



Appeal Decision

Inquiry Held on 18-21 and 25-28 June 2019

Site visit made on 28 June 2019

by Mike Hayden BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th August 2019

Appeal Ref: APP/Z5630/W/19/3223667

Surrey House, 34 Eden Street, Kingston-upon-Thames KT1 1ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by SHP Opportunity Fund General Partner Ltd against the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 18/12119/FUL, is dated 9 February 2018.
 - The development proposed is demolition of the existing buildings to provide 2,072m² flexible floorspace (permission is sought for flexible A, D1 and D2 Uses) and 311 Build to Rent residential units (Use Class C3), along with associated communal amenity space serving the residential accommodation, public realm improvements, servicing, plant areas and extended car park to provide four additional half decks (two storeys) above the existing car park.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The proposal is an Environmental Impact Assessment (EIA) development under Schedule 2 of the EIA Regulations¹. An Environmental Statement (ES) was submitted with the application due to the potential for significant effects on air quality, including the impacts of dust generation during construction and of road traffic emissions on both existing receptors and the future occupiers of the proposed development. At the request of the Planning Inspectorate, further information was provided by the appellant to explain how the conclusions on demolition and construction dust were reached and mitigation measures taken into account. With this I am satisfied that the ES meets the requirements of the EIA Regulations and accordingly I have had due regard to it in determining this appeal.
3. A unilateral undertaking under S106 of the Town and Country Planning Act 1990 (as amended) and Section 111 of the Local Government Act 1972 was submitted by the appellant. The undertaking comprises planning obligations to secure: 15% of the units as affordable housing and the Build to Rent tenure across the open market units; financial contributions towards carbon offsetting, public realm improvements and public transport infrastructure; and sustainable transport measures, including car club membership, travel plans and restrictions on future occupiers obtaining resident parking permits in the

¹ Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Controlled Parking Zone. The undertaking was discussed with the main parties at the inquiry and amended to also bring the parking permit restrictions under Section 16 of the Greater London Council (General Powers) Act 1974. The signed and executed Deed was submitted after the close of the inquiry and constitutes a material consideration, which I have taken into account in reaching my decision.

Main Issues

4. Following the submission of the appeal against non-determination, the Council's Development Control Committee resolved that it would have refused the application on six grounds. However, it is common ground² that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites in the borough against the housing requirement for Kingston, as is expected in paragraph 73 of the National Planning Policy Framework (the Framework). In such circumstances, footnote 7 of the Framework establishes that the policies of the development plan which are most important for determining the application are out-of-date. As such paragraph 11(d) of the Framework applies in this case.
5. In view of this, and having regard to the Council's putative reasons for refusal and everything else I have read, heard and seen, the main issues in this appeal are whether the policies of the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, or whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, with particular regard to:
 - The design of the proposed development and its effect on the character and appearance of the surrounding area;
 - The effect of the proposal on the setting and significance of nearby heritage assets, including the Old Post Office, the United Reformed Church and the Guildhall Grade II listed buildings and the Kingston Old Town Conservation Area;
 - The effect of the loss of the Hippodrome on the night time economy and cultural provision of Kingston;
 - Whether or not the proposal makes adequate provision for affordable housing, taking account of the relevant policies of the development plan and the viability of the development;
 - Whether or not the proposal makes adequate provision for family housing, taking account of the relevant policies of the development plan, the location of the site and the housing needs of the borough; and
 - The benefits which the proposed development may bring, including housing provision and other economic, social and environmental contributions.

² In the Statement of Common Ground on 5 Year Housing Land Supply (ID17)

Reasons

Design, Character and Appearance

6. The appeal site comprises around 0.82 hectares of previously developed land and occupies a prominent and sensitive location within Kingston town centre. It lies on the southern edge of the primary retail area and to the immediate east of Kingston Old Town Conservation Area (KOTCA), which encompasses the historic core of the town centre. The site fronts onto Eden Street to the north, St James Road to the west and Brook Street to the east, three busy vehicular and pedestrian routes which lead into the commercial and historic heart of the town centre. The junction of Eden Street and St James Road, from where the site is most visible, forms one of the key entrances to the KOTCA and the setting for the Grade II listed United Reformed Church (URC). The junction of Eden Street and Brook Street provides the setting for the Grade II listed Old Post Office (OPO) building.
7. The site also lies within an area of post war development, comprising relatively poor quality 1960s and 1970s buildings, occupying the land between Eden Street and the Wheatfield Way dual-carriageway by-pass on the south eastern edge of the town centre. The site itself consists of Surrey House, a 1960s office building with retail units at ground floor level; an oval shaped, single storey retail building occupied by BoConcept; the Hippodrome, a vacant nightclub occupying a former 1970s supermarket building; and a multi-storey car park of similar age. It is common ground that these buildings are of no architectural merit³ and may be demolished. To the south of the site, at the southern end of St James Road and Brook Street, is Lever House, a 1970s office block.
8. In this context the development plan and related supplementary planning documents (SPD) support the redevelopment of the appeal site, but provide clear policies and design advice to guide future development in this post war area of the town centre to manage its transition into the overall townscape. The Kingston Town Centre Area Action Plan (2008) (the AAP) earmarks the appeal site and the adjacent areas to the east and north for redevelopment, to include a mixture of retail, office and community uses and housing to contribute to the provision of around 1,000 units of residential accommodation across the town centre. Specifically Policy P4 for the St James Area of the AAP identifies the appeal site for redevelopment or refurbishment to improve its appearance and provide enhanced retail (Classes A1-A3) uses, offices, leisure and community facilities and residential development, together with an enhanced public space which relates better to the URC.
9. The Eden Quarter Development Brief Supplementary Planning Document (EQDB) adopted by the Council in 2015 as a material consideration for planning applications, provides further detailed guidance for the development of the appeal site and the surrounding area. It identifies a number of key projects and improvements for the Eden Quarter to which the appeal site is expected to contribute. These include the enhancement of Eden Street with shops, leisure and restaurants as an extension of the retail circuit in the town centre; creation of a new public space at Eden Square with the Eden Street frontage of the appeal site set back from the existing building line to improve the view of the OPO building; rationalising traffic movements and simplifying bus routes; and ensuring that new development responds to the Kingston

³ Paragraph 11 of Design Matters Statement of Common Ground

context and the unique heritage and townscape of the town centre⁴. Although not expressly part of the stated mix of uses for the Surrey House site, the EQDB also supports the provision of new homes in apartments above ground floor level to help the AAP aspiration for 1,000 new homes within the town centre.

10. In addition, the EQDB provides guidance on the heights, scale and massing considered appropriate for new development within the area⁵. It specifies a range of heights from 1-8 storeys, which have been informed by the generally low rise nature of the town centre, significant heritage assets, viewing corridors and building typology. It identifies 3 specific locations where heights could rise above 9 storeys, due to its lower impact or the potential for a landmark building. None of these locations are within the appeal site, which lies in an area where 6-8 storeys is indicated as appropriate. The guidance goes on to state that one of the characteristics of Kingston's townscape is its varied roofscape. Therefore, where height ranges have been indicated for new development, the brief states that schemes will be expected to achieve a modulated roof line to reflect this character, rather than being built out to the maximum possible height.
11. The development plan context for the design and building heights guidance in the EQDB is provided by Policy CS8 of the Royal Borough of Kingston upon Thames LDF Core Strategy (2012) (the Core Strategy). This states that tall buildings may be appropriate within the Borough's town centres, but that some parts will be inappropriate or too sensitive for such buildings. It clarifies that relevant SPDs will provide further guidance on this matter and the criteria in the English Heritage/CABE Guidance on Tall Buildings (2007)⁶ and the London Plan (2016) will provide the basis for determining planning applications. The EQDB is a relevant SPD in the context of Policy CS8.
12. More generally Policy CS8, supported by Core Strategy Policies DM10 and DM11, seeks to ensure that new development recognises local character, relates well to its surroundings and seeks opportunities for sensitive enhancement to areas of poorer environmental quality, which is relevant to the appeal site. In relation to tall and large buildings, Policy 7.7 of the London Plan is clear that they should only be considered in areas whose character would not be adversely affected by the scale, mass or bulk of a tall or large building, and that they should relate well to the form, proportion, composition, scale and character of surrounding buildings. Likewise the HETB Guidance lists the importance of a positive relationship with character of place, the height and scale of development, urban grain, streetscape and skylines in achieving high quality design for tall building proposals.
13. Before considering the design and impact of the appeal scheme in this context, it is important to note that, under the direction of travel in the EQDB, the character and appearance of the townscape in the area surrounding the appeal site is changing. The Council has approved major mixed use and residential developments for the Eden Walk shopping centre (EW) site⁷, on the north side of Eden Street opposite Surrey House, and the site adjacent to the

⁴ Section 3.1 (page 18) and site guidance for Surrey House (page 46) in the EQDB (CD111)

⁵ Section 3.5 and Figure 8 (pages 32-33) of the EQDB

⁶ Updated by the Historic England Advice Note 4 on Tall Buildings (2015) (CD115) (HETB guidance)

⁷ Application Reference 15/13063/FUL

OPO⁸, on the east side of Brook Street. These contain buildings ranging from 4 to 16 storeys in height, which in places would exceed the guidance on building heights within the EQDB. Whilst undoubtedly these will transform the appearance of the townscape to the north and east of the appeal site, both schemes generally accord with the approach to the heights, scale and massing of buildings set out in the EQDB. The tallest elements from 14-16 storeys are on the northern leg of Eden Street and the southern end of Brook Street, in the locations identified in the EQDB as suitable for heights above 9 storeys, where their impact on the most sensitive townscape would be lower and they would create landmark buildings when viewed from Wheatfield Way to the south and east. On the Union Street frontage, however, closest to the low rise townscape of the KOTCA, the building heights of the EW scheme range from 4-6 storeys broadly in line with the guidance. Where building heights do notably exceed those anticipated in the EQDB, such as on the Eden Street frontage of the EW scheme opposite the appeal site, the roofline is substantially modulated and stepped down, ranging from a 4 storey podium, at just under 15 metres high, to 10 and 11 storey elements, of 33 and 36 metres in height. The varied architecture and use of materials on both of these emerging schemes, also helps to break up the mass of the buildings.

