



## Appeal Decision

Inquiry held on 17-20 and 23-27 November and 7 December 2020

Site visit made on 30 November 2020

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

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

**Decision date: 7<sup>th</sup> January 2021**

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**Appeal Ref: APP/N5660/W/20/3248960**

**Woodlands Nursing Home, 1 Dugard Way, London**

- 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 Anthology Kennington Stage Ltd against the Council of the London Borough of Lambeth.
  - The application Ref 19/02696/FUL is dated 12 July 2019.
  - The development proposed is redevelopment of the former Woodlands and Masters House site retaining the Masters House and associated ancillary buildings; demolition of the former care home; the erection of a single tall building of 29 storeys and peripheral lower development of 3/4 storeys, to provide 258 residential units, together with servicing, disabled parking, cycle parking, landscaping, new public realm, a new vehicular and pedestrian access, and associated works.
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### Decision

1. The appeal is dismissed.

### The site and its surroundings

2. The site is about 0.7 hectares and is generally flat. The north part of the site is occupied by the vacant Woodlands Nursing Home, which closed in 2013, and its associated grounds. The south part of the site is occupied by, principally, The Master's House, which was, originally, the administrative block and Chapel of the Lambeth Workhouse, later Hospital, that was built in 1871-3. In front of The Master's House is part of Dugard Way, which has a junction with Renfrew Road to the south-west of the site. Opposite The Master's House and within the site, and backing on to residential properties on Renfrew Road, are single storey buildings that were ancillary buildings of the former Workhouse.

3. Outside the site and to the north-east of The Master's House is the water tower of the former Workhouse, which has been converted and extended to create a dwelling. To the south and east of The Master's House and the former water tower are the recently built 3/4/5 storey residential blocks of the Water Tower Development. The residential properties on Renfrew Road to the west of the site are three storey terraced houses. To the north of the Woodlands Nursing Home is a small development of two storey terraced houses on Castlebrook Close and the rear gardens of two storey terraced houses on Brook Drive, and to the north-east is a three storey residential block at the junction of Brook Drive and Dante Road.

4. Part of the staggered west boundary of the site, that part between the rear amenity area of the former nursing home and the parking area of the aforementioned three storey block of flats, is part of the boundary between the London Boroughs of Lambeth and Southwark. Extending up to this part of the east boundary to the site is Longville Road, which has a junction with Dante Road. On the west side of Dante Road, within Southwark, are two storey terraced houses either side of the junction with George Mathers Road which, like Dugard Way, provides access into the Water Tower Development. On the east side of Dante Road are four storey blocks of residential accommodation.

5. The site has a public transport accessibility (PTAL) index of 6a/b and health authorities decided, prior to selling the site, that the buildings and site were surplus to public health sector requirements. Access to the site is from Renfrew Road along Dugard Way. The Master's House has been occupied by the Cinema Museum since 1998. The London Borough boundary along part of the east boundary of the site is also the boundary of the Elephant and Castle Opportunity Area (ECO A).

### **The proposed development**

6. The principal buildings of the proposed development are Block A and Block B. Block A would be 3/4 stories and would provide 15 2-bed and 9 3-bed apartments for social rent. Block B would be 29 stories and would provide 27 studio, 157 1-bed and 50 2-bed intermediate and market apartments. Both blocks would be in the north part of the site; Block A near to the rear boundary fences of properties on Renfrew Road, and Block B to the south of Castlebrook Close. The 29 storeys of Block B would be, partly, supported by pairs of angled columns.

7. The ground floor of Block B would include a refuse and waste holding area whilst the principal refuse and waste areas for the development would be in the ground floor of Block A. There would be some cycle storage in a single storey building behind the parking spaces to the east of Block B and at ground floor level of Block A, but the majority of the over 400 cycle spaces would be at basement level of Block A. The area to the north of Block B and the area between the two blocks would be landscaped to provide children's play space. An area between Block B and The Master's House would also be landscaped to create play space.

8. A vehicular access would be created into the site off Longville Road to a turning area and 4 disabled parking spaces to the east of Block B. Dugard Way would provide vehicular access to a turning area and 5 disabled parking spaces to the south of Block A. There would be a pedestrian route through the site from Longville Road to Dugard Way passing under the upper floors of Block B and through children's play areas. Areas either side of the front entrance into The Master's House would be landscaped and Dugard Way would be improved.

### **The Development Plan**

9. The Development Plan includes The London Plan (LP), adopted in 2016, and the London Borough of Lambeth Local Plan (LLP), adopted in 2015.

The London Plan (LP)

10. LP policy 3.4 states that development should optimise housing output for different types of location within the relevant density range shown in a table. The table, for a site with a PTAL of 6, indicates that the density of a housing development in a central area should be in the range 650-1100 habitable rooms per hectare (hr/ha) and in an urban area should be in the range 200-700 hr/ha.

11. LP policy 3.5 requires housing developments to be of the highest quality internally, externally and in relation to their context and to the wide environment, and to enhance the quality of local places taking into account physical context, local character, density, tenure and land use mix. LP policy 3.6 requires housing developments to make provision for play and informal recreation. LP policy 3.8 states that Londoners should have a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings.

12. LP policy 7.6 states that buildings should be of the highest architectural quality and not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy and overshadowing. The policy emphasises, in relation to privacy and overshadowing, that this is particularly important for tall buildings. LP policy 7.8 states that development affecting heritage assets and their settings should conserve their significance by being sympathetic to, amongst other things, their form and scale.

13. LP policy 7.7 states that tall and large buildings should be part of a plan-led approach to changing or developing an area by the identification of appropriate, sensitive and inappropriate locations, and that tall and large buildings should not have an unacceptably harmful effect on their surroundings. With regard to planning decisions, the policy states that applications for tall or large buildings should include an urban design analysis that demonstrates the proposal is part of a strategy that will meet specified criteria. The specified criteria include the requirement that tall or large buildings should only be considered in areas whose character would not be affected adversely by the scale, mass or bulk of a tall or large building.

The London Borough of Lambeth Local Plan (LLP)

14. LLP policy H2 'Delivering affordable housing' states that the Council will seek the maximum reasonable amount of affordable housing and that, on sites of 10 units or more without public subsidy, at least 40% of units should be affordable. The policy requires 70% of affordable housing units to be for rent and 30% to be intermediate. LLP policy H4 requires, in the affordable housing element of a residential development, that no more than 20% to be 1-bed units, 20-50% to be 2-beds units and 40% to be 3-bed+ units, and for market housing a balanced mix of unit sizes including family sized accommodation should be provided.

15. LLP policy H5 requires that new residential development will be expected to provide dual-aspect accommodation, unless exceptional circumstances are demonstrated, and that in new flatted development communal amenity space will be provided of at least 50 square metres plus 10 square metres per flat either as a balcony/terrace/private garden or consolidated with the communal amenity space.

16. LLP policy Q2 states that development will be supported if, amongst other things, adequate outlooks are provided avoiding wherever possible any undue sense of enclosure or unacceptable levels of overlooking (or perceived overlooking), and it would not have an unacceptable impact on levels of daylight or sunlight on the host building and adjoining property. LLP policy Q5 states that where development proposals deviate from locally distinctive development patterns applicants will be required to show that the proposal clearly delivers design excellence and will make a positive contribution to its local and historic context.

