have been provided on site and approved in writing by the Local Planning Authority and the sample panels shall be retained on site until the work is completed. The development shall be carried out in accordance with the details so approved and shall be so maintained.

46. BREEAM Rating - New build non-residential
The non-residential floorspace shall achieve a BREEAM Shell Only rating of Very Good, and a Post Construction Review Certificate shall be submitted within 3 months of occupation of the floorspace within a phase of development, certifying that a BREEAM Shell Only rating of Very Good has been achieved.

47. Playspace- Block 1
None of the residential units within Block 1 shall be occupied until details of the playspace in the courtyard garden to Block 1 has been submitted to and approved in writing by the local planning authority and the approved details have been implemented in full

48. Playspace- Block 2
None of the residential units within Block 2 shall be occupied until details of the playspace in the courtyard garden to Block 2 has been submitted to and approved in writing by the local planning authority and the approved details have been implemented in full

49. Playspace - Block 3
None of the residential units within Block 3 shall be occupied until details of the playspace in the courtyard garden to Block 3 has been submitted to and approved in writing by the local planning authority and the approved details have been implemented in full

50. Construction Method Statement (CMS)
No development of a phase shall commence until a Construction Method Statement detailing how the proposed basement excavation for each phase is to be undertaken, spoil removed, and the basement constructed, has been submitted to and approved in writing by the local planning authority. The Method Statement shall be prepared by a suitably qualified person, namely a Member of the Institute of Structural Engineers (M.I. Struct. E.) or a Member of the Institution of Civil Engineers (M.I.C.E.).

51 Restricting planning permission granted by GPDO - Removal of PD Rights

Notwithstanding the provisions of Article 3, Schedule 2, Part 16, of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any future amendments as enacted, no telecommunications equipment shall be fixed to the buildings subject of this planning permission in the absence of an express grant of planning permission for such development.

52. Details of car park ramp
No development of any phase shall commence (save for demolition) until details of the ramp to the basement car park to Block 1 shall be submitted to and approved in writing by the Local Planning Authority and shall be installed as so approved

53. Refuse and recycling
A phase of development shall not be occupied until all refuse and recycling storage facilities for that phase indicated on the approved plans have been fully implemented and made available for immediate use. The facilities shall thereafter be retained for use at all times.

54. Details of car park access management plan
Prior to commencement of the relevant phase of development (save for demolition, below ground works and temporary works) details of the access management plan to the basement car park to Block 1 shall be submitted to and approved in writing by the Local Planning Authority and shall be installed as so approved prior to first occupation of Block 1.

55. Details of subterranean structures- new road
Notwithstanding the details shown on the approved drawings no structures shall be provided within 750mm of any new road being provided by the proposal

56. Parking - Provide before residential occupation
Prior to commencement of a phase of development (except for demolition), the provision of car parking including layouts and number of spaces for that phase shall be submitted to the local planning authority. The development shall not be occupied until the whole of the car parking spaces for that phase (including all disabled bays and motorcycle parking spaces) are provided. The parking spaces shall be permanently retained for the parking of vehicles of the residents of the building hereby approved and for no other purpose.

57. Stage 2 Safety Audit
Prior to commencement of a phase of development which requires a Stage 2 Road Safety Audit, a Stage 2 Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority. Any works required by the audit as so approved shall be carried out prior to occupation of the development and shall be so retained

58. Hours of operation – (A Class uses)
The retail uses (within Class A1/A2/A3) subject of this permission shall not be carried out other than between 08:00 hours and 23:00 hours, Monday to Saturday and 08:00 hours and 22:00 hours on Sunday or public holidays.

59. Hours of operation – (community facility)
The community facility (and ancillary facilities) uses subject of this permission shall not be carried out other than between 07:00 hours and 23:00 hours, Monday to Saturday and 08:00 hours and 22:00 hours on Sunday or public holidays.

60. Trees and landscaping – Details required- Courtyard Area (Block 1)
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Courtyard Area shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

61. Trees and landscaping – Details required- Courtyard Area (Block 2)
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Courtyard Area shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

62. Trees and landscaping – Details required- Courtyard Area (Block 3)
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Courtyard Area shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

63. Trees and landscaping – Details required- Public Square
A scheme of landscaping, to include all proposed trees (including full details of all tree pits) shrubs, hard and soft landscaping (including lighting) to the Public Square shall be submitted to and approved in writing by the local planning authority before the relevant part of the works , and the development shall only be carried out and maintained in accordance with the details so approved.

64. Energy Strategy
Prior to the commencement of development, a revised Energy Strategy, which shall provide for no less than 35% onsite total carbon dioxide reduction (or an alternative percentage as shall be agreed by the Local Planning Authority and Greater London Authority) in comparison with total emissions from building(s) which comply with Building Regulations 2013 shall be submitted for approval. The revised Energy Strategy shall be prepared in line with the Greater London Authority guidance on preparing energy assessments – March 2016 (or any successor document). Any communal heating system shall be designed to permit a future connection to a District Heat Network should a feasible and viable connection become available in the future. The final agreed scheme shall be installed and in operation prior to the first occupation of the development (or any phasing programme agreed in writing with the Local Planning Authority) The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:	
Mr D Kolinsky QC	Instructed by the Borough Solicitor
He called	
Ms A Flight BA(Hons) MRTPI	Strategic Development Lead
Mr J Brierley MA(Oxon) MRICS	Partner, Gerald Eve
Mr R Craig BA(Hons) MPhil DipUrb	Principal Design Officer