14. The appeal proposal comprises a single building, designed as a series of linked mansion block elements, in a horseshoe shaped perimeter block form, closely following the site boundaries on Eden Street, St. James Road and Brook Street. It would range in height from 9 to 12 storeys, at between 31 and 41 metres from ground level. The 12 storey element would sit on the corner of Brook Street and Eden Street, offering a landmark to terminate the view southwards along Eden Street. Although there would be a degree of modulation in the roof line, the submitted plans and accurate visual representations (AVRs) show that the building would present an otherwise continuous 9 storey and 31 metre high elevation along its St James Road, Eden Street and Brook Street frontages, with a 10th storey set back visible in places above the 9th storey shoulder of the building.
15. The height, mass and form of the proposed building on its Brook Street frontage would relate satisfactorily to the emerging context of the OPO scheme. However, on the western side of the site the surrounding context is of low rise 2 to 4 storey buildings in the Old Town and the civic quarter to the west of St James Road and at its junction with Eden Street. In this location, the creation of a street frontage comprising a continuous 9 storey elevation would have a poor relationship with the smaller scale and greater variety of buildings and roofscape which characterise the townscape of the Old Town and civic quarter. The significant difference in height, mass and form is clearly illustrated in the AVRs in the Townscape, Visual and Heritage Assessment (TVHA) of the views along Eden Street, St James Road and Union Street⁹ and at the intersection of these streets. They show a building, the overall bulk of which would have a dominating and overbearing impact on the adjoining streetscape and townscape in this part of Kingston. In this important respect it would fail to accord with the design guidance in the EQDB, being consistently above the 6-8 storey guide for this area, built out to a maximum possible height above this limit and lacking the modulation in its height and roofline to reflect the character of the adjacent Old Town. Whilst Lever House does provide a taller building context

⁸ Application Reference 14/13247/FUL

⁹ In particular Views 6, 10, 11, 24 and 25 in the TVHA (CD37)

on the St James Road frontage, it is very much the exception in this streetscape. It should not dictate the building height along the length of St James Road, given the Old Town context and the generally low rise nature of the town centre from which the EQDB guidance takes its cue.

16. I understand that the design of the building is rooted in London's mansion block traditions and I recognise the success of this typology in the urban design of many parts of London, not least in achieving higher densities and an efficient use of land. However, mansion blocks are not characteristic of Kingston. Whilst paragraph 127 c) of the Framework seeks not to discourage appropriate innovation and change, to achieve well-designed places it expects planning decisions to ensure developments are sympathetic to local character. I am not persuaded that a mansion block style of development on the appeal site, based on a perimeter block layout and built to a height of 9 storeys along the full length of the St James Road and Eden Street frontages, represents an appropriate innovation or a sympathetic response in the context of the adjacent low rise character of the Old Town townscape.
17. I acknowledge that the architectural treatment of the elevations has been carefully considered to carry through the mansion block design, break up the mass of the building elevations and introduce a human scale. Key elements emphasised in the appellant's evidence which seek to achieve this, include the vertical recesses to form mansion block bays, inset and extruded balconies, and the more fragmented façade with a staggered building line across the chamfered corner of the building at the junction of St James Road and Eden Street. I can see that, when viewed from a distance, the proportions and horizontal emphasis of the windows and balcony openings on these façades relate to those on buildings within the Old Town. However, these measures would do little to reduce the visual impact of the overall height, mass and bulk of the building on the streetscape in Eden Street and St James Road or mitigate its poor relationship with the smaller scale and varied architecture of the Old Town townscape. Neither am I persuaded that the single semi-mature tree in the proposed new public realm would bridge the transition in scale and height between the proposed new buildings and the townscape to the west.
18. With regard to the treatment of the public realm, the scheme would replace the existing poor quality pedestrian space around the BoConcept unit with a triangular piazza created by the chamfered corner set back of the building at the junction of St James Road and Eden Street. The mix of ground floor uses would activate the piazza, with the potential for spill out eating and drinking areas. The space would improve views of the URC from St James Road in line with the aspirations of Policy P4 of the AAP, it would link the pedestrian routes from the civic quarter to the future entrance of the EW scheme, and the proposed tree would give the space an identity.
19. However, it would occupy an exposed location next to traffic at what is a busy junction in the town centre, which would limit its attractiveness as a space to sit and dwell. On its own the proposed piazza would not create the destination public space envisaged for Eden Square. The EQDB shows development on the appeal site set back along its northern frontage on Eden Street¹⁰ providing room for the creation of Eden Square along a widened Eden Street. It expects the square to be of generous proportions to help balance the height of the

¹⁰ Figure 12 of the EQDB

surrounding buildings and provide space for pedestrians beyond the carriageway width¹¹. But other than a slight chamfering at the north-east corner of the building to increase the visibility of the OPO, the proposed development would not provide a set-back along Eden Street. Although the S106 undertaking includes a financial contribution towards the future phased delivery of Eden Square, the absence of a set-back along the Eden Street frontage would effectively prevent the delivery of Eden Square as intended. The proposed piazza would not provide a meaningful alternative.

20. I recognise the appellant disputes whether the Council's aspirations for Eden Square remain. But despite the absence of specific reference to it in the officer's report to the Development Control Committee, it is clear from the recording of the Committee meeting that it remains an aspiration for the Council, whatever may or may not have been said in pre or post-application meetings. The appellant points to the encroachment of the EW scheme into Eden Street on its north side and the ongoing intention of Transport for London to route buses along Eden Street as evidence that the aspiration has been abandoned. However, rather than indicating an abandonment of Eden Square, these factors reinforce the need for a set-back on the Eden Street frontage of the appeal scheme to provide sufficient depth of public space beyond the carriageway, if full pedestrianisation of the street is not possible.
21. The lack of a set-back on Eden Street would also result in a poor relationship between the increased height and bulk of the proposed building and the proportions of the future pedestrian environment along Eden Street. A continuous 9 storey and 31 metre frontage along the north facing side of the building would be likely to overwhelm and overshadow a pedestrian environment confined to the existing pavement widths along Eden Street. Indeed, the Daylight, Sunlight and Overshadowing Report¹² submitted with the application indicates the extent to which the proposal would overshadow the public realm in Eden Street for large parts of the day throughout the year.
22. I have had regard to the evidence on the pre-application discussions between the Council and the appellant on the design of the scheme as part of the Planning Performance Agreement (PPA) process. However, in the absence of an agreed set of PPA minutes, the evidence about what was agreed or not agreed during that process is largely inconclusive. I have also had regard to the track record of the scheme architects and design advisers and the representations of the Greater London Authority in support of the design of the proposal. However, the scheme also went through a thorough design review process with Design: South East and it is apparent that the concerns of the design review panel about the height, mass and scale of the building and the inadequacy of the proposed public space have not been addressed in the scheme before me at this appeal. It is clear from this that the scheme design has divided opinion. Ultimately, I have reached a judgement in the light of those differing opinions, the Council's adopted policies and design objectives for the site, and my own observations of the context and the likely effects of the scheme design on the character and quality of the area.
23. In summary, I acknowledge that the existing buildings on the appeal site are poor quality, warranting redevelopment, and that the site lies in an area of the town centre which is earmarked for development at a higher density. However,

¹¹ Eden Square site guidance on page 42 of EQDB

¹² CD13

it also neighbours the Old Town and civic quarter with its smaller scale, generally low rise buildings, varied roofscape and traditional character and appearance. The Council has established a clear design approach for the Eden Quarter, which seeks to accommodate tall buildings and greater density in a way that respects the existing street pattern and adjacent historic townscape, and to establish an enhanced public realm along Eden Street and around the OPO to create the setting and space for larger buildings. The proposals for the EW and OPO sites achieve this, but the appeal scheme would not.