17. LLP policy Q7 states that new development will generally be supported if, amongst other things, it has a bulk, scale/mass and siting which adequately preserves or enhances the prevailing local character, or, in the case of regeneration

and opportunity areas where the context is changing, it respects the intended future character of the area. LLP policy Q20 states that development affecting listed buildings will be supported where it would, amongst other things, not harm the significance/setting of those listed buildings. LLP policy Q22 states that development affecting a conservation area will be permitted where it would, amongst other things, preserve or enhance the character or appearance of the conservation area by protecting its setting (including views in or out of the area).

18. LLP policy Q26 'Tall and Large Buildings' states that proposals for tall buildings will be supported where, amongst other things, there is no adverse impact on the significance of strategic and local views or heritage assets including their settings, design excellence is achieved, the proposal makes a positive contribution to the townscape and skyline as a contribution to a group, it is of the highest standards of architecture and materials, and it does not have an unacceptably harmful impact on its surroundings.

### **Emerging planning policy**

19. A Draft London Plan was published in November 2018, has been examined and is now in its Intended to Publish form. The adoption of the Intended to Publish London Plan (IPLP) is delayed by discussions between the Mayor and the Secretary of State. A Draft Revised Lambeth Local Plan (DRLLP) was published in late 2018, has been examined, and will be adopted after adoption of the IPLP. Given their stages in the adoption process moderate weight is afforded to IPLP and DRLLP policies.

### **Supplementary planning guidance**

20. The Affordable Housing and Viability Supplementary Planning Guidance (SPG) to the LP makes provision for a Fast Track Route for planning applications which are not required to submit a viability assessment. For surplus public land such as the appeal site the SPG expects that residential proposals should deliver at least 50% affordable housing to benefit from the Fast Track Route. This guidance is reflected in the Lambeth Development Viability Supplementary Planning Document (SPD). Lambeth Employment and Skills SPD sets out the Council's approach for negotiating obligations that will be sought at construction and end user phases of development.

### **Reasons**

21. The main issues are;
1. The density and design of the proposed development and its effect on the character of the area;
  2. The effect of the proposed development on the settings of heritage assets;
  3. Whether the proposed development would have an appropriate mix of housing units;
  4. The effect of the proposed development on the amenities of residents of neighbouring properties;
  5. Whether the residents of the proposed housing units would have acceptable living conditions;
  6. Whether the proposed development would provide acceptable amenity space and outdoor play space.

The first issue – the character of the area

22. Mr Considine, for the Appellant, claims in his proof of evidence that “The Development Plan clearly places this as a site where a tall building is appropriate”. The LLP, in fact, only identifies areas in the Borough that are sensitive to or inappropriate for tall buildings. Other areas of the Borough have not been assessed for their appropriateness for tall buildings so the proposed development, which is in such an area, must therefore be considered on its merits with regard to its near surroundings and the wider context. The wider context includes the ECOA where there is a developing tall building cluster. There is a policy requirement to optimise housing output. Optimisation is defined as achieving the maximum amount of housing without causing unacceptable harm.

23. To the north and west of the site 19<sup>th</sup> and 20<sup>th</sup> century terraced housing does not exceed, predominantly, three storeys in height. To the south of the site the mansion blocks of the Water Tower Development are predominantly 3 or 4 storeys and do not exceed five storeys, and further to the south development along Kennington Lane and Kennington Park Road is no higher. To the east of the site development along Dante Road is no higher than four storeys. Further to the east and in Southwark, the wider context includes the UNCLE development that is, partly, a 44 storey tower. To the north-east of this tower, on the opposite side of St Mary’s Churchyard, is One The Elephant, a tower of 38 storeys.

24. There are no concerns regarding the design of Block A or the small buildings either side of the entrance off Longville Road. Objections to the proposed development focus on the design and form of Block B. The proposed development, with regard to LP policy 7.7, was the subject of an urban design analysis and discussions between the Appellant, the Council and Officers of the Greater London Council (GLC). Those discussions centred on optimising the potential of the site and Mr Graham, lead Architect in the design team and in his proof of evidence, states that ‘proposals should optimise housing output with density appropriate for the location’ and that the development should ‘provide built form to the perimeter and centre of the site that responds to the surrounding context...’.

25. Table 3.2 of the LP, for the purposes of identifying density ranges to optimise housing potential, describes central, urban and suburban areas. Central areas are described as having ‘very dense development, a mix of different uses, large building footprints and typically buildings of four to six storeys, located within 800 metres walking distance of a...major town centre’. Urban areas are described as having ‘predominantly dense development as, for example, terraced houses, mansion blocks, a mix of different uses, medium building footprints and typically buildings of two to four storeys, located within 800 metres walking distance of a district centre or along main arterial routes’.

26. The Appellant maintains that the site is within a central area but the description of the near surroundings of the site leads to the inescapable conclusion that the area is urban in form and character. In this regard the description of the surroundings of the site, which is within 800 metres of the Elephant and Castle district centre, falls squarely within the description of an ‘urban’ area’ in the LP. The proposed 29 storey tower would not ‘respond to the surrounding context’ and would be alien and incongruous. It would dominate its immediate surroundings, particularly the two and three storey housing to the east, north and west and would have a substantial adverse effect on the character of the area.

27. The design analysis and the approach to the development of the site has clearly been influenced by the emerging cluster of tall buildings to the east in the ECOA. The cluster is part of a plan-led approach to the regeneration of the ECOA and London Borough of Southwark's Elephant and Castle Supplementary Planning Document (ECSPD) sub-divides the ECOA into character areas. Development on Dante Road is within the Pullens Character Area whilst the UNCLE and One The Elephant developments are within the Central Area. The ECSPD, at paragraph 4.5.16, states that "...the existing character of parts of the west, south and east of the wider opportunity area comprises low scale residential development..." and that "These areas cannot accommodate significantly taller development".

28. The ECSPD does not support the development of tall buildings in the Pullens Character Area to the east of the site; tall buildings either built, under construction or approved are predominantly in the Central and Heygate Street Character Areas. Whilst the tall building cluster is expanding mainly to the east, the UNCLE tower will remain the closest tall building of the cluster to the appeal site. In views from the south-east, north and north-west, from within the Pullens and West Square Character Areas of the ECOA, and from the south and south-west within Lambeth, the proposed 29 storey tower would be set well apart from the developing cluster and would be a standalone feature. As the cluster of tall buildings increases in density and expands the incongruity of the proposed tower would only increase.

29. There is a cluster of three 23 storey buildings at Cotton Gardens Estate on Kennington Lane about 250 metres to the south-west of the site. This scheme contributed to post-war reconstruction and was completed in 1968. Neither this scheme nor other individual tall buildings in the city establishes a precedent for the proposed 29 storey tower on the Woodlands Nursing Home site.

