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Agreed STATEMENT OF COMMON GROUND For Linked appeals

Appeal A - proposing 15 Apartments and

Appeal b - proposing 21 Apartments

**APPEAL REFS: APP/L5810/W/19/3242694 AND APP/L5810/W/19/3242696**

London borough of richmond-upon-thames application refs:

16/2352/FUL and 18/4156/FUL

Site At: 4 and 6 manor road, teddington,

tw11 8bg

ON BEHALF of: Appellant- 4 manor road ltd and lulworth homes And

London Borough of richmond-upon-Thames

**1st September 2020**

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**APPENDICES**

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1. Introduction and Description of Development
2. **Introduction**
   1. This Statement of Common Ground (SoCG) has been prepared jointly by PowerHaus Consultancy on behalf of 4 Manor Road Ltd and Lulworth Homes (“the Appellants”) and the London Borough of Richmond Upon Thames (“LBRuT/ the Council”), in relation to two linked appeals (“Appeal A for 15 Apartments - APP/L5810/W/19/3242694and Appeal B for 21 Apartments APP/L5810/W/19/3242696”), under Section 78 of the Town and Country Planning Act 1990, against the non-determination of planning permission for two separate developments.
   2. Both appeals concern the same red line site, which is known as 4 and 6 Manor Road, Teddington, TW11 4BG. A site location plan is attached at **Appendix 1**. Both appeal schemes retain the existing eight apartments at 4 Manor Road (4MR) and propose the demolition of 6 Manor Road (6MR) currently two dwellings, also known as 1 and 2 Braemar Cottages.
   3. Appeal A was submitted to the Council on 13th June 2016 and validated by the Council on 21st June 2016. The formal description of development is:

*“Demolition of 6 Manor Road and erection of three storey building to create 12 additional two bedroom apartments, car parking spaces, bicycle storage, amenity space and related ancillary works. Erection of additional storey on 4 Manor Road for three two bedroom apartments and related ancillary works.”*

* 1. Appeal B was submitted to the Council on 17th December 2018 and validated by the Council on 4th January 2019. The formal description of development is:

*“Demolition of 6 Manor Road and erection of three storey building with basement level to create 12 x 2 bed (2B4P) flats. Erection of a 5 storey front/side extension and 2 storey roof extension to 4 Manor Road to facilitate the provision of 9 additional residential apartments (1 x 1 bed and 8 x 2 bed). Associated hard and soft landscaping, cycle and refuse stores and new basement parking.”*

1. **Application Drawings and Documents for Determination of Appeal Decisions** 
   1. Tables 1.1 and 1.2 below set out the list of agreed application drawings against which Appeal A for 15 units is to be determined, including updated or additional drawings submitted with the appellants statement of case. The additional drawings are considered by both parties to address relevant planning considerations and help to inform reasonable planning conditions.

**Table 1.1 – Appeal A 15 Units - Submitted Application Drawings**

|  |  |
| --- | --- |
| Drawing Title | Reference |
| Site Location Plan | 4707\_3\_72 |
| Proposed Site and Context Plan | 4707\_3\_50 |
| Proposed Basement Parking Plan (with hand written proposed signage notes) | 4707\_3\_51 |
| Proposed Ground Floor Plan | 4707\_3\_52 |
| Proposed First and Second Floor Plans | 4707\_3\_53 |
| Proposed Third Floor and Roof Plans | 4707\_3\_54 |
| Proposed East and West Elevations | 4707\_3\_60 |
| Proposed South Elevations | 4707\_3\_61 |
| Proposed North Elevations | 4707\_3\_62 |
| Proposed Context Sections | 4707\_3\_65 |
| Proposed Section A-A | 4707\_3\_32 |
| Existing Site Plan | 4707\_3\_03 |
| 6 Manor Road Existing Floor Plans | 4707\_3\_04 |
| 6 Manor Road Existing Sections and Elevations | 4707\_3\_05 |
| 4 Manor Road Existing Basement Parking Plan | 4707\_3\_06 |
| 4 Manor Road Existing Roof Plan | 4707\_3\_07 |
| 4 Manor Road Existing North Elevation | 4707\_3\_08 |
| 4 Manor Road Existing South Elevation | 4707\_3\_09 |
| Existing Building Showing Flood Levels | 4707\_3\_70 |
| Construction Site Layout Plan | 4707\_3\_71 |
| Landscape Plan | 516-P-02 |

**Table 1.2 – Appeal A 15 Units- Updated Drawings Submitted with Appellants Statement of Case**

|  |  |
| --- | --- |
| **Drawing Title** | **Drawing No.** |
| Privacy Measures Plans | 4707\_3\_90 |
| Construction Strategy T7 + Bin Store | 5039\_3\_118 |
| Electric Vehicle Charging Points | 5039\_3\_123 |
| Landscape Plan | 516-P-02Rev A |

* 1. Tables 1.3 and 1.4 below set out the list of agreed application drawings against which Appeal B for 21 units is to be determined, including updated or additional drawings submitted with the appellants statement of case.