24. Although the appeal scheme would respect the existing street pattern, it would introduce a building form based on a mansion block typology and perimeter block massing which, whilst optimising density, fails to have regard to its existing and emerging context. The overall height, mass and bulk of the proposed development, consistently above the 6-8 storey guideline in the EQDB, would have a poor relationship with the smaller scale of the Old Town townscape and fail to achieve the graduation in heights, modulated roofscape and variety of architecture expected, which is reflected in the EW and OPO schemes. The continuous 9 storey elevation proposed would have an overbearing effect on the streetscape in St. James Road and Eden Street and at their junction at the entrance to the KOTCA. The constrained public space proposed at the north-west corner of the building and the absence of a set-back along Eden Street would fail to achieve the quality of public realm sought in the EQDB for this part of the town centre, and the lack of set-back combined with the height and mass of the building would enclose and overshadow rather than enhance the public realm.
25. For these reasons, I conclude that the design of the proposed development would cause significant harm to the character and appearance of the surrounding area in Kingston town centre. It would fail to meet the expectations of the EQDB for the site in respect of its guidance on building heights, design and massing. Consequently, it would conflict with Policy CS8 of the Core Strategy and with Policy 7.7 of the London Plan in respect of the appropriate location and design of tall buildings. It would also conflict with Policies CS8, DM10 and DM11 of the Core Strategy and Policy 7.4 of the London Plan in respect of its failure to respect the local character and distinctiveness of the adjacent Old Town townscape in terms of height, massing and form. In failing to deliver the aspirations of the EQDB for Eden Square and in terms of its overall impact on the public realm, the proposal would conflict with Policy 7.6 of the London Plan, which expects architecture to make a positive contribution to a coherent public realm and be of a proportion, composition and scale which defines the public realm. Therefore, the proposed development would not accord with the design expectations of paragraph 127 of the Framework for new developments in that it would not function well or add to the overall quality of the area, be sympathetic to local character, or use the arrangement of streets, spaces and building types to establish a welcoming and distinctive place, nor in optimising the potential of the site would it provide an appropriate amount and mix of development including public space.

Heritage Assets

26. Kingston upon Thames was historically an important trading town dating back to the middle ages. Despite the number of large scale, post war developments in and around the town centre, Kingston retains its historic street pattern, with

a number of listed buildings and the largely intact KOTCA, which provide an important heritage context for the appeal site and proposal. Whilst there is no suggestion that the proposed development would have a direct impact on any designated heritage assets, the site lies within the setting of a number of heritage assets. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced and confirms that its setting may contribute to the significance of a heritage asset.

27. Whilst there are differences between the main parties about the scale and type of effects, it is common ground¹³ that the proposed development would affect the settings of the following heritage assets: the OPO and URC Grade II listed buildings which lie opposite the site's main frontages; the KOTCA to the immediate west of the site; the Grade II listed Guildhall and the Grade I listed Clattern Bridge and Coronation Stone, located within the KOTCA to the west of the appeal site and in the context of which the proposed building would be seen in views to the east; the Grade II* listed Market House together with a number of listed and unlisted buildings of townscape merit on the east side of Market Place, from where the appeal scheme would be visible above their rooflines in views to the east; and a number of non-designated heritage asset buildings along Eden Street, framing views at the entrance to the KOTCA, Market Place and Apple Market, which the proposed development would be seen within.
28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 establishes that in exercising planning powers on behalf of the Secretary of State in this appeal, I must have special regard to the desirability of preserving a listed building or its setting. Whilst no statutory protection is afforded to the setting of Conservation Areas, paragraph 194 of the Framework confirms that the significance of a designated heritage asset can be harmed by development within its setting. Policy 7.8 of the London Plan also expects development affecting heritage assets and their settings to conserve their significance by being sympathetic to their form, scale, materials and architectural detail. In addition, Policy DM12 of the Core Strategy seeks to ensure that development will preserve or enhance locally distinctive heritage assets, allow alterations which preserve or enhance the interest of a heritage asset or its setting, and respect features of local importance through consideration of form, scale, layout and streetscape.
29. In this context I have set out below my conclusions on the effects of the proposal on the setting and significance of the relevant heritage assets. In doing so I have considered the range of expert opinions on the contribution of the settings to the significance of those assets and the effects of the proposal on them. This includes the heritage assessments undertaken by the appellant¹⁴ and commissioned by the Council at the planning application stage¹⁵, and those contained within the proofs of evidence of the appellant and the Council, as well as the representations from Historic England¹⁶, as the statutory heritage advisory body, and local interest groups. I have also had regard to the good practice advice of Historic England on this matter¹⁷.

¹³ Heritage Assessment Table A.1 of the Townscape and Heritage Statement of Common Ground

¹⁴ CD37

¹⁵ CD96-98

¹⁶ CD 100, 102 and 105

¹⁷ The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3 (CD112)

Old Post Office (OPO)

30. The significance of the OPO building as a heritage asset lies in the aesthetic value of its Victorian gothic revival/arts and crafts architecture and its historical and communal value as a former public service building. The OPO occupies a prominent location on the corner of Eden Street and acts as a landmark within the town centre, with its distinctive east facing façade terminating the vista along Eden Street. Its setting, namely the surroundings in which it is experienced, extends from the immediate environment of Surrey House and Eden Walk to the street frontage at the western end of Eden Street within the KOTCA.¹⁸ This setting and the prominence of the OPO within it, makes an important contribution to its heritage significance as a former public service building, which achieves its status through its design and siting.
31. Views of the main façade of the OPO are currently partially obscured by Surrey House, which has a negative effect on the setting of the OPO, albeit the height, scale and proportions of Surrey House generally respect and do not overpower those of the OPO. The proposed development would replace Surrey House with a building of 9-12 storeys and 31-41 metres in height along the Eden Street frontage. Whilst the individual elements and materials of the façade would be of a more complementary architecture to the OPO than Surrey House, the overall height, mass and position of the proposed building would have little regard to the aesthetic and townscape qualities of the OPO which define its heritage value. Although the chamfered north east corner of the appeal scheme may reveal a little more of the OPO when seen from the entrance to Eden Walk, from most other viewpoints along Eden Street the proposed building would continue to partially obscure the main OPO façade. This would fail to achieve the heritage aim of the EQDB to set back the Eden Street frontage of the scheme from the existing building line to improve the view of the OPO building.
32. The lack of a set back and the overall height of the proposal on the existing building line would visually cramp and dominate the vista to the OPO along Eden Street, both from close up and more distant views¹⁹. I do not agree that in applying the Palmer judgement²⁰ the positive effects would balance the negative effects so as to lead to a conclusion of no harm to the significance of the heritage asset. I concur with the conclusions of Historic England that the sheer scale of the proposed development would have a harmful impact on the proud civic character of the OPO within this setting. I consider this would outweigh any positive impacts arising from the loss of Surrey House.
33. I recognise that the appeal scheme would be adding to an emerging context of tall buildings on the EW and OPO schemes, which the Council has permitted despite less than substantial harm to the significance of the OPO. However, the EW scheme has been designed with a 4 storey podium, which respects the height and proportions of the OPO, and the OPO development would create public space around the OPO ensuring a set-back to respect its landmark position. The appeal scheme, on the other hand, pays limited regard to the aesthetic value and presence of the OPO and its net effect would result in a negative change to the setting of the asset and its prominence within it, which would cause harm to its significance.

¹⁸ Illustrated in Views 6, 25 and 27 in the TVHA.

¹⁹ Again as illustrated in Views 6, 25 and 27 of the TVHA

²⁰ Palmer v Herefordshire Council and Anr [2016] EWCA Civ 1061

United Reformed Church (URC)

34. The significance of the URC building as a heritage asset is in the aesthetic value of its Victorian classical architecture, particularly its front façade onto Eden Street, as well as the historical and communal value of its ecclesiastical role in the development of Kingston. The setting of the URC also makes an important contribution to its heritage significance. This is because it occupies a prominent position in the town centre, at the junction of Eden Street, St James Road and Union Street, where it acts as a landmark at the entrance to the KOTCA and a focal point for the community, reinforcing its ecclesiastical role. Its setting includes the 20th century buildings of Surrey House, BoConcept and Eden Walk and the buildings on the western edge of the KOTCA, including the curved façade of 18 Eden Street. Whilst the appearance of the existing buildings on the appeal site does not make a positive contribution to the aesthetic value of the URC, none is of a height or scale as to dominate its setting. Rather the more modest height and scale of the surrounding buildings respects the prominence of the URC within this setting, and thereby contributes to the significance of its historical status and architecture.
35. The proposed development would remove the BoConcept building and improve the visibility of the URC from St James Road across the proposed piazza, enhancing the setting of the asset. However, despite the chamfered set back at the corner of Eden Street and St James Road, the height, mass and bulk of the proposed building, with a continuous 9 storey, 31 metre high elevation wrapping around this corner opposite the URC, at more than twice its height, would dominate the setting of the URC, and thereby diminish its value and significance as a heritage asset. I acknowledge the emerging context of the adjacent EW scheme. However, from the visual evidence before me²¹ the architecture of the EW development with a 4 storey podium to the same height as the URC and set back upper floors in recessive materials has regard to the height, scale and presence of the URC. In comparison, the height, massing and façade treatment of the appeal scheme pays limited regard to that of the URC.
36. I note that Historic England does not identify harm to the setting or significance of the URC and that the Council's officer report does likewise based on the conclusion of the heritage advice it commissioned at the planning application stage²². However, in the light of the full range of the evidence before me, including that provided by the Council's and the appellant's heritage witnesses, together with my observations on site, I consider that the improved visibility of the URC would be outweighed by the harm to its setting and significance caused by the overbearing presence of the proposed development.

The Guildhall

37. The significance of the Guildhall lies in its historical, communal and aesthetic value. Built in the 1930s, its neo-Georgian design is a well-preserved example of monumental civic architecture of that period. The striking combination of its semi-circular frontage and tower also gives it a landmark status within the KOTCA. The Guildhall stands on its own, set back from the High Street, with gardens to the front and rear and the Hogsmill River to the

²¹ For example Fig. 19 of Chris Darling's PoE showing EW in the context of the URC looking east

²² Paragraph 6.3.13 of the Pre-Construct Archaeology Review of the Heritage Assessment for Surrey House (CD98)

south-west, forming its immediate setting. The open and landscaped character of these surroundings contribute to the civic status and heritage significance of the Guildhall in terms of its communal and aesthetic value.