30. About half of the flats in Block A and about one-third of the flats in Block B would be single aspect. This would conflict with LLP policy H5 and is a consequence of the density of the scheme. The LP, at paragraph 3.31, states that "Residential density figures should be based on net residential area...". The appeal site is about 0.7 hectares but part of the site is occupied by The Master's House, which should be excluded. The net area of the site is about 0.51 hectares. The housing development would have about 580 habitable rooms and therefore a density of about 1130 hr/ha. This far exceeds the highest indicative density in the LP of 700 hr/ha for an urban site and even exceeds the highest indicative density for a central site. Whilst this is a mathematical exercise it does indicate that the density of the proposed development, given the urban character of its surroundings, is inappropriate for the site.

31. Inspired by the Cinema Museum use of The Master's House, the design of the 29 storey tower, conceptually, has been influenced by the imagery of hanging film strips, variations in film format, and film gauge. The imagery has largely been lost through the design process but the proposed tower would, nevertheless, be an attractive building. The plan form of the building, two intersecting rectangles, reduces the overall bulk of the building and the five storey step down in height of one of the plan elements provides slenderness where the building meets the sky. The facades of the building are well articulated with a strong vertical emphasis, though staggered horizontal elements also contribute to pleasing proportions.

32. The detailed design of the facades has been carefully and sensitively considered. The dark brown primary grid provides an appropriate structure whilst the secondary framing of window units does, to some degree, reflect old style film strips. Minimally framed glazed panels are complimented by sepia solid panel

sections and vertical ventilation panels at the corners of the building would be a darker bronze colour. Horizontal framing towards the top of the higher section of the building has been omitted to further emphasise the slenderness of the building. Overall, the proposed 29 storey tower and other elements of the scheme would be high quality architecture and would be constructed using high quality materials.

33. Mr Graham has written that "...the architectural concept for the proposals was to respect the existing whilst contributing towards the future character of the area". The proposed tower, despite its architectural quality but given its height and scale, would not respect the existing character of the surrounding area and would not contribute to the future character of the wider area. In this regard the tower would stand apart from the emerging cluster of tall buildings in the ECOA and there are no strategic plans for the cluster to expand towards the site. The proposed 29 storey tower would thus remain an incongruous and unacceptable individual townscape feature that would have a substantial adverse and harmful effect on its near surroundings. The proposed development would not optimise the housing use of the site, because it would cause unacceptable harm, and conflicts with LP policy 7.7 and with LLP policy Q26.

The second issue – the settings of heritage assets

34. The National Planning Policy Framework (NPPF) defines the setting of a heritage asset as the surroundings in which such an asset is experienced, and the significance of a heritage asset to be the value of such an asset to this and future generations because of its heritage interest. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act) states that in considering whether to grant planning permission for development which affects a listed building or its setting the Secretary of State shall have special regard to the desirability of preserving the building or its setting. Harm to the setting of a heritage asset must, in accordance with established case law, be given considerable importance and weight in the decision making process.

35. The listing description for the Water Tower, a Grade II listed building, states that it is designated because it is "...an imposing and distinctive water tower in the Venetian Gothic style, constituting a rare feature in inner London; historic associations with Lambeth Workhouse and Infirmary; group value with the former workhouse administrative block (The Master's House) whose style it complements, and with the nearby former courthouse and fire station in Renfrew Road...". The Water Tower has been extended to the west and north and from these directions and from the east the tower is partially obscured by development. The principal direction from which the tower can be experienced is from the south and, specifically, from George Mathers Road where it turns north towards the tower.

36. The application was accompanied by a detailed Heritage and Townscape Visual Impact Assessment (HTVIA). The HTVIA includes before and after photographs from many viewpoints but, rather remarkably, does not include a photograph of the Water Tower from George Mathers Road. From this near location the full height and imposing form of the Water Tower is experienced and appreciated. In this view Block B would be only about 20 metres behind the tower. Given its 29 storey height and proximity, Block B would dominate the Water Tower and would substantially reduce its imposing character. It would, also importantly and in this view, result in the Water Tower no longer having a silhouette against the sky. The proposed development would harm the setting of the Water Tower and though the harm would

be less than substantial it would be, given in particular the Water Tower's rarity, of high magnitude.

37. The Master's House, a Grade II listed building is designated for, amongst other things, the architectural quality of its exterior, whose principal elevations are virtually intact and highly ornate for a workhouse building of its time, and for its rarity value in London as the principal building of a Victorian metropolitan workhouse. The building is best experienced from Dugard Way and, in particular, from the vicinity of the gated entrance into the former workhouse complex. From this location the ornate brick elevations and the architectural and historic interest of the building can be appreciated. Block B would be directly behind the listed building in this view and, given its height and proximity, would detract from an appreciation of the architectural quality of the listed building's exterior. The proposed development would harm the setting of The Master's House and though the harm would be less than substantial it would be of moderate magnitude.

38. On the east side of Renfrew Road to the south of its junction with Dugard Way is the Former Lambeth Magistrates Court, a Grade II listed building. The Magistrates Court was built in 1869 in a Gothic style and is the earliest surviving example of a Criminal Magistrates Court in the metropolitan area. The listed building is experienced, principally, from Renfrew Road. From directly in front of the Magistrates Court the 44 storey UNCLE building projects above its roofline and detracts from an appreciation of the listed building's architectural and historic interest. Block B would, similarly and from some vantage points on the west side of the road, also project above the roofline of the Magistrates Court. The proposed development would harm the setting of the Former Lambeth Magistrates Court, though the harm would be less than substantial and of minor magnitude.

39. A K2 telephone kiosk on Renfrew Road, a Grade II listed building, is experienced in near views against a backdrop of nearby development and no harm would be caused to its setting. To the south of the Former Magistrate's Court is a Former Fire Station, a Grade II listed building. The building has three elements all of which have high frontages onto the pavement on the east side of Renfrew Road. Consequently, Block B would not be visible above and in any near view of the Former Fire Station and only to one side when passing the building. The proposed development would not harm the setting of the Former Fire Station.

40. Block B would be too far distant from Lambeth Palace, a Grade I listed building, and the Church of St Mary on Lambeth Road, a Grade II\* listed building, to cause harm to their settings. To the north-west of the appeal site is the Imperial War Museum, a Grade II listed building. From its setting Block B would be seen together with the existing tall buildings in the ECOA and no harm would be caused to that setting. Other listed buildings have been mentioned, principally Grade II listed terraced houses, but these are located within nearby Conservation Areas and are significant to the designation of those areas. The proposed development would not cause any harm to the settings of these listed buildings.

41. The Water Tower, The Master's House, the Former Lambeth Magistrates Court and the K2 telephone kiosk are within the Renfrew Road Conservation Area (RRCA). To the north of the appeal site are West Square Conservation Area (WeSCA) and Elliott's Row Conservation Area (ERCA), and to the west is Walcot Square Conservation Area (WaSCA). Section 72 of the LBCA Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

42. The listing description for the Water Tower states that the building, The Master's House, the Former Magistrates Court and the Former Fire Station are 'a good ensemble of Victorian public buildings'. They were built in the ten year period 1867-1877 and are the principal buildings, and the reason for designation, of the RRCA. The buildings of the proposed development would be directly to the north of the RRCA and Block B, given its height and proximity, would undermine the visual and historical link between the listed buildings and their contribution to the character and appearance of the RRCA. The removal of the nursing home would be beneficial but does not alter a conclusion that the development would harm the setting of the RRCA. The harm would be less than substantial but of moderate magnitude.