Table 1.3 – Appeal B 21 Units – Submitted Application Drawings

|  |  |
| --- | --- |
| **Drawing Title** | **Drawing No.** |
| Existing Site Plan | 5039\_3\_81 |
| 6 Manor Road Existing Floor Plans | 5039\_3\_82 |
| 6 Manor Road Existing Sections and Elevations | 5039\_3\_83 |
| 4 Manor Road Existing Basement Parking Plan | 5039\_3\_84 |
| 4 Manor Road Existing Roof Plan | 5039\_3\_85 |
| 4 Manor Road Existing North Elevation | 5039\_3\_86 |
| 4 Manor Road Existing South Elevation | 5039\_3\_87 |
| Site and Context Plan | 5039\_3\_88 |
| Basement Parking Plan | 5039\_3\_89 |
| Ground Floor Plan | 5039\_3\_90 |
| First and Second Floor Plans | 5039\_3\_91 |
| Third and Fourth Floor Plans | 5039\_3\_92 |
| Sections CC, DD and EE | 5039\_3\_93 |
| South and West Elevations | 5039\_3\_94 |
| North and East Elevations | 5039\_3\_95 |
| Contextual Sections | 5039\_3\_96 |
| Landscape Plan | 516-LA-P-02 |

Table 1.4 – Appeal B 21 Units - Updated Drawings Submitted with Appellants Statement of Case

|  |  |
| --- | --- |
| **Drawing Title** | **Drawing No.** |
| Root Protection Area Sections | 5039\_3\_117 |
| Construction Strategy T7 + Bin Store | 5039\_3\_118 |
| Construction Strategy – Front Extension – 1 | 5039\_3\_119 |
| Construction Strategy – Front Extension – 2 | 5039\_3\_120 |
| Privacy Measures – Plans | 5039\_3\_122 |
| Electric Vehicle Charging Points | 5039\_3\_123 |
| Landscape Plan | 516-LA-P-02-A |

* 1. **Appendix 2** contains the agreed list Documents and Plans relevant to each scheme which repeats the information above, whilst adding the relevant documents.

1. Site location and Planning History

Site and Surroundings

* 1. The site comprises two adjoining sites, 4 and 6 Manor Road, Teddington, TW11 8BG. 4 Manor Road (4MR) abuts the highway, whilst 6 Manor Road (6MR) shares the same access to 4 Manor Road and lies behind it. 4MR contains a three storey (plus semi basement) modern residential building comprising 8 apartments with lower level parking. 6MR comprises 2no. two-storey plus roof accommodation houses (known as 1 and 2 Braemar Cottages), which incorporate numerous modern extensions. The site covers an area of approximately 0.197ha.
  2. The site is located about 50 metres from the junction of Manor Road with Ferry Road to the south east. The Manor Road Recreation Ground is located approximately 70 metres to the north west, alongside Braemar and Faversham Houses. The site is separated from the River Thames (to the northeast) by the development known as ‘Quay West Court’ (19 Ferry Road). The southeast of the site is bounded by the rear gardens of nos. 1-17 (odd) Ferry Road and Braemar House (10 Manor Road), which separates the site from the Recreation Ground to the northwest.
  3. Manor Road is designated in the Proposals Map (Adopted July 2013) as a Secondary Road. The road comprises two-way traffic in single lanes and has demarked (but un-segregated) cycle lanes in both directions. The road is not in a controlled parking zone and has no on-street parking spaces.
  4. The site has a PTAL rating of 2.Teddington station is approximately 15 minutes’ walk from the site with regular trains towards London Waterloo, Kingston, Richmond and Shepperton. The nearest bus stop (Ferry Road / Kingston Road) is approximately 130m away, which serves bus routes 281 (Tolworth Tower to Hounslow Bus Station), 285 (Heathrow Station to Cromwell Road Bus Station) and R68 (Kew Retail Park to York Street, Twickenham).
  5. The surrounding area is mixed in character. It includes post war developments of four storeys and semi-detached style housing of three and four storeys. More recent developments nearby are predominantly flatted blocks.
  6. Views of 6MR are currently restricted due to its position behind 4MR and the existing trees. The existing building at 6MR is also screened from Ferry Road to the East.
  7. The appeal site is well located to social, community, economic and environmental local facilities within and surrounding the defined Teddington Town Centre including: doctors’ and dental surgeries, places of worship, community halls, supermarkets, pharmacies, local shops, cafes, pubs and restaurants, day nurseries and schools, a swimming pool and sports clubs, playgrounds and playing fields and the nearby amenity areas of local recreation grounds, the River Thames riverside pathways and the Ham Lands Nature Reserve.
  8. The properties within the site are not statutorily listed but the site falls within the Teddington Lock Conservation Area. It also falls within an Area of Archaeological Priority.
  9. There is a Tree Preservation Order (TPO) Wood Group (TPO G1) to the northeast of the site.
  10. The entirety of the site falls within the Environment Agency’s (EA) Flood Zone 3. The EA Flood Map for Planning identifies that a flood defence separates the site form the River Thames.