38. The wider setting comprises a range of late 20th century civic and commercial buildings, including Surrey House and the Hippodrome on the appeal site. These buildings are visible in the background in views to the east on either side of the Guildhall from the High Street and alongside the Hogsmill River²³. Whilst the surrounding buildings do not contribute to the significance of the Guildhall, due to their low rise form and recessive materials, they are inconspicuous and do not compete with the form and presence of the Guildhall or compromise the openness of its immediate setting.
39. However, the proposed development would introduce a much more prominent building in the background and wider setting of the Guildhall. On the basis of the AVRs of the proposal for views 7 and 9, when seen from the High Street and the footpath alongside the Hogsmill River, the proposed building would rise above the parapet wall of the Guildhall on both the front and rear elevations. It would close up the space in which the Guildhall is experienced and present an imposing façade which would visually compete with the height, form and roofline of the Guildhall, causing harm to its setting and the contribution this makes to its heritage significance as described above. I am not persuaded that the quality of the architecture or the articulation of the façades of the proposed building would diminish this harm or enhance the setting. I note that only the Council's expert witness to the inquiry identifies harm to the significance of the Guildhall and that this was not previously alleged by the Council. However, I have reached my conclusion in the light of the full range of evidence and representations before me and my own observations of the setting of the Guildhall.
40. The Council alleges the proposals would have a slight effect on the setting of Clattern Bridge and the Coronation Stone. However, although they form part of the surroundings of the Guildhall, their significance lies in their historical importance and, in the case of the bridge, its structural importance. Whilst the appeal building would be seen from Clattern Bridge, it would not cause harm to its significance or that of the Coronation Stone.

Market House and Market Place

41. The KOTCA Character Appraisal²⁴ describes Market Place as the heart of Kingston, of historical importance as the focus for trade and hospitality since the Medieval period. The buildings which flank Market Place are of both historic and aesthetic value due to their variety of vernacular architecture dating from the 15th century. At its centre is Market House, a Grade II* listed building of historical importance, as the former town hall, and of aesthetic value, in its well preserved Italianate style architecture, dating from the early Victorian period.
42. The immediate setting of these buildings within Market Place is an important component of their heritage significance, but the wider setting also makes a positive contribution. Apart from the views of All Saints Church and the Guildhall to the north and south, development beyond the Market Place and Conservation Area does not noticeably intrude into views from within the

²³ Represented in views 7 and 9 of the TVHA

²⁴ CD114

space²⁵. This preserves the historical sense of enclosure created by the surrounding buildings and allows the varied roofscape which is so characteristic of Market Place and the Old Town to be appreciated against the open sky.

43. This aspect of the wider setting of Market Place is changing as the permitted EW and OPO schemes will be seen at different points rising above the roofline of the buildings on the eastern side of Market Place. But the AVRs in the TVHA²⁶ also show that the upper floors of the north-west façade of the proposed development would be seen above the buildings on the east side of Market Place. I acknowledge that the architecture of this façade has been scaled to reflect the proportions and horizontal emphasis of the buildings in Market Place when viewed from a distance. However, it would still create additional intrusion into the currently uninterrupted views above the roofline of the buildings on the eastern side of Market Place, disrupting its varied and traditional roofscape, in a different location to the EW and OPO schemes.
44. As such, the proposal would be cumulatively harmful to the setting of the buildings on the east side of Market Place, including both the listed buildings and the unlisted buildings of townscape merit which contribute to the character and appearance of the KOTCA. Therefore, it would be harmful to the significance of these heritage assets. However, any harm to the setting of Market House in these views would be limited by the fact that the proposed building would sit below its parapet, and would not visually compete with its corner roof pavilions. My conclusions are consistent with the representations from Historic England in respect of the impact of the proposal on these assets.

Kingston Old Town Conservation Area

45. The KOTCA Character Appraisal advises that the character and appearance of the Conservation Area could be affected by development beyond its boundary affecting views within the area or the settings and backdrops of buildings and views towards its principal landmarks. Policy CA1.5 of the Character Appraisal states that particular regard will be had to development proposals in locations immediately adjoining the KOTCA and defined as the Old Town CA Hinterland. The north-western quadrant of the appeal site sits within this hinterland²⁷.
46. I have considered above the impact of the proposed development on the settings of the key heritage assets within and outside of the KOTCA. The harm to the setting and significance of the URC at the gateway to the KOTCA and of Market Place and the Guildhall within it would also result in harm to the setting and therefore the character and appearance of the KOTCA.
47. In addition, the TVHA considers the effect of the proposal on the view out of the KOTCA along Eden Street from the corner of the Market Place²⁸, which is framed by the three storey high frontage on the south side of Eden Street. This gateway into and out of the KOTCA is characterised by a gradual transition in building heights and scale along Eden Street, including the existing buildings on the appeal site beyond the Conservation Area boundary, which respect the low rise character of the KOTCA. However, the AVRs and kinetic evidence show the proposed building rising steeply above the height of the buildings within the KOTCA on Eden Street. The abrupt increase in the

²⁵ As confirmed by Views 3, 4 and 5 of the TVHA

²⁶ Views 3, 4 and 5 of the TVHA

²⁷ See Plan 2 of the KOTCA Character Appraisal (CD114)

²⁸ View 6 in the TVHA plus the computerised moving image along Eden Street (Appendix 3 to Mr Coleman's PoE)

height, mass and bulk of the buildings on the appeal site would have a dominating and overbearing impact on this gateway into and out of the KOTCA. It would cause harm to its setting and thereby result in further harm to its character and appearance at this point.

48. In conclusion, I recognise that the setting of heritage assets can successfully accommodate layers of change without significant harm and I note the examples from elsewhere in London provided by the appellant in evidence. However, in this case, for the reasons given above, I find that the appeal proposal would fail to preserve the settings of a range of heritage assets and thereby harm their significance, including the Old Post Office, the United Reformed Church and the Guildhall Grade II listed buildings, Market Place and the Kingston Old Town Conservation Area. This would conflict with Policy 7.8 of the London Plan and Policy DM12 of the Core Strategy, as set out above, and with the overall thrust of section 16 of the Framework to conserve and enhance the significance of heritage assets.
49. Due to the existing and emerging context of taller buildings and the fact that the impact would be on the settings of the designated heritage assets, rather than on the fabric of the listed buildings, I find that the harm in each case would be less than substantial. Paragraph 196 of the Framework requires that where a proposal will lead to less than substantial harm to a designated heritage asset, that harm be weighed against the public benefits of the proposal. I consider this below as part of overall planning balance.

Loss of the Hippodrome

50. The appeal proposal would result in the loss of the Hippodrome, a vacant nightclub and live music venue, comprising around 3,000 sqm of floorspace. The retention of the facility is not an explicit aspiration for the Surrey House site in Policy P4 of the AAP or the site specific guidance in the EQDB. However, it is clear that the development plan supports the retention and enhancement of arts, cultural and entertainment provision in Kingston for its contribution to the economy and social life of the borough and London.
51. The London Plan identifies Kingston Town Centre as having a night time economy cluster of regional/sub-regional significance and Policy 4.6 encourages the boroughs and other stakeholders to support the continued success of London's arts, cultural and entertainment enterprises. Policy K6 of the AAP states that the Council will refuse proposals involving the loss of cultural and entertainment facilities within Kingston Town Centre, unless replacement facilities are provided. Policy DM24 of the Core Strategy also resists the loss of community facilities in the borough unless there is evidence to suggest the facility is no longer needed, it has been vacant and marketed for a community use without success, or it can be re-provided elsewhere or in a different way.
52. The proposed development would provide 2,072 sqm of flexible Class A/D1/D2 floorspace at ground floor level, which could accommodate restaurants, bars, leisure and cultural uses to support the evening and night-time economy. However, it is not part of the appellant's evidence that any of these units would be dedicated for nightclub/live music uses. It was also acknowledged by the appellant in oral evidence at the inquiry²⁹ and confirmed in its closing

²⁹ Mr Edwards and Mr Meaden at the RTS on Loss of the Community Facility on 26 June 2019

submission³⁰ that the presence of residential uses at first floor level and above would make the ground floor units an unsuitable location for a replacement live music venue. Indeed, the suggested condition³¹ limiting the opening hours of these units to midnight would be likely to make them commercially unattractive to nightclub or live music venue operators. So it is clear that the appeal scheme does not seek to replace or re-provide the nightclub and live music venue provided by the Hippodrome on site.