43. The WeSCA and the ERCA are adjoining Conservation Areas immediately to the north of Brook Street to the north of the appeal site. The tall buildings of the ECOA are visible from within the two designated areas and detract from their historic character. Hayles Street is a street of both areas and has terraced Victorian houses and buildings on both sides. The confined vista along this street from the north would be terminated by Block B, which would rise well above the modern two storey terraced houses on Brook Street that adjoin the site. The tall building would be dominant and intrusive in the vista along Hayles Street and would be prominent in views from other locations within both Conservation Areas. The proposed development would harm the settings of the WeSCA and the ERCA, though the harm would be less than substantial but of moderate magnitude.

44. WaSCA is to the west of Renfrew Road and further away from the appeal site than the WeSCA and ERCA. Within the designated area are two triangular open spaces; Walcot Square and St Mary's Gardens. From these spaces the tall buildings of the ECOA are visible above the roofs of terraced houses and detract from the historic character of the designated areas. Block B would be significantly closer than the existing tall buildings and would detract further from the historic character of the area. The proposed development would harm the setting of the WaSCA, though the harm would be less than substantial and, given that the existing tall buildings are in the same direction, of only minor magnitude.

45. The proposed development would cause less than substantial harm of high magnitude to the setting of the Water Tower, would cause less than substantial harm of moderate magnitude to the settings of The Master's House, the RRCA, the WeSCA and the ERCA, and would cause less than substantial harm of minor magnitude to the settings of the Former Lambeth Magistrate's Court and the WaSCA. The proposed development would undermine and harm the significance of these heritage assets and conflicts with LP policy 7.8 and LLP policy Q20.

The third issue – housing mix

46. The proposed development includes 50% affordable housing (AH), on a habitable room basis and including a mix of low cost rent (LCR) units and intermediate housing (IH) units, in compliance with the SPD to the LP and the LLP. Of the 113 AH units 66 would be 1-bed units (58%), 38 would be 2-bed units (34%), and 9 would be 3-bed units (8%). The percentages conflict with those required by LLP policy H4 (no more than 20% to be 1-bed units, 20-50% to be 2-beds units and 40% to be 3-bed+ units). The policy housing mix was advised by the 2012 Housing Needs Assessment (HNA), which identified a shortfall in homes of all sizes across all tenures but based on absolute numbers the greatest shortfall was for small homes. However, the Council determined, given that some of the need for small units would

be met by the private sector amongst other things, that there was a need to prioritise the future provision of larger family sized units.

47. The DRLLP takes a different approach to the LLP by including housing mix targets only for LCR units; the approach for IH units being the same as for market housing. For LCR units the DRLLP requires no more than 25% to be 1-bed units, 25-60% to be 2-bed units, and up to 30% to be 3-bed units. So, the Council's intention, through adoption of the DRLLP, is to increase the percentage of 2-bed LCR units in AH provision. Nevertheless, the DRLLP does include an implied requirement of at least 10% 1-bed units whereas the scheme would include no 1-bed LCR units. Of the 24 LCR units in the scheme there would be fifteen 2-bed units (62% against a maximum expectation of 60%) and nine 3-bed units (38% against a maximum expectation of 30%).

48. The Council does not object to the overall number of LCR units provided in the scheme and the DRLLP can be preferred to the LLP for housing policy because it is advised by the 2017 Strategic Housing Market Assessment (SHMA) rather than the 2012 HNA. To be DRLLP policy compliant only one 2-bed unit and one or two 3-bed units would need to be 1-bed units. The provision of higher percentages of larger units, particularly the family sized 3-bed units, at the expense of the provision of any 1-bed units, does accord with the Council's intention to prioritise the future provision of larger units. Furthermore, for LCR units the difference in numbers is small and must be considered in the context of the accepted acute shortage of AH in London and in Lambeth. The lack of provision of any 1-bed LCR units in the scheme would not cause any material harm.

49. The LP, at paragraph 3.29, recognises that "...higher density provision for smaller households should be focused on areas with good public transport accessibility (measured by PTAL) and lower density development is generally more appropriate for family housing". The proposed development would be a high density scheme and the site has the highest PTAL rating. The Appellant maintains that this and other factors justifies the lack of provision of any family housing, 3+ bed units, in either the IH or market housing (MH) elements of the scheme. However, LLP policy H4 is unequivocal in requiring the provision of, for MH, a balanced mix of unit sizes including family-sized accommodation. This requirement is carried forward in the DRLLP, in policy H4, and applies also to IH. Supporting text to policy H4 in the LLP and the DRLLP explains that the requirement for a balanced mix of unit sizes is to ensure mixed and balanced communities.

50. There is a tension, in this case, between ensuring mixed and balanced communities by requiring a mix of housing units and, given the site's location and PTAL score, the indication in policy documents that smaller households should be focused on areas with good public transport accessibility. This tension is encapsulated in IPLP policy H10 'Housing size mix' which, in section A, states that "Schemes should generally consist of a range of unit sizes" but "To determine the appropriate mix of unit sizes...applicants...should have regard to...", amongst other things, "...2) the requirement to deliver mixed and inclusive neighbourhoods...6) the nature and location of the site, with a higher proportion of one and two bed units generally more appropriate in locations...with higher public transport access...". Critically, however, the IPLP policy makes provision for 'a higher proportion' of 1 and 2-bed units not the absence of larger units.

51. The Council has accepted the proportion of LCR and IH units in the AH element of the scheme which, at 50%, is policy compliant. The mixed tenure nature

of the scheme also complies with the LP's requirement, at paragraph 3.58, that "...there should be no segregation of London's population by housing tenure". The Council accepted a high proportion of IH units in the AH element of the scheme partly because of viability issues. The Appellant maintains that viability precludes including 3+-bed units in the IH and MH elements of the scheme because this size of unit commands a lower profit per square metre. This was partly borne out by evidence presented by Mr Ireland, for the Appellant, at the Inquiry. He also explained that there is little demand for 3-bed IH units and that market demand in the north part of the Borough is for smaller homes rather than family sized homes.

52. The 258 unit housing scheme includes only 9 3-bed LCR family units and no 3-bed family units in the IH and MH elements of the scheme. The proposed housing scheme would not, in itself, be a mixed and balanced community and, given also the proposed mix of units, it conflicts with LP policy 3.8 and LLP policy H4. However, all parties accept and understand the acute shortage of AH and MH in London and Lambeth so, particularly given accepted viability issues and the PTAL rating of the site, harm caused by the proposed development and the conflict with policy is afforded only minor weight.

The fourth issue – neighbouring residential amenity

Daylight within existing properties

53. The Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight – A guide to good practice', published in 2011, provides guidance on the effect of development on daylight and sunlight in neighbouring buildings. As stated in the introduction "The advice given...is not mandatory..." and the guidelines "...should be interpreted flexibly...". The BRE Guide recommends, to assess the effect of development on daylight, using the Vertical Sky Component (VSC) and No-Sky Line (NSL) tests. The VSC test measures skylight falling on the centre point of a window as a percentage. The guide advises that if a proposed development would reduce VSC to below 27%, and if the reduction is less than 0.8 times its value before development (i.e. more than 20%), then occupants of a room daylit by that window would be likely to notice the reduction in daylight.