FOR THE APPELLANT:	
Mr T Corner QC	Instructed by Messrs Trowers and Hamlins
He called	
Mr D M Cafferty BSc(Hons) BArch RIBA	Director, HLM Architects
Mr L J Handcock MA MSc IHBC	Director, Iceni Projects
Mr J P Welch BA(Hons) MRICS MRTPI	Arcadis
Mr B Ford BSc DipSurv MRTPI	Director, Quod

FOR SAVE THE SUTTON ESTATE:	
Mr H Leithead of Counsel	Instructed by Nicholas Greenwood
He called	
Lady M Denman BA(Hons) MA	Local resident
Mr G Quarme BA(Hons) DipArch DipCons AA RIBA FRSA AABC SCA	Giles Quarme and Associates

FOR THE CHELSEA SOCIETY:	
Mr M Stephen[90]	Chairman of the Chelsea Society

INTERESTED PERSONS:	
Mr G Robertson	Local resident and Dovehouse TA
Ms L Motileb	Local resident
Ms Bamber	Local resident
Ms J Keal	Local resident
Ms V Reilly	Local resident
Mr R Burgess	Local resident

[90] The Chelsea Society did not call witnesses, but relied on written submission along with opening and closing submissions

Mr M Clarke	Local resident
Mr H Schumi	Local businessman
Mr M Motileb	Local resident
Ms S Brown	Local resident

INQUIRY DOCUMENTS

1	List of persons present at the Inquiry
2	List of persons notified of the Inquiry and letter of notification
3	Planning Statement of Common Ground
4	Viability Statements of Common Ground (Appeal Scheme and Revised Schemes)
5	Extract from Planning Practice Guidance
6	Statement by Mr I Henderson
7	Statement by Ms L Motileb
8	Statement by Mr J Keal
9	Statement by Ms L Sherlock
10	Leaflet referring to petition to the Council regarding potential Conservation Area
11	Statement by MR M Motileb
12	Council's clarification of EX024 and London Plan
13	Notes of 23 September 2013 meeting
14	Plan showing locked gates at the time of the Inquiry
15	Statement by Mr R Burgess
16	Petition to the Council regarding Doc 10
17	Petition against the appeal proposal
18	Extract from National Heritage map
19	Appellant's note on potential to convert social housing to market housing
20	St Luke's garden list entry and plan
21	Email (5 March 2018) re. basis of valuation
22	Save Britain's Heritage letter (1 March 2018)
23	HCA Governance and Viability Standard
24	National Housing Federation – Rules of Clarion Housing Association Limited
25	Closing submission by The Chelsea Society
26	Closing submission by Save the Sutton Estate
27	Closing submission by the Council
28	Closing submission by the appellant
29	Planning Obligations (Appeal and Revised Schemes) and appellant's letter (30 May 2018) explaining issues between the parties
30	Council's letter (1 June 2018) and attachments explaining issues between the parties related to the Obligations
31	Submissions on revised National Planning Policy Framework by Save the Sutton Estate
32	Submissions on revised National Planning Policy Framework by the Council
33	Submissions on revised National Planning Policy Framework by the appellant

DOCUMENTS RELATING TO REVISED SCHEME

RS1	Documents which were the subject of consultation (2 volumes)
RS2	Consultation responses related to revised scheme
RS3	SSE comment (1 December 2017)
RS4	Council's initial comment (1 December 2017)

RS5	Chelsea Society comment (25 January 2018)
RS6	Appellant letter (13 March 2018) and documents relating to consultation, and amendment 16 March 2018.
RS7	Appellant's submissions (20 April 2018)
RS8	Council's further submissions (27 April 2018)
RS9	Greater London Authority submissions (27 April 2018)
RS10	Appellant's response to Councils' submissions

CORE DOCUMENTS

1	Plans
1.1	Elevations Block 1 – E(04)200 – P6
1.2	Elevations Block 1 – E(04)104 – P6
1.3	Elevations Block 1 – E(04)100 – P6
1.4	Elevations Block 1 – E(04)101 – P4
1.5	Elevations Block 2 & 3 – E(04)400 – P4
1.6	Elevations Block 2 & 3 – E(04)302 – P4
1.7	Elevations Block 2 & 3 – E(04)300 – P4
1.8	Elevations Block 2 & 3 – E(04)301 – P4
1.9	Existing Plan X(05)100 – P3
1.10	Existing Sections – X(05)104 – P3
1.11	Existing Site Elevations – X(05)101 – P4
1.12	Existing Site Sections – X(05)105 – P3
1.13	Landscape Block 1- Amenity Plan – L(90)010 – P7
1.14	Landscape Blocks 2 & 3 – Amenity Plan – L(90)020 – P8
1.15	Landscape Masterplan – L(90)002 – P8
1.16	Proposed Site Elevations – E(05)102 – P7
1.17	Proposed Site Sections 01-S(05)100 - P4
1.18	Proposed Site Sections 02-S(05)101 - P4
1.19	Public Realm – Hard Landscape Plan – L(91)003 – P3
1.20	Red Blue Line Drawing – L(05)001 – P3
1.21	Site Wide Play – Amenity Strategy – SK(91)010 – P4
1.22	Roof Landscape Strategy- SK(91)013 - P7
1.23	Ground Floor Cycle Parking- Block 2 & 3 - SK(91)008-P8
1.24	Basement Parking Block 2 & 3 – SK(91)007 – P6
1.25	Block 2 & 3 Amenity Cross Section – S(91)006 – P3
1.26	Public Realm Cross Sections – S(91)004 – P3
1.27	Block 1 Basement Ramp Section – S(91)002 – P3
1.28	Block 1 Amenity Cross Section – S(91)001 – P2
1.29	Tree Planning Details – Podium Buildups 2 – L(92)006 – P3
1.30	Tree Planning Details – Podium Buildups – L(92)005 – P3
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