53. In mitigation, however, the appellant submitted a Cultural Consultation Report (February 2018) (CCR)³² with a comprehensive analysis of the existing nightclub and live music provision in Kingston, which suggests that the live music performances which took place at the Hippodrome could be largely accommodated within the alternative provision available in the town centre. The CCR shows that Kingston has a historic and ongoing demand for live music including indie, rock, punk, folk and classical genres, in part fuelled by its student population. It has a wide range of venues which stage live music performances, including a number of nightclubs and bars, as well as the Rose Theatre and All Saints Church, with audience capacities from 60 at local bars up to 1,400 at the Hippodrome. It also notes that Kingston is home to Banquet Records, an independent record shop and label, specialising in indie, punk and dance music, which promotes a significant number of live music performances, including the majority of the gigs held at the Hippodrome.
54. The CCR confirms that the Hippodrome has played a role in the late night entertainment of Kingston. Attendance records for 2016 and 2017 show it was an active and well-used nightclub, which staged over 50 live music events a year, with an impressive line-up of artists and ticket sales/attendances occasionally exceeding 1,000. However, it also suggests that the venue was struggling to break even, with average attendances across its 3 club nights at around 25% of capacity, compared to 50-60% at Pryzm, the next largest nightclub in Kingston, and other London venues of a similar capacity.
55. The Hippodrome closed in July 2018, when the operator, the Deltic Group, relinquished its rent-free lease and relocated the main regular live music event taking place there, known as 'New Slang', to the Pryzm nightclub, which is also operated by Deltic. Pryzm has a current capacity of 1,200 to stage live music events in its largest club space, albeit changes are proposed³³ which may reduce this to less than 1,000. Nevertheless, it would still be large enough to accommodate the majority of live music performances which took place at the Hippodrome, based on the analysis in the CCR. Although there are some servicing constraints at the Pryzm for loading and unloading equipment for gigs, this has not prevented live music events up to this point, and the proposed changes to the service yard³⁴ do not appear to alter this significantly. In other respects, as a former cinema, the internal layout of Pryzm is more suited to live music performances than the Hippodrome, where I noted that sight lines to the stage area were obstructed.
56. Therefore, on the basis of the evidence before me, I am satisfied that the main live music offer of the Hippodrome has been re-provided elsewhere and

³⁰ Paragraph 72 of ID29

³¹ Condition 37 (in ID24)

³² CD12

³³ Shown in applications for variation of premises licence and listed building consent (documents ID20 and ID23)

³⁴ Planning and listed building applications ref 18/12960/FUL and 18/12961/LBC (ID21 and ID22)

in a different form at Pryzm. To the extent that the Hippodrome provided a 'grassroots' music venue as defined by the Mayor of London³⁵ in supporting emerging artists, it appears that this function is also capable of being fulfilled at Pryzm. Indeed, the involvement of Banquet Records, as the principal promoter of 'grassroots' music events in Kingston, in the relocation of 'New Slang' to Pryzm, lends support to this.

57. I recognise that the focus of the development plan policies is on the protection of cultural facilities. However, notwithstanding the Hippodrome's history in Kingston, its declining attendances and marginal viability followed by the re-location of its live music offering indicates that the Hippodrome is no longer needed as a facility. In a declining market, the evidence suggests that the closure of the Hippodrome should enable a consolidation of the nightclub/live music offer in the town centre at Pryzm and other venues. In turn this should improve the viability of facilities for live music to the benefit of the cultural provision and night time economy cluster in Kingston. Whilst the Hippodrome has not been marketed to other users, it has been vacant for 12 months, during which time the appellant states that it has not received offers from other nightclub operators. The CCR concluded that the provision of a new live music venue with a 1,000 plus capacity would be unviable in Kingston given current market conditions. I have seen no evidence to the contrary.
58. Accordingly, I conclude that the loss of the Hippodrome would not result in material harm to the night time economy and cultural provision of Kingston and that a replacement facility or financial contribution to support alternative provision is not necessary to make the development acceptable in planning terms. Consequently, the proposed development would comply with Policy 4.6 of the London Plan, Policy K6 of the AAP and Policy DM24 of the Core Strategy. It would also be consistent with Policies HC5 and HC6 of the draft London Plan (2018), albeit given the emerging status of this plan which remains subject to examination I attach limited weight to them in this case. In addition, the proposal would accord with paragraph 92 of the Framework which expects planning decisions to guard against the unnecessary loss of valued cultural facilities.

Affordable Housing

59. In line with the expectations of the London Plan, Policy CS10 of the Core Strategy seeks to maximise the delivery of affordable housing in Kingston, given the high house prices in the area³⁶ and the significant shortfall in the availability of affordable housing in Kingston³⁷. Accordingly, Policy DM15 of the Core Strategy expects developments to provide the maximum reasonable amount of affordable housing, subject to viability considerations. On sites of 10 or more dwellings it requires 50% of the units to be provided as affordable housing, with any lower provision to be justified by a financial appraisal. Policy 3.12 of the London Plan also states that regard should be had to the need to encourage rather than restrain residential development in seeking the maximum reasonable amount of affordable housing.
60. The appeal proposal provides for 15% affordable housing, in the form of Discounted Market Rent (DMR) units to be secured through the S106 unilateral

³⁵ Mayor of London's Music Venues Taskforce Report, published in 2015 (referenced in the CCR)

³⁶ Strategic Housing Market Assessment 2016, paragraph 24 of Executive Summary (CD123)

³⁷ Core Strategy, paragraph 6.90 (CD109)

undertaking (the UU). As required by Policy DM15, the appellant submitted a financial viability assessment (FVA) to justify the lower level of affordable housing proposed³⁸. The FVA was amended during the application process to reflect the reduction in the number of units to 311 (GE addendum FVA)³⁹. An updated FVA was submitted with the appellant's proofs of evidence with revised inputs for DMR and retail values, development costs, benchmark land values (BLVs) and developer's target rate of return⁴⁰. Whilst a further update was submitted during the inquiry process⁴¹, this included a reduction in the projected scheme income for the Unilever and NPC car parks from that shown in the three earlier FVAs, which the appellant was unable to explain⁴². Therefore, I have relied on the updated FVA dated May 2019 (GE updated FVA) as the appellant's present day assessment of the viability of the scheme. This concludes, in line with the appellant's earlier FVAs, that 15% is the maximum viable level of affordable housing the appeal scheme can afford.

61. The Council commissioned separate FVAs to review the appellant's viability evidence. The first⁴³ concluded that 15% affordable housing is all that the appeal proposal could viably support (GL Hearn VA). However, the second, submitted by the Council in evidence to the inquiry⁴⁴ (Adams Integra VA), having considered the GE addendum FVA and the GL Hearn VA, concluded that the scheme could support between 30-35% affordable housing on site, using a number of alternative appraisal inputs. The GLA also reviewed the GE Addendum FVA and the GL Hearn VA and submitted its own appraisal summary as part of its representations on the application⁴⁵, which concluded the scheme is capable of supporting up to 35% affordable housing, based primarily on a lower residualised land value. Although the Adams Integra VA was not before the Council's Development Control Committee when it considered the appeal scheme, the representations of the GLA were and led the Committee to conclude as part of the putative reasons for refusal that the appeal proposal would not deliver the maximum amount of affordable housing.
62. I have considered the range of appraisal evidence above in reaching my conclusion on this main issue. The significant differences between the respective appraisal outcomes in respect of the maximum reasonable amount of affordable housing the appeal scheme can support are due to variations in a limited number of inputs to the FVAs. Based on the statement of common ground on financial viability matters⁴⁶ the disputed inputs are the affordable housing rents, retail rents and yield, BLV, construction costs, contingency and professional fees. At the inquiry it also became apparent that the Adams Integra VA and GE FVAs differ in respect of their allowances for management, maintenance, void and bad debt. I deal with each input in turn below.
63. Affordable housing rents: The appellant's FVAs assume rents for the affordable housing units at a DMR of 80% of market rents. The Adams Integra VA for the Council adopts London Living Rents (LLR), which are lower,

³⁸ Gerald Eve FVA on behalf of SHP Opportunity Fund, dated Feb 2018 (CD19)

³⁹ Gerald Eve FVA Addendum obo SHP Opportunity Fund, dated July 2018 (CD79)

⁴⁰ Gerald Eve Update Appraisal, May 2019, Appendix 3 to Robert Fourt PoE

⁴¹ Gerald Eve Updated Appeal Scheme Financial Evaluation Summary, dated 21 June 2019 (ID11)

⁴² Mr Fourt in answer to Inspector's questions at the inquiry on 25 June 2019

⁴³ GL Hearn Update Viability Assessment for RBKT, dated August 2018 (ID78)

⁴⁴ Adams Integra Viability Appraisal Report for RBKT, dated May 2019 (attached to David Coate PoE)

⁴⁵ GLA Development Appraisal, November 2018 (Appendix 7 of Robert Fourt PoE)

⁴⁶ Document ID10

more affordable rents and preferred in the draft London Plan and the Mayor of London's affordable housing and viability SPG⁴⁷. However, a DMR of 80% meets the definition of affordable housing in Annex 2 of the Framework and is therefore acceptable. It is also preferable as a basis for testing the maximum reasonable amount of affordable housing the proposal could support, as it would deliver a higher rental return than LLR and would thereby improve the viability of the proposed development overall.