54. Retaining a VSC level of 27% in neighbouring properties is unrealistic; as has been recognised in many appeal decisions and other documents. Even retaining 20% VSC is considered, generally, to be reasonably good. Maintaining satisfactory levels of daylight in neighbouring properties and preventing unacceptable harm must take into account the context of the surroundings of the site and the Appellant has assessed existing VSC levels in certain parts of the surrounding area using 'façade mapping' techniques. The average existing VSC level in those areas is stated to be 16% but it is necessary to consider the specific nature of the assessment and that in each area only one window was considered. Two ground floor windows in houses on the opposite side of Elliot's Road to five storey terraces achieve VSC's of 14.5% and 14.3%, and a ground floor window in a property on Kempford Road opposite a five storey block achieves a VSC of 15%.

55. The areas chosen to represent local context was selective and, conveniently, didn't include any existing dwellings on Castlebrook Close and Brook Drive immediately to the north of the site, and on Renfrew Road immediately to the west of the site. Dwellings in these areas have been considered to assess the effect of the development and, except for one window, all windows achieve a VSC in excess of 20%. Had the areas considered in an assessment of an average existing VSC level been truly representative of local context then the stated average would have been

higher than 16%, referred to by the Appellant as a mid-teen level. However, it is recognised that the site is in an urban area where even retaining VSC levels of 20%, and applying the flexibility recommended by the BRE Guide and required by LP and LLP policy, would be inappropriate.

56. The Officer's Report for a development elsewhere in the Borough stated that "The benchmark for VSC is 18% rather than the 27% set out in the BRE guidance as 18% is considered to be more appropriate in a dense urban environment". Mr Lane, for the Appellant and in his proof of evidence, states that "...this is not materially different to 'mid-teens'...", but it is necessary to establish a 'benchmark' percentage rather than comparing assessed levels against a vague 'mid-teen' level. Target Average Daylight Factor (ADF) levels, in applying methodology in BS 8206-2:2008, for rooms in proposed development, are appropriately less for bedrooms than for kitchens and living rooms. A mid-teen VSC benchmark of 16% is appropriate for bedrooms but a VSC benchmark of 18% must be applied to living rooms and combined living/kitchen/dining rooms. It is also necessary to consider the percentage reduction in daylight distribution in a room, the NSL test, in an assessment of the degree to which there would be harm to residential amenity.

57. The proposed development would have its greatest effect, in terms of daylight, on properties on Brook Drive, Castlebrook Close, Renfrew Road, George Mathers Road and Dante Road. At 138 Brook Drive the living/dining room would retain a VSC of 17.5% and would experience a reduction in daylight of 44.6%. At 134 Brook Drive an assumed living room would retain a VSC of 17.8% and would experience a reduction in daylight of 35.6%. The living room in a flat in Wilmot House would retain a VSC of 17.3% and would experience a reduction in daylight of 41%. The living room in a flat in Freeman House would retain a VSC of 7.7% and would experience a reduction in daylight of 47.2% and the living room in another flat in the same building would retain a VSC of 11.4% and would experience a reduction in daylight of 37.4%. Three living rooms in flats in Bolton House would retain VSC's of 14.7%, 13.6% and 12.3%, and would experience reductions in daylight of 42.3%, 42% and 33.1% respectively

58. These are eight examples of nineteen living rooms in properties close to the site that would retain a VSC of less than 18% and all of these would experience a reduction in daylight of more than 32%. The worst case would be that of the living room in a flat in Wilmot House that would retain a VSC of 7.8% and would experience a reduction in daylight of 60%. This living room, currently, has a respectable VSC of 19.5% and the residents of this property would experience a severe and noticeable reduction in daylight. It is worth noting also that thirteen of the nineteen living rooms would retain a VSC of less than the mid-teen level of 16% that Mr Lane recommends as a benchmark. Furthermore, sixteen bedrooms in nearby properties would retain a VSC of less than 16% and all of these would experience a reduction in daylight of more than 30%, though overhanging eaves of some of these properties provide an explanation of some of the low retained VSCs.

59. The NSL test, which is of equal importance to the VSC test, establishes the degree to which there is a reduction in daylight reaching the working plane within a room, and a reduction in excess of 20% is regarded to be likely to have an adverse effect. It is worth having regard to the properties where there would be the greatest reduction in VSC levels and these are in Freeman House, Wilmot House and Bolton House on George Mathers Road. Only one room out of 80 in these buildings would experience a reduction of daylight distribution in excess of 20%. However, the BRE guide states that daylighting in existing buildings, resulting from new development

nearby, may be adversely affected if either (emphasis added) the VSC is less than 27% and less than 0.8 times its former value or daylight distribution (the NSL test) is reduced to less than 0.8 times its former value. The favourable results of NSL tests does not therefore alter the conclusions that can be reached from the VSC results, particularly as the benchmarks that have been applied are significantly lower than that in the BRE guide.

60. Residents of several properties adjoining the site would experience a significant, and in one case severe, reduction in daylight in their most important rooms, their living rooms. The proposed development would, for this reason, adversely affect neighbouring residential amenity.

#### Sunlight in gardens to existing properties

61. The BRE guide indicates that at least 50% of a garden should receive at least two hours of sunlight on 21 March and if, resulting from new development, that garden does not meet that test and the part of the garden that can receive two hours of sun on 21 March is less than 0.8 times its former value (i.e. more than 20%), then the loss of sunlight is likely to be noticeable. Thirteen of the gardens assessed would not meet this test, though that at 1 Castlebrook Close can be discounted because currently only 1.7% of its garden receives two hours of sunlight on 21 March. The garden that would suffer the greatest loss would be that at 8 George Mathers Road, which currently has two hours of sunlight in 19.6% of its garden on 21 March but would, as a result of the proposed development, receive no sunlight on that day.

62. Mr Lane has assessed, for eight of the gardens, the dates on which they would meet the test. These vary from 28 March at two properties to 14 April at 144 Brook Drive. He maintains that there is no 'material difference' between achieving the target on 21 March and up to 25 days later. But the test, at these properties, would not be met for a corresponding period before 21 September and 21 March has been chosen for a specific reason, it is midway between the summer and winter solstices. He has also tested the effect of alternative schemes on sunlight in adjoining gardens but the results of these tests can be disregarded because it is the proposed 29 storey tower that would, if it was permitted and built, affect sunlight in gardens. He has also considered what cutbacks would have to be applied to the proposed 29 storey tower to achieve the required sunlight standard in adjoining gardens but, again, this can be disregarded for the same reason.

63. Residents of several properties adjoining the site would experience a significant reduction in sunlight in their gardens. The proposed development would, for this reason also, adversely affect neighbouring residential amenity.