Site Specific Designations

* 1. The appeal site has the following designations on the adopted LBR Proposals Map (July 2018):
* Teddington Lock Conservation Area;
* Thames Policy Area;
* Area at Risk from Flooding; and
* Archaeological Priority Area.
  1. The appeal site contains no statutorily or non-statutorily listed buildings, but it is located within the Teddington Lock Conservation Area. There are some listed buildings within the surrounding area, namely the Grade II listed Boathouse and Church of St Mary (II\*).

Relevant Planning History

* 1. The relevant planning history for the appeal site is summarised in Table 2 below:

Table 2: Relevant Planning History for 4 & 6 Manor Road, Teddington

|  |  |  |
| --- | --- | --- |
| **Application Reference** | **Description** | **Decision and Date** |
| **4 and 6 Manor Road** | | |
| 18/4156/FUL | Demolition of 6 Manor Road and erection of three storey building with basement level to create 12 x 2 bed (2B4P) flats. Erection of a 5 storey front/side extension and 2 storey roof extension to 4 Manor Road to facilitate the provision of 9 additional residential apartments (1 x 1 bed and 8 x 2 bed). Associated hard and soft landscaping, cycle and refuse stores and new basement parking. | Undetermined and subject to Appeal |
| 16/2352/FUL | Demolition of 6 Manor Road and erection of three storey building to create 12 additional two bedroom apartments, car parking spaces, bicycle storage, amenity space and related ancillary works. Erection of additional storey on 4 Manor Road for three two bedroom apartments and related ancillary works. | Undetermined and subject to Appeal |
| 15/0688/FUL | Demolition of building and erection of five, three storey townhouses plus semi-basement car parking at 6 Manor Road, and provision of an additional storey of residential accommodation comprising two flats to the existing building at 4 Manor Road, and ancillary development. | Withdrawn |
| **4 Manor Road** | | |
| 10/0340/FUL | Formation of balconies to flats 2, 3, 5, 6, 7, 8 (first and second floors). Clear glass balustrading, timber deck within the confines of the existing structure. Removal of 6 windows and replacement with opening doors | Refused  *20/12/2010*  Appeal Allowed  15/09/2012 |
| 07/0644/FUL | Amendments to approved application 06.0197/FUL for demolition of existing house and erection of 8 flats with parking and landscaping to allow for design changes | Granted  18/05/2007 |
| 06/0197/FUL  06//0198/CAC | Demolition of existing house and erection of 3 storey building to provide 8 flats with parking and landscaping | Granted  25/08/2006 |
| **6 Manor Road** | | |
| 01/163/PS192 | Proposed Change of use from 2 units to single dwelling | Refused 20/11/2001 |
| 89/1163 | New window to front and new side screens to existing glazed roof canopy at rear. | Granted 12/07/1989 |
| 87/0744 | Erection of two storey extension incorporating staircase and internal alterations | Granted  130/07/1987 |

* 1. No other historic planning applications are of relevance to this appeal.

1. Development plan and other material considertations
   1. Under section 70 of the Town and Country Planning Act 1990 and section 38 of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the London Borough of Richmond Local Plan (July 2018 and March 2020) and London Plan (Further Alterations, published March 2016) (FALP).
   2. Other material considerations relevant to the determination of this appeal include:

* The National Planning Policy Framework (NPPF) (published February 2019);
* National Planning Policy Guidance (PPG) (2014 and regularly updated);
* Draft London Plan with Consolidated Amendments December 2019;
* Good Practice Guide on Basement Developments (published May 2015);
* Planning Obligations SPD (published July 2014);
* Nationally Described Space Standards (published March 2015);
* Small and Medium Housing Sites (published February 2006); and
* Design Quality SPD (published February 2006).