64. Management, maintenance, voids and bad debt: The appellant's FVAs allow for a deduction of 23% of the overall residential rents for the costs of management, maintenance, voids and bad debts. This was agreed by the GL Hearn VA and concluded as reasonable in the Adams Integra VA⁴⁸. However, it became apparent that the Adams Integra appraisals had adopted a 20% deduction⁴⁹. The basis for this change was not made clear at the inquiry. Therefore, whilst I acknowledge that the allowance made for this can vary depending on the housing mix and tenure, in this case I have relied on the higher figure of 23% which is reflected in the GE updated FVA.
65. Retail rents and yields: The forecast rent on the retail floorspace was reduced to £413,000 pa in the GE updated FVA from £485,000 pa in the previous GE addendum FVA. This is based on commercial agency advice of a deterioration in the retail market between July 2018 and May 2019. For the same reason the investment yield was increased from 5.5% to 6.5%. The change is reflected in a reduction in the capital value of the commercial floorspace in the appeal scheme of around £2.3 million, which is shown in the GE updated FVA. The Council did not seek to counter this evidence, but suggested the lower expectations for retail rents should also be reflected in the BLV for the existing site, which I deal with next.
66. Benchmark Land Value: To define a land value for any viability assessment, the Planning Practice Guidance (PPG)⁵⁰ states that a BLV should be established on the basis of the existing use value of the site (EUV) plus a premium for the landowner (EUV+). The premium should provide a reasonable incentive, in comparison to other options available, for the landowner to sell the land for development while allowing a sufficient contribution to fully comply with policy requirements. The PPG also confirms that alternative use value (AUV) may be used to inform the BLV, but should be limited to uses which would fully comply with up to date development plan policies and if it can be demonstrated that the alternative use could be implemented, there is market demand for the use and there is an explanation as to why it has not been pursued⁵¹.
67. The appellant's GE updated FVA adopts a BLV of £23.4 million, which relies on an AUV based on a refurbishment and extension of Surrey House to create two additional floors of office accommodation. However, there is some doubt over the market demand for further offices at Surrey House. The commercial agent's report in August 2018⁵² concluded that Surrey House is not a location that would attract office tenants, remaining unoccupied for 9 years despite active marketing. Whilst I note the updated commercial advice on rents and yields for a re-clad office scheme at Surrey House provided for the purposes

⁴⁷ Homes for Londoners, August 2017, paragraph 4.23 (CD147)

⁴⁸ Paragraphs 44 and 46 of the Adams Integra VA

⁴⁹ Listed in ID13

⁵⁰ Reference ID: 10-013-20190509 and 10-014-20190509

⁵¹ Reference ID: 10-017-20190509

⁵² Cattaneo Commercial report for Salmon Harvester on Surrey House, August 2018 (CD83)

of the appeal⁵³, this falls short of confirming a market demand for the use. Indeed, the appellant confirms that this would only be brought forward by a developer if a pre-let is agreed. The August 2018 report confirms that there has been no interest in a pre-let opportunity for a larger scheme, which perhaps explains why the scheme has not been pursued. Against the history of a lack of interest in Surrey House as an office location, I am not persuaded that this scheme represents a realistic alternative use to support the AUV.

68. Turning to a BLV based on EUV+, the appellant identifies an EUV for the existing land uses of £17.028 million, and the Council in its Adams Integra VA, a figure of £19.334 million. The difference appears to be mainly in the rental allowance made for the vacant Hippodrome in the Council's valuation, to which the appellant does not attach a capital value. The Council applies a 10% landowners premium to produce a BLV of £21.23 million. Whilst appellant considers 10% to be insufficient to incentivise a landowner to bring the site forward, a BLV of £21.23 million represents a premium of 25% over the appellant's EUV. Either way, I am satisfied that a BLV of £21.23 million would offer a premium above the EUV within the 10-30% range set out in the Mayor's affordable housing SPG.
69. The appellant includes acquisition fees at 6.8% of the site value on the basis that this is a standard input which should be taken into account. This is also reflected in the GL Hearn VA and GLA appraisal and I note that the PPG expects that any professional site fees should be taken into account when defining a BLV. That would be reasonable if the appellant as the landowner were to sell the site to a third party developer. However, it was confirmed at the inquiry that the appellant intends to develop the site and act as landlord. On that basis no land acquisition fees would be incurred and the sum of £1.59 million should be discounted from the FVA for the purposes of this viability exercise.
70. Construction costs: The GE addendum FVA presented a feasibility cost estimate of £69,672,000 prepared by quantity surveyors (QS), as at July 2018. This was reviewed by QS for the Council and a reduced estimate of £69,260,000 advised. On the basis of two professionally costed figures, I am satisfied that at July 2018 a reasonable estimate of construction costs would have been half way between the two at £69,466,000. The appellant reviewed the construction cost as at May 2019, to take account of inflation and a general review of rates, resulting in an increase to £72,000,000. Whilst this was discussed at the inquiry, an updated figure for construction costs was not agreed. The Council's witness acknowledged cost inflation took place over the period July 2018 to May 2019. However, there is little evidence to support the general upwards review of rates in the GE updated FVA. The appellant's evidence on the appropriate allowance for cost inflation varies between £1,000,000⁵⁴ and £1,950,800⁵⁵. Applying this to the July 2018 estimate of £69,466,000 would give a present day construction cost estimate of between £70.5 and £71.5 million. On this basis, £71 million would be a reasonable estimate for construction costs for the purposes of this viability exercise.
71. Contingency: The appellant assumes a project contingency of 5% on construction costs, which the GL Hearn VA accepted as in line with current market expectations. However, the Council's evidence to the inquiry in the Adams Integra VA applies a figure of 3% on the basis that the construction

⁵³ Email from Cattaneo Commercial, dated 18 April 2019 (Appendix 13 to Robert Fourt PoE)

⁵⁴ CSA Feasibility Cost Estimate, April 2019 Update (Appendix 10 to Robert Fourt PoE, page 4)

⁵⁵ Based on 2.8% increase in BCIS index for Q3 2018 to Q2 2019 (advised by RF E in C) applied to £69,672,000

costs have been assessed twice by an independent QS, so reducing construction cost risk. Whilst I recognise that the level of cost certainty increases as projects progress, I have insufficient evidence to determine whether the current cost estimates and stage of the project justify a 3% or 5% allowance for contingency. Accordingly, for the purposes of this viability exercise I have applied the higher figure of 5%. Applying this to a construction cost of £71 million would reduce the overall contingency allowance in the GE updated FVA by £50,000.

72. Professional fees: The appellant allows for professional fees at 10% of construction costs and contingency, which is endorsed by the GL Hearn VA and adopted in the GLA's appraisal. The Adams Integra VA maintains that this results in an excessively large professional fee of around £7.3 million for the scheme, which has not been substantiated by quotes. Accordingly, it tests a fee range of 5-10%. Although the appellant's rebuttal evidence provides some benchmarked data from other FVA reviews in London which support a fee rate at 10%, this is selective rather than a comprehensive review of FVAs. I note the advice in the 2012 RICS guidance note on Financial Viability in Planning that assumptions should reflect industry standards. However, for professional fees the industry standard constitutes a range and I have insufficient evidence before me to reach a definitive conclusion on where within the range of 5-10% professional fees should be assumed. Accordingly, for the purposes of this viability exercise, I have erred on the side of caution and applied the higher figure of 10%. Applying this to the revised construction cost and contingency would reduce professional fees in the GE updated FVA by £105,000.
73. Taken together, the lower BLV, discounted site acquisition fees and reduction in construction costs, contingency and professional fees established above would reduce the overall development cost of the scheme by £5.063 million. Based on the appellant's GE updated FVA, this would improve the profit margin to around 10.45% on GDV and 11.69% on costs. Whilst this would remain below the agreed blended target rate of return of 14.3% on costs, it would be significantly above the 6.7% return on GDV in the GE updated FVA, on the basis of which and in the light of the sensitivity analysis for variations in construction costs and residential rental values⁵⁶, the appellant confirmed the scheme could viably support 15% affordable housing. On this basis it would be reasonable to conclude that with the reduced development costs identified, the appeal scheme could viably support a greater level of affordable housing. If the full £5.063 million were made available to support additional affordable housing, then using the differential in values between the private BtR and DMR units, I estimate that up to 30% affordable housing could be viably supported. Based on the evidence, I am satisfied that such a level of affordable housing provision would not jeopardise the delivery of the scheme or restrain the residential development of the site.
74. Whilst the UU provides the potential for additional affordable housing through an early stage review mechanism, this would only be triggered in the event that there was a delay in the substantial implementation of the scheme beyond 24 months from the grant of planning permission. Therefore, it would not act as a guarantee of additional affordable housing, even if the scheme values and viability increased over the construction period. A minimum level

⁵⁶ Table 16 of Robert Fourt PoE

of affordable housing above 15% would need to be specified in the UU to guarantee additional provision.

75. For all of these reasons, I find that the proposed development would fail to provide the maximum reasonable amount of affordable housing, based on an objective assessment of the financial viability evidence and having regard to the need to encourage rather than restrain residential development. Accordingly, the proposal would conflict with Policies CS10 and DM15 of the Core Strategy and Policy 3.12 of the London Plan.

Housing Mix

76. Policy DM13 of the Core Strategy expects proposals for new residential development to provide a minimum of 30% of dwellings as 3 or more bedroom units, unless it can be robustly demonstrated that this would be unsuitable or unviable. The supporting text to the policy explains that a high proportion of recent residential schemes have been in the form of 1 and 2-bedroom flatted developments, raising concerns about the availability of family housing. The most recent 2016 Strategic Housing Market Assessment (SHMA) for the borough shows that 70% of the dwellings required to meet objectively assessed need (OAN) in the period to 2035 are for 3 or more bedroom units⁵⁷. Whilst this is a borough-wide need, it is clear from the policy wording that 30% is a minimum requirement for all sites unless unsuitable or unviable, and that sites more suited to larger family housing are expected to exceed this minimum. Although the more recent 2017 London SHMA⁵⁸ shows an increase in the requirement for 1-bedroom homes across London to 2041, it still shows that, within the market and intermediate tenures that the appeal scheme would provide for, 41% of the housing requirement is to be for units of 3-bedrooms or more. Therefore, I am satisfied that the demographic evidence still supports the policy requirement.
77. Only 7% (22) of the units in the appeal scheme would be 3-bedroomed. This is justified by the appellant on the grounds that any higher proportion would be unsuitable given the market demand for BtR flats in a town centre location. The market evidence submitted⁵⁹ suggests a bias away from 3-bed units due to the high proportion of larger units in the existing housing stock and the higher proportion of family units with 1 child or less. However, this is clearly at odds with the demographic evidence established in the SHMA. The only statistic which seems to support the figure of 7% is the proportion of flat lettings in Kingston between 2015-2017 which were 3-bed units. But this could simply reflect a lack of supply of 3-bed flatted units, rather than a lack of demand. The analysis of completed BtR schemes in London also shows little consistency with the proportion of 3-bed units ranging from 0-16%, but it does reveal a number schemes which have provided above 7%. Therefore, I am not persuaded that the market evidence demonstrates the appeal scheme would be unsuitable to provide a greater proportion of 3-bed units.
78. With regard to the suitability of the location for families, I recognise that Kingston town centre is more likely to be attractive to young professional households and that families may more typically tend to gravitate to suburban locations with properties with a garden and access to a local park and schools.