#### Overlooking and other amenity matters

64. On its west side Block A would be three storeys high and on this side of the building, at both upper floors, there would be four 2-bed flats with balconies. The middle two flats at each upper floor would be single aspect and three of the flats at each upper floor would have balconies facing west towards properties on Renfrew Road. The distance between Block A and the main rear elevation of the terraced dwellings would be 19.6-20.6 metres. 20 metres is regarded to be an appropriate separation distance between two storey dwellings in new residential developments though this is based on the presumption that first floor rooms are bedrooms not living rooms and that adjoining rear gardens are of similar depth. The west boundary of the site is 5.6-6.3 metres from the west elevation of Block A and first and second floor rooms facing west include living rooms as well as bedrooms.

65. Two balconies would face directly towards the rear elevation of 28 Renfrew Road and obliquely towards the neighbouring dwellings, two balconies would face directly towards the rear elevation of 23 and 24 Renfrew Road and obliquely towards the neighbouring dwellings, and two balconies would face directly towards the rear elevation of 21 and 22 Renfrew Road and obliquely towards the neighbouring dwellings. 22 and 23 Renfrew Road, in fact, would be overlooked from four balconies. Many of the dwellings in the terrace have rear ground floor extensions and overlooking of these from the balconies to living rooms are at distances of less than 20 metres. Overlooking of garden areas from the balconies would be from significantly less than 10 metres.

66. The balconies provide the only outdoor amenity spaces for residents of the six flats. They are likely to be well used, particularly during summer months when residents of the terraced dwellings are most likely to be enjoying their gardens and opening the doors of their rear extensions. Close overlooking from the elevated balconies would be seriously intrusive and would significantly undermine enjoyment of the garden areas and the dwellings. It is worth noting that LLP policy Q2 recognises that perceived overlooking, as opposed to actual overlooking, can be harmful. It is undoubtedly true that the possibility of overlooking from six balconies and from four single aspect flats and two double aspect flats would contribute to the harm that would be caused by the proposed development to the amenities of residents of terraced dwellings on Renfrew Road. The depth of the balconies, 1.5 metres, would not minimise overlooking.

67. The converted water tower has a modern three storey 'extension' on its west side. The roof of the extension is a terrace and, because ground around the water tower is amenity space for the Water Tower housing development, is the only private outdoor amenity space available to residents of the dwelling. The proposed 29 storey tower would be only 20 metres from the centre of the terrace and residents of single aspect studio flats and dual aspect 1-bed flats at several floor levels would have direct views across to, and down into, the amenity space. Though overlooking is currently possible from upper floor flats in Wilmot House, overlooking from Block B would occur from many flats and would be perceived by residents of the water tower. The proposed 29 storey tower would dominate the terrace and overlooking from its flats would also cause significant harm to the amenities of residents of the converted water tower.

68. The north-west corner of Block B would be only about 13 metres from the centre of the rear private garden of 4 Castlebrook Close. The 29 storey tower would overshadow and dominate this amenity area and overlooking would occur from several flats. This overlooking would also occur in the rear garden areas of other dwellings on Castlebrook Close that are only slightly further away. The rear elevations of 134-138 Brook Drive would be only about 28 metres from the nearest corner of Block B, which would be about 100 metres high and, in the outlook from the dwellings and their rear gardens, about 40 metres wide. The 29 storey tower would dominate the outlook from these dwellings and the garden areas and overlooking, and perceived overlooking, would occur from many flats. The tower would be only about 12 metres from the centre of the garden area to 8 George Mathers Road. Not only would the 29 storey tower prevent any sunlight reaching this garden area, it would also be dominant and cause overlooking.

69. The proposed development would result in serious overlooking of gardens and dwellings on Renfrew Road, would dominate and cause overlooking of gardens to dwellings on Castlebrook Close, would dominate, and result in overlooking of, the

rear gardens of dwellings on Brook Drive and would be visually intrusive in the outlook from those dwellings and gardens, would dominate the rear garden of 8 George Mathers Road, and would dominate and result in overlooking of the terrace to the converted water tower. The proposed development would, for this reason also, have a serious adverse effect on neighbouring residential amenity.

Conclusion on the fourth issue

70. Residents of several properties adjoining the site would experience a significant, and in one case severe, reduction in daylight in their most important rooms, their living rooms, and several properties would experience a significant reduction in sunlight in their gardens. The proposed development would also result in overlooking and perceived overlooking of garden and amenity spaces, in some cases severe overlooking, would dominate many private areas, and would be visually intrusive in the outlook from some residential properties.

71. Some of the properties referred to would experience only one form of adverse effect on amenity, such as those on Renfrew Road, albeit the adverse effect would be severe in certain cases. Some would experience more than one, such as 8 George Mathers Road. But one property at least, 138 Brook Drive, would be adversely affected by all of the aforementioned adverse effects on amenity.

72. The proposed development would have a significant and unacceptable effect on the amenities of residents of dwellings around the site. The proposed development conflicts with LP policy 7.6 and LLP policy Q2.

The fifth issue – living conditions of intended residents

73. Block A, which would be four stories high on its east side, is separated from Block B by a distance of about 14 metres. Overlooking between bedrooms and between a living room and a bedroom at such a distance would not be unduly harmful. Some living room windows in the east elevation of Block A are set back to the rear of balconies and are therefore about 15.5 metres from Block B. Taking into account shading of such windows by the overhanging floor above such a separation distance between living room windows is acceptable. But living room windows in two single aspect flats at each upper floor level in Block A would face living room windows of one single aspect flat and one dual aspect flat in Block B at a distance of 14 metres. Overlooking between living rooms at such a short distance would undermine privacy in, and would result in poor living conditions for intended residents of, the relevant flats.

74. Minimum Average Daylight Factor (ADF) levels, from BS 8206-2:2008, are 2% for kitchens, 1.5 % for living rooms and 1% for bedrooms. All rooms in Block B would achieve these minimum levels whilst in Block A 28 rooms would not; 14 bedrooms, 10 combined kitchen/living/dining rooms, 2 kitchens and 2 kitchen/dining rooms. The Appellant maintains that there is 95% compliance with the minimum levels over the whole development and that this level of compliance is similar to that which has been accepted by the Council for other developments in the Borough. In MH and IH developments, such as Block B, residents would be purchasers and could choose whether to accept daylight levels of the flats. But Block A is wholly LCR units and future residents of these units would not have that choice. The compliance rate for Block A is 69%.

75. No material harm would arise from sub-standard daylight in bedrooms, even though three bedrooms would achieve an ADF of 0%. In modern flats where

kitchens are invariably within living rooms and are located away from windows it is sometimes not possible to achieve an ADF of 2%. However, living areas are directly daylight and in a new development the target should be to achieve an ADF of 1.5% for all living areas. Two of the 10 combined kitchen/living/dining rooms only achieve an ADF of 1.0%, though this is partly down to the inclusion of balconies, and two others only achieve 1.2%. Living rooms are spaces where residents would spend most of their time indoors and sub-standard daylight would result in poor living conditions for intended residents of the relevant flats. It is worth noting, in this regard, that one of the flats that would achieve an ADF of only 1.2% in its living room would have ADF levels of 0.2% and 0% in its two bedrooms. This particular flat would have poor internal living conditions.