Emerging London Plan

* 1. The GLA announced in 2017 that a new London Plan would be prepared to replace the current FALP. The Examination in Public (EIP) began in 14 January 2019 and closed w/c 20 May 2019. Following the EIP hearings stage close, a consolidated version of the Plan with all the minor and further suggested changes was published July 2019. The Panel of Inspectors issued their report on 8th October 2019, which concluded that subject to the new London Plan incorporating all of the amendments to the draft London Plan published by the Mayor in July 2019 and the modifications attached in the Appendix to the Panel Report, the document could be found sound as a strategic policy document for London.
  2. In December 2019 the Intend to Publish version of the New London Plan was submitted. The Secretary of State responded on 13th March 2020 that this was not sufficient, that housing delivery in London has been deeply disappointing and unambitious. Furthermore, the SoS stated that the Mayor starts considering the next London Plan immediately, to meet the higher and broader housing needs of London. The Mayor’s response dated 24th April 2020 acknowledged the need to publish the London Plan as quickly as possible, particularly to provide the stimulus to the development industry and the wider economy in the recovery from the Coronavirus crisis. It was silent on a commitment to conduct an immediate London Plan review.
  3. Many of the draft policies contained within the ‘Intend to Publish’ draft London Plan relevant to the determination of this appeal have been examined and are not subject to required amendments in Annex 1 of the SoS Direction including (policies H1, H2, H4, H5, H6, H8, H10, HC1, G6, G7, SI 1, SI 2, SI 4 SI 5, SI 7, SI 12, SI 13, T2, T3, T4, T5, T6, T7, D5, D6, D7, D13 and D14). It is therefore considered that these policies can be given full weight.
  4. Draft ‘Intend to Publish’ policy D3 is therefore also given very significant, weight if not full weight in this assessment, given the SoS Direction to the London Mayor and an appeal decision dated 30th April 2020 (Appeal Ref: APP/L5810/W/18/3205616) identifying the weight given to draft London Plan policies.

Status of Housing Policies

* 1. The Housing Delivery Test (HDT) 2018 (published February 2019) measures net dwellings provided in a local authority area against the amount of homes required. The results of the 2018 Housing Delivery Test for Richmond showed 1,332 homes deliver 2015/16 to 2017/18 against 945 homes required, a measurement of 141%. The results for the 2019 Housing Delivery Test for Richmond showed 1,147 homes 2016/17 to 2019/20 against 945 homes required, a measurement of 121%.
  2. The FALP provides a target of 3,150 homes for 2015-2025 equating to 315 homes per annum. As indicated within Richmond’s Annual Monitoring Report (AMR) 2017/18, the Council’s housing trajectory indicates that it can fulfil its intended requirement. It also supports a 5% buffer provision consistent with national policy. However, boroughs are required to augment targets to address need.
  3. The Intend to Publish draft London Plan (December 2019) provides a target of 4,110 homes for Richmond for the period 2019-2029, equating to 411 dwellings per annum (dpa). Richmond’s small sites (0.25 hectares) ten year minimum target is 2,340 dwellings or 234 dpa. Paragraph 4.2.6 states that the small sites target represents a small amount of the potential for intensification, particularly in outer London, therefore they should be treated as minimums. The Intend to Publish does set out that an allowance for windfall sites (that are not specifically identified) is considered appropriate in five year housing trajectories, because of the nature of small sites.
  4. The Inspectors Report on the Examination of Richmond upon Thames Local Plan (April 2018) states that the new London Plan provides an opportunity for the Council to positively address and review the content of its own Plan to accommodate strategic changes. As stated in paragraph 9.1.1 of Richmond’s Local Plan ‘*the Council will, as necessary undertake a full or partial review of the Local Plan in light of the content of any new adopted London Plan which will include an assessment of its identified constraints and opportunities affecting housing delivery’*. Adopted Local Plan (July 2018).
  5. Based on the Council’s indication of the potential reasons for refusal that remain between the parties, the policies relevant to the determination of the appeal scheme are as follows:
* Policy LP 1 Local Character and Design Quality – Potential Reason for Refusal 1
* Policy LP 3 Designated Heritage Assets – Potential Reason for Refusal 1
* Policy LP 8 Amenity and Living Conditions – Potential Reason for Refusal 3
* Policy LP 16 Trees Woodlands and Landscape – Potential Reason for Refusal 4 – Appeal B only regarding Trees
* Policy LP 20 Climate Change Adaption - Potential Reason for Refusal 6
* Policy LP 22 Sustainable Design and Construction – Potential Reason for Refusal 6
* Policy LP 36 Affordable Housing – Potential Reason for Refusal 2
* Policy LP 39 Infill, Backland and Backgarden Development – Potential Reason for Refusal 1
  1. The policies listed below are considered to have been addressed by matters agreed in the SoCG.
* Policy LP 2 Building Heights
* Policy LP 5 Views and Vistas
* Policy LP 10 Local Environmental Impacts, Pollution and Land Contamination
* Policy LP 15 Biodiversity
* Policy LP 21 Flood Risk and Sustainable Drainage
* Policy LP 23 Water Resources and Infrastructure
* Policy LP 30