⁵⁷ Table 6.14 in core document CD123

⁵⁸ Table 13 of CD125

⁵⁹ Surrey House Unit Mix Market Commentary, JLL, August 2018 (CD84); Appendices 1 & 2 to Peter Edwards PoE

However, with a 70% mix of 1 and 2-bed flats the scheme would still support this preference. But in addition, the scheme would provide a communal garden with outdoor space for families and the site is within walking distance of local schools, shops and Fairfield/Knights Park. So the scheme and the location would not be unsuitable for family living.

79. I note the GLA does not object to the proportion of 3-bed units proposed and that the Mayor of London's affordable housing SPG encourages local unit size mix policies to be applied flexibly to BtR schemes given their distinct economics. I have also considered the market evidence that 3-bed units take longer to let and have higher turnover rates. However, it is not part of appellant's case that providing more than 7% 3-bed plus units would be unviable.
80. I recognise that providing a higher proportion of 3-bed units may reduce the overall number of units within the scheme. However, given that 3-bed units can also be occupied by sharers, a policy compliant mix of 3-bed units would not necessarily mean less households being accommodated on site.
81. Three other town centre apartment schemes have been permitted with less than 30% of 3-bed units at EW (9%), the OPO (12%) and Queenshurst (8%). However, in the case of the EW and OPO developments the Council accepted this in the light of evidence proving a greater proportion would be unviable and unsuitable; and in the Queenshurst case the lack of provision was weighed in the planning balance.
82. Kingston Town Centre is a major source of new housing for the borough, earmarked for 1,000 plus new dwellings in the Core Strategy and the AAP, contributing nearly a fifth of the borough's overall requirement. It is important, therefore, that schemes built in the town centre achieve a policy compliant dwelling mix, unless this is unsuitable or unviable, otherwise it places undue pressure on the remaining sites in the borough to make up the shortfall. Accordingly, the under provision of family units in the EW, OPO and Queenshurst schemes, strengthens rather than diminishes the case for delivering more 3-bed units on the appeal site.
83. On this basis, I conclude that the appeal proposal would not make adequate provision for family housing. Consequently it fails to accord with the development plan in Policy DM13 of the Core Strategy in respect of this important component of housing need.

Benefits

84. The proposed development would bring a number of economic, social and environmental benefits. It would contribute 311 dwellings to the housing supply in Kingston and London, in support of the Government's objective in paragraph 59 of the Framework to significantly boost the supply of homes. As a Build to Rent development the scheme would make a particular contribution to increasing the supply in the private rented sector and accelerating delivery, which is recognised in the Mayor of London's affordable housing SPG⁶⁰. These are important social benefits.
85. It is common ground that the Council can only demonstrate a 2.7 year supply of deliverable housing sites in the borough⁶¹. Notwithstanding the Council's

⁶⁰ Part 4 of ID147

⁶¹ Section 2 of the Statement of Common Ground on 5 year Housing Land Supply (ID17)

actions to increase supply through granting planning permissions, there is a shortfall in delivery amounting to 1,930 dwellings against Kingston's 5-year requirement for the period 2019/20 to 2023/24. The appeal proposal would meet around 16% of the shortfall and thereby make a significant contribution to the 5 year supply. It would also contribute to the need for affordable housing in the borough, albeit the provision of 47 DMR units would have a relatively small impact in reducing the pressing need for affordable housing in the borough, estimated in the 2016 SHMA at 825 dwellings per annum⁶².

86. The proposal would create a new retail frontage along Eden Street and at the corners of Brook Street and St James Road. Whilst there is an existing retail frontage to Surrey House, the replacement of the outdated canopied design and smaller scale units with larger units designed to meet modern retail and leisure operator requirements would enhance the vitality of Eden Street and contribute to improving the quality of the shopping and leisure offer of the town centre as a whole. This would accord with Policy CS12 of the Core Strategy and meet the expectations of the AAP and EQDB in improving the retail circuit in Kingston town centre. It is an economic benefit to be given weight in the planning balance.
87. The proposed development would bring wider economic benefits in the form of investment and regeneration into Kingston town centre. It is common ground that the increased expenditure during the construction phase of the scheme would be an economic benefit to the borough and it is also likely that future residents would spend money in Kingston to the benefit of local businesses and services.
88. The proposal would make effective and efficient use of land by building homes at a high density as part of a mixed use scheme on an under-utilised, brownfield site, and thereby reducing pressure to build on greenfield land within Kingston. As such it would be consistent with national policy in paragraphs 117, 118, 122 and 123 of the Framework. The site is also in a highly accessible location in Kingston town centre, with a PTAL rating of 6A, where the development of housing would reduce the need to travel and the availability of sustainable modes of travel would help to minimise congestion and emissions overall. In this respect it would accord with paragraph 103 of the Framework. The proposed building is also designed to achieve a zero carbon impact through a combination of energy efficiency measures and renewable energy technologies and a carbon offsetting contribution through the S106 UU. These are recognised environmental benefits arising from the proposed development.

Other Matters

89. In terms of highway safety, although the proposal would result in an increase in vehicle trips compared to the existing uses on site, the Transport Assessment submitted with the application concludes that the development would not have a significant adverse impact on the efficient operation and safety of the surrounding highway network. The highway authority did not object to the scheme on these grounds, subject to the mitigations set out in the suggested conditions and the public transport contribution provided for in the S106 UU to enable the relocation of a bus stand on Brook Street.

⁶² Table 8.8 of CD123

90. The GLA remains opposed to the provision of car parking for the residential units, on the grounds that the London Plan promotes car free development in places that are well-connected by public transport. However, of the 350 parking spaces proposed, only 106 would be for residential use, equating to 0.33 spaces per unit, which would be significantly below the maximum parking standard of 1 space/unit for residential development in PTAL 5/6 locations set out in the London Plan. In addition the S106 UU includes clauses to prevent occupiers from obtaining on-street parking permits, provide a car club and introduce travel plans, all of which would help to reduce reliance on car use and encourage the uptake of more sustainable modes of travel. Accordingly, the proposal would satisfy the terms of Policy DM9 of the Core Strategy and Policy 6.13 of the London Plan in managing vehicle use and parking levels. Overall, I am satisfied that the highway impacts of the proposals could be adequately mitigated.
91. With respect to air quality, notwithstanding the increase in vehicle trips generated by the proposed development, the ES submitted with the application established that, once completed, there would be no significant effects on existing receptors and future residents arising from the road traffic impacts and that the proposed development would be air quality neutral in terms of emissions from the building. During the construction phase there would be the potential for dust arising and air quality issues from construction traffic and demolition works, particularly in combination with construction work progressing on the nearby consented schemes at EW and the OPO. However, the ES concluded that the impacts could be mitigated via the implementation of a Construction and Demolition Management Plan, which could be secured by condition if required, such that there would be no significant effects on air quality.
92. The site falls within Fluvial Flood Risk Zone 3B, associated with the risk of tidal flooding from the River Thames and the Hogsmill River. Although initial concerns were raised by the Environment Agency, these have been addressed through design measures identified in the revised Flood Risk Assessment⁶³, including raising the finished floor level of the ground floor commercial units and back of house areas and improving flood storage capacity in the service yards. Accordingly, any risk of flooding would be mitigated.
93. It is common ground⁶⁴ that in respect of all other matters the impacts of the proposed development would either cause no harm or could be mitigated by means of conditions, in which case their effect would be neutral.