76. Some of the LCR units in Block A would have sub-standard internal daylight and there would be overlooking between flats of both blocks at first, second and third floor levels. Some intended residents of the proposed development would have poor living conditions. The proposed development thus conflicts with, in this regard also, LLP policy Q2.

The sixth issue – amenity space and outdoor play space

77. The proposed development is required to include, to satisfy LLP policy H5, 2630 square metres of amenity space. The development includes 2315 square metres of communal amenity space, 280 square metres of private garden and 165 square metres of balcony space in Block A. The total of 2760 square metres slightly exceeds the policy requirement. Furthermore, living rooms in the flats in Block B are oversized and have 'internal balconies', which are more usable in a high rise building, rather than external balconies. The proposed layout and design of the external amenity spaces are acceptable.

78. The proposed development, at ground level, would include play spaces for under 5s, 5-11s and over 11s. In terms of quantum the play spaces would be adequate in size and policy compliant for the number of children, assessed as 50, that would live in the flats. The play spaces and other areas of the site have been the subjects of a thorough landscape strategy and have been carefully and sensitively designed in terms of materials and soft landscaping. But there would be a pedestrian route through the site from Longville Road to the Cinema Museum and beyond. The current route from the centre of Elephant and Castle, where the tube station is located, is along a footpath to the north of One The Elephant from Newington Butts, then along Brook Drive and Dante Road to George Mathers Road, and then through the Water Tower Development to the south of the Museum.

79. The pedestrian route through the proposed development from Longville Road would shorten this journey for those walking to the Cinema Museum from Elephant and Castle. The route would pass under the overhanging upper floors of Block B, through the 5-11s play area and diagonally across the relatively small dedicated over 11s play area. The route, in fact, would pass close to a fixed table tennis table that is intended to be located in this area. The over 11s area would not, in this regard, provide suitable opportunities for play and informal recreation for this age group. There is also the possibility for conflict between pedestrians passing through the development and children playing in the 5-11s play space. Whilst it is preferable not to segregate competing activities children of this age group need to feel that they can play without fear of conflict with strangers.

80. The main part of the play space for under 5s is between the two blocks and would be a stimulating environment for children of this age group that would benefit

from passive surveillance. A secondary part of the under 5s play space would be to the north of Block B. The proposed development accords with Part G of IPLP policy T6.1, which requires disabled parking spaces to be provided in a development from the outset equal to 3% of the number of residential units. The policy also requires the proposed scheme to demonstrate how an additional 7% could be provided as soon as existing provision is insufficient. This additional provision, in the proposed development, would take up the play space to the north of Block B, part of the play space between the blocks, and would encroach on the over 11's play area. However, it is unlikely that the full additional provision would be required and providing a few more disabled parking spaces, to meet the provisions of the Equality Act 2010, could be accommodated if required without compromising the provision or quality of children's play spaces.

81. An agreed planning condition would require, despite the landscape details provided with the application, the prior approval and implementation of a Soft and Hard Landscaping Scheme. There is the opportunity, and this could be part of the approved scheme, to demarcate the pedestrian route through the site so that it does not pass through any play areas and, especially, would pass between the 5-11s and over 11s play spaces. This could be achieved without unduly compromising desire lines or elongating the route, and without the introduction of intrusive or enclosing landscape features. The proposed development, with the imposition of the condition, would thus include adequate amenity space and outdoor play space in compliance with LP policy 3.6 and LLP policy H5.

#### Other matters

82. Agreed conditions would require the prior approval and implementation of a servicing plan and a waste management strategy. These conditions would ensure that waste and recycling transfer from Block B to Block A would be properly managed without causing inconvenience to residents. Refuse vehicles currently pass through the gates on Dugard Way to access the Water Tower Development and there is no reason to suppose, given the geometry of the turn north towards the Woodland site, that refuse vehicles accessing the proposed development would be any more likely to damage the gates. A refuse vehicle manoeuvring in the turning area at the proposed development would be supervised by a banksman and there is no reason to suppose that this vehicular activity would be dangerous to residents or pedestrians on the route through the site.

83. An agreed condition would require the prior approval and implementation of a Flood Evacuation Plan, which would include details of, amongst other things, advanced flood warning measures, advanced site preparation and evacuation measures, and dedicated named flood wardens who would be on site at operational times. Though the flats at ground floor level of Block A would be susceptible to flooding, with an approved Flood Evacuation Plan in place and on-site wardens in attendance residents of these flats would not be in danger. The Environment Agency, furthermore, in a letter to The Planning Inspectorate dated 19 October 2020 and in response to the submission of a Flood Risk Assessment, stated that "We do not oppose the planning application as submitted, subject to the attached conditions being imposed....".

84. The majority of over 400 cycle parking spaces would be at basement level of Block A with lift and staircase access. Use of the basement cycle parking area would not be unduly inconvenient for residents and, with on-site staff in place to manage the development, it is unlikely that bicycles would be secured to railings or other

landscape features at ground level by residents, rather than in designated secure and dry cycle storage areas.

85. LP policy 3.16 states that the suitability of redundant social infrastructure premises for other forms of social infrastructure for which there is a defined need in the locality should be assessed before alternative developments are considered. This matter is a subject of IPLP policy S1, which accepts that loss of redundant social infrastructure may be part of a wider public transformation. There is no indication that the loss of the nursing home use on the site is part of a wider public transformation but, equally, no party has brought forward any evidence to indicate that there is a social infrastructure service that could make use of the unused building or the site. This is a neutral matter. No harm would be caused by the development other than that identified in consideration of the main issues.

#### Conditions and Section 106 Unilateral Undertaking

86. The Council and the Appellant have agreed conditions that would be imposed if planning permission was to be granted. They would be amended, in the interests of clarity and precision, but they meet the tests set out in the National Planning Practice Guidance (NPPG).

87. A signed and dated Section 106 Unilateral Undertaking was submitted before the close of the Inquiry. The undertaking relating to the Cinema Museum is considered below. Otherwise, the obligations of the Undertaking are all related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Agreement therefore complies with the tests set out in the NPPG and with Regulation 122 of the CIL Regulations 2010.

88. The retention of the Cinema Museum use of The Master's House is an element of the proposed development and a legal undertaking would be the offer of a 999-year lease at a peppercorn rent, for a premium of £1 million, before implementation of a planning permission. Thereafter the Cinema Museum would have five years to accept the offer in writing and the Appellant would then be required to complete the lease within two months of the offer being accepted. The retention of the Cinema Museum use of The Master's House is accepted by all parties to be beneficial. They are committed to maintaining their use of the building and are confident that they could raise the necessary funds to accept the lease offer thus ensuring their future.

89. Granting planning permission for the proposed development is not required to authorise the Cinema Museum use of The Master's House because planning permission 97/01751/FUL was granted on 6 August 1997 for 'conversion and change of use from hospital to a cinema museum, with ancillary car parking'. The use of the building is therefore lawful and the undertaking to offer the lease is not necessary to make the development acceptable in planning terms. The undertaking does not therefore comply with the tests set out in the NPPG or with Regulation 122 of the CIL Regulations 2010.

#### **Planning Benefits**

90. The Council is consistently maintaining a five year housing land supply and housing completions in recent years in the Borough have exceeded policy targets. However, given the demand for housing across London, the provision of 258 units of

market and affordable housing is a clear and substantial benefit of the proposed development. The regeneration of the previously developed site and its highly sustainable location are also substantial benefits of the scheme. The £100 million development would provide substantial economic benefits for the Borough.

91. Improvements to the immediate surroundings and setting of The Master's House would be of modest benefit. Environmental improvements to the site, the new pedestrian and cycle route increasing permeability around The Master's House and the Water Tower Development, and the car free credentials of the development, would be benefits of moderate weight. High quality design is at the heart of national, strategic and local planning policy so the design credentials of the proposed development are not afforded any weight.

92. It is accepted by the Appellant that the lease of The Master's House by the Cinema Museum "...is not a planning issue". But the planning permission, given its second condition, is personal to the Cinema Museum and their continuing occupation of the building, which would be likely given the undertaking to offer a long term lease, would almost certainly be ensured if planning permission was to be granted. This would be positive for the maintenance of the fabric of the historic asset and for the character of the building. The retention of the Cinema Museum use of The Master's House, for social reasons also, is afforded moderate weight.

### **Heritage and Planning balance**

93. The proposed development would cause less than substantial harm of high magnitude to the setting and significance of the Water Tower, would cause less than substantial harm of moderate magnitude to the settings and significance of The Master's House, the RRCA, the WeSCA and the ERCA, and would cause less than substantial harm of minor magnitude to the settings and significance of the Former Lambeth Magistrate's Court and the WaSCA. Paragraph 196 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset the harm should be weighed against the public benefits of the proposal.

94. The planning and therefore public benefits of the proposal, some of which are substantial, outweigh, as a matter of planning judgement, the less than substantial harm, even though this is of high magnitude with regard to the Water Tower, that would be caused to the significance of heritage assets.

95. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is at the heart of the planning balance.

96. The proposed development would cause harm in addition to that which would be caused to the significance of heritage assets. Substantial and unacceptable harm would be caused to the character of the area, substantial and unacceptable harm would be caused to the amenities of residents of dwellings around the site, and the proposed development would not optimise the housing use of the site, because it would cause unacceptable harm. Furthermore, the proposed housing scheme would not be a mixed and balanced community and some intended residents of the proposed development would have poor living conditions.

97. The substantial harm that would be caused by the proposed development is not outweighed, as a matter of planning judgement, by the public benefits. This

conclusion would be the same if the harm caused would only be to the character of the area and to the amenities of residents of dwellings around the site.

98. The proposed development, with regard to Section 38(6) of the 2004 Act, conflicts with LP policies 3.8, 7.6, 7.7 and 7.8 and with LLP policies H4, Q2, Q20 and Q26. The public benefits of the scheme are material considerations but they do not indicate that the appeal should be determined other than in accordance with the Development Plan.

99. Future housing provision in Lambeth is addressed in Topic Paper 10a to the DRLLP, published in October 2020. The Woodlands Nursing Home site is identified in a schedule of developable large sites for years 11-15 as being a site that could accommodate 90 housing units. The Council has not at any time suggested that the site is not suitable, and is clearly intending to allocate it, for housing. It is likely, therefore, that market housing and affordable housing will be built on the site in the future, though not to the same quantum as considered in this decision. Such a development could secure public benefit without causing unacceptable harm and could secure the future long-term use of The Master's House by the Cinema Museum.

*John Braithwaite*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ms H Sergeant	Of Counsel
She called	
Mr D Black IHBC MRTPI	Team Leader, Conservation and Urban Design at LB of Lambeth
Ms D Barnett MPlan MRTPI	Principal Planning Officer at LB of Lambeth
Mr I Dias BSc(Hons) MRICS	Partner at Schroeders Begg (UK) LLP
Mr J Holt B RTP	Principal Planning Officer at LB of Lambeth

### FOR THE APPELLANT:

Mr S White	Queens Counsel
He called	
Mr C Graham BArch(Hons) DipArch RIBA	Main Board Director of Rolfe Judd
Mr N Ireland MRTPI	Director of Icen Projects Ltd
Mr C Miele IHBC MRTPI	Senior Partner of Montagu Evans
Mr N Lane BA(Hons)	Director of Point 2
Mr D Considine BSc(Hons) DipTP	Director of TP Bennett
Mr N Farrer CMLI PPLI FLI	Director of Farrer Huxley Ltd

### FOR STOP THE BLOCKS

Mr R Kohli	Of Counsel
He called	
Mr V Maher MA MCD MBA MSc MRTPI	Planning Consultant

### INTERESTED PERSONS:

Mr S Oakeshott	Local resident
Ms K Ford	Cinema Museum
Mr Z Wilcox	Local resident
Ms F Lockheart	Local resident

Ms K Loddo	Local resident
Mr G Neale	Borough Councillor
Ms P Harvey	Local resident
Ms L Habgood	Local resident
Ms S Lewis	Local resident
Mr G Evans	Local resident
Mr A Saint	Local resident
Mr G Voce	Local resident
Mr N Poteri	Local resident
Mr H Brainch	Local resident
Mr T Millson	Local resident
Ms T Hennessey	Local resident
Mr T Hanafin	Local resident
Ms J Simpson	Borough Councillor
Mr T Smith	Local resident
Mr D Weighton	Local resident
Ms M Harman	Local resident
Mr P Yaghmourian	Local resident

## **INQUIRY DOCUMENTS**

- 1 Appellants' Opening Submissions.
- 2 Opening on behalf of the Local Planning Authority.
- 3 Opening on behalf of Stop the Blocks.
- 4 Signed and dated Statement of Common Ground.
- 5 Bundle of statements by Local Residents.
- 6 Playspace calculation.
- 7 Core Document List.
- 8 LPA regarding Water Tower Development and comments on conditions.
- 9 Errata of Mr Miele.
- 10 Transient Overshadowing – 21 March and 21 June.
- 11 Amenity space calculations note.
- 12 Note by Mr Dias in response to information from Mr Lane.

- 13 Corrections to Mr Maher's Proof of Evidence.
- 14 Section 106 Unilateral Undertaking.
- 15 Objections by LB of Lambeth to the UNCLE development.
- 16 Updated list of drawings.
- 17 Environment Agency letter dated 19 October 2020.
- 18 Waste Management Plan of July 2019.
- 19 Stop the Blocks suggested site visit locations.
- 20 Site Plan showing LB and ECOA boundary.
- 21 LPA statement of compliance on the Section 106 Unilateral Undertaking.
- 22 Appellant's Briefing Note on the Section 106 Unilateral Undertaking.
- 23 Appellant and LPA's suggested site visit locations.
- 24 Updated draft conditions.
- 25 Updated Stop the Blocks suggested site visit locations.
- 26 Suggested conditions with waste management condition.
- 27 Completed Section 106 Unilateral Undertaking.
- 28 Closing Statement by the LPA.
- 29 Case law relied on by the LPA.
- 30 Closing Statement on behalf of Stop the Blocks.
- 31 Closing Statement on behalf of the Appellant.