Planning Balance

94. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As set out in paragraph 4 above, because the Council is unable to demonstrate a 5 year supply of deliverable housing sites at present, the policies which are most important for determining the application are out of date and therefore paragraph 11(d) of the Framework applies in this case. This means granting permission for the proposal unless:

⁶³ Core Document CD20

⁶⁴ Paragraph 8.1 of the Overall Statement of Common Ground (CD4)

- i. the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
95. Policies in the Framework which protect designated heritage assets are included in paragraph 11(d)(i)⁶⁵. I have found that the proposal would cause harm to the settings and therefore the significance of a series of designated heritage assets in Kingston town centre, including several listed buildings and the KOTCA itself. For the reasons given above I have concluded that the harm to each would be less than substantial. Paragraph 194 of the Framework expects that any harm to the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
96. In terms of the weight to be given to the harm to designated heritage assets, the courts have confirmed that less than substantial harm does not equate to a less than substantial objection. Indeed, paragraph 193 of the Framework establishes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether the potential harm amounts to less than substantial harm. In this case, the significance of multiple heritage assets would be harmed. In the light of this, the statutory duty to have special regard to the desirability of preserving the setting of listed buildings and the contribution of the affected heritage assets to the quality and character of Kingston, I attach considerable importance and great weight to the harm to each designated heritage asset which would result.
97. With regard to the benefits considered above, I attach significant weight to the contribution of the scheme in boosting the supply of housing in Kingston, given the shortfall in delivery and the need for homes. However, the social benefits of the housing proposed are tempered by the failure of the proposed scheme to maximise the level of affordable housing and provide adequate family housing, which are critical components of the housing needed in Kingston, that the appeal proposal would not make a significant contribution towards. The other benefits offered by the proposed development in terms of investment into the local economy, enhancing the vitality and viability of the town centre, making efficient use of brownfield land in an accessible location, minimising the need to travel and a zero carbon impact are all recognised. However, they would bring relatively modest public benefits to the borough as a whole and as such, in my judgement, attract only moderate weight.
98. Overall, the combination of the public benefits that the appeal proposal would bring to the borough are not sufficient to justify or outweigh the harm the proposed development would cause to the significance of multiple designated heritage assets and thereby to the historic environment of Kingston town centre. As such, it would be contrary to paragraphs 194 and 196 of Framework, which provides a clear reason for refusing the development

⁶⁵ By virtue of footnote 6 to the NPPF

proposed. Therefore, there are compelling reasons to dismiss the appeal on the basis of harm to the settings and significance of the following designated heritage assets alone: the Old Post Office, the United Reformed Church, the Guildhall listed buildings, the listed buildings on the east side of Market Place and the Kingston Old Town Conservation Area. I consider this to be determinative in this appeal and on the basis of paragraph 11(d)(i) of the Framework I need go no further.

99. However, I have found that the proposal would have a number of other adverse impacts. I have concluded that the design of the proposed development would cause significant harm to the character and appearance of the surrounding area, in terms of its height, massing, bulk and form and its overall impact on the public realm. Given the scale of harm I have identified, I attach significant weight to this as an adverse impact of the proposal. It would as such conflict with the design policies in the development plan, including Policies CS8, DM10 and DM11 of the Core Strategy and Policies 7.4, 7.6 and 7.7 of the London Plan. Although these policies are deemed to be out of date due to the lack of a 5 year housing land supply, the Courts are clear that they should not be disregarded as a result. They are consistent with the design policies in chapter 12 of the Framework. Given the important role they play, together with the associated EQDB, in guiding the location and design of tall buildings in Kingston and in the treatment of the public realm, I attach significant weight to the proposal's conflict with these policies and with the design expectations of paragraph 127 of the Framework.
100. The failure of the appeal proposal to provide the maximum reasonable amount of affordable housing and to provide 30% 3-bed dwellings without adequate justification also conflicts with Policies CS10, DM13 and DM15 of the Core Strategy and Policy 3.12 of the London Plan. Again although these policies are deemed to be out of date, they are supported by up to date evidence of housing needs and are consistent with the Framework in seeking to secure the appropriate mix of housing sizes and tenures to meet the OAN of Kingston. Accordingly, I also attach significant weight to the proposal's conflict with these policies and to the adverse impacts on housing choice associated with the failure of the appeal scheme to deliver a policy compliant housing mix.
101. I acknowledge that the proposed development would accord with the Framework in a number of respects, including increasing housing supply, enhancing the vitality and viability of the town centre, minimising the need to travel, promoting sustainable transport, low carbon development, flood risk management, air quality and biodiversity. However, other than in respect of the identified benefits of the scheme, to which I have attached due weight, its compliance with other aspects of the national policy would serve only to mitigate harm, which attracts neutral weight in the planning balance.
102. Given my finding that harm to the designated heritage assets would not be outweighed by the public benefits of the proposal, it follows that, even if paragraph 11(d)(ii) of the Framework were to apply in this case, the totality of the adverse impacts which would result if the appeal were allowed would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies of the Framework taken as a whole. Accordingly, under both limbs of paragraph 11(d) of the Framework, the appeal proposal does not benefit from a presumption in favour of sustainable development.

103. In the light of my assessment of the main issues and other matters, I conclude that the appeal proposal conflicts with the development plan and the Framework when considered as a whole. There are no other material considerations that suggest the decision should be taken otherwise than in accordance with the development plan.

Conclusion

104. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

M Hayden

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Burton, of Counsel	Instructed by the London Legal Partnership for the Royal Borough of Kingston-upon-Thames (RBKT)
He called:	
Chloe Clay BArch MA Urban Design	Urban Design Manager, RBKT
Marton O'Rourke MARCA	Heritage Consultant, Conservation-Regeneration
David Coate BSc (Hons) MCIOB ACIOH	Associate Director, Adams Integra
Joanne Moulton BA DipIM MCLIP	Corporate Head of Culture & Heritage, RBKT
Barry Lomax MPLA (Hons) MRTPI	Lead Officer Kingston and Surbiton, Development Management, RBKT

FOR THE APPELLANT:

Sasha White QC	Instructed by Carter Jonas
<i>Assisted by:</i> Anjoli Foster, of Counsel	Instructed by Carter Jonas
He called:	
Christopher Darling RIBA	Managing Director, Darling Associates
Robert Fourt BSc (Hons) MSc FRICS	Partner, Gerald Eve
Richard Coleman Dip Arch (Cant) ARB RIBA RIAI	Architecture, Heritage & Townscape Consultant
Peter Edwards MRTPI	Partner, Carter Jonas

INTERESTED PERSONS:

David Kennedy	Kingston-Upon-Thames Society
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DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 Report of Head of Planning & Transport to RBKT Development Control Committee on 25 February 2016 on planning application for development site at former Post Office, Ashdown Road, Kingston-upon-Thames (Reference: 14/13247/FUL) – submitted by the appellant.
- ID2 Report of Head of Planning & Regeneration to RBKT Development Control Committee on 25 May 2016 on planning application for site at Eden Walk Shopping Centre, Eden Walk, Kingston-upon-Thames (Ref: 15/13063/FUL) – submitted by the appellant.
- ID3 Darling Associates public realm calculations plans forming their rebuttal overlaid on existing – submitted by the Council.
- ID4 Email from RBKT to Carter Jonas dated 18 July 2018 with summary of pre-application advice on design and conservation aspects of appeal proposal for the period November 2016 to June 2017 – submitted by the Council.
- ID5 Opening Submission on behalf of the Appellant, dated 18 June 2019.
- ID6 Opening Statement on behalf of the Council, dated 17 June 2018.
- ID7 Letter of objection from Kingston Upon Thames Society, dated 2 April 2018.
- ID8 Appeal scheme plans to scale at A3 – submitted by the appellant.
- ID9 Permitted Ground Floor Plan of Eden Walk development showing proposed public realm on Eden Street and Union Street – submitted by the appellant.
- ID10 Statement of Common Ground in relation to Financial Viability Matters, dated 21 June 2019.
- ID11 Updated Appendix 3 to Robert Fourt’s proof of evidence showing Financial Appraisal Summary for appeal scheme dated 21 June 2019 – submitted by the appellant.
- ID12 Plans showing heights of proposed buildings on schemes for appeal site, Eden Walk and the Former Post Office site – agreed by the Council and appellant.
- ID13 Comparison of financial appraisal inputs for GL Hearn (August 2018), Adams Integra (June 2019) and Gerald Eve (June 2018) – submitted by the appellant.
- ID14 Landscape version of Appendices 4-13 of Development Appraisal by Adams Integra attached to David Coate’s proof of evidence – submitted by the Council.
- ID15 Revised Appendices 4 and 5 of Development Appraisals provided by Adams Integra for the Council with affordable rents assumed at DMR rather than LLR, retail rents and yields in line with Gerald Eve inputs and 23% allowance for management, maintenance, voids and bad debt for market rent units.
- ID16 Video of Development Control Committee meeting for appeal scheme application on 3 April 2019 – submitted by the Council.
- ID17 Statement of Common Ground on 5 year Housing Land Supply, dated 24 June 2019.
- ID18 Statement of Common Ground on Cultural Matters, dated 25 June 2019.

- ID19 Written response from David Coate to cross examination question about the impact of the increase in the scheme build costs on the viable % of affordable housing, dated 25 June 2019 – submitted by the Council.
- ID20 Report to Licensing Sub Committee on application for variation in premises licence for the Pryzm nightclub, dated 23 October 2018 – submitted by the Council.
- ID21 Application form and plans for planning application 18/12960/FUL for external works at Pryzm nightclub – submitted by the Council.
- ID22 Application form and plans for application for listed building consent 18/12961/LBC for external works at Pryzm nightclub – submitted by the Council.
- ID23 Application form and plans for application for listed building consent 18/12779/LBC for internal alterations to form two separate venues at Pryzm nightclub – submitted by the Council.
- ID24 Draft suggested planning conditions for appeal scheme with accompanying email from Carter Jonas, dated 24 June 2019 – submitted by both parties.
- ID25 RBKT Housing Delivery Test Action Plan and covering report to Strategic Housing and Planning Committee, dated 19 June 2019 – submitted by the Council.
- ID26 Briefing note on the Hippodrome prepared by Salmon Harvester for the GLA, dated October 2017 – submitted by the Council.
- ID27 Appeal decision APP/E5900/W/18/3194952, dated 10 December 2018 – submitted by the appellant.
- ID28 Closing Submission on behalf of the Council, dated 28 June 2019.
- ID29 Closing Submissions of the appellant, dated 28 June 2019.

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- ID30 S106 unilateral undertaking from SHP Opportunity Fund General Partner Limited to Royal Borough of Kingston-upon-Thames, signed and executed on 5 July 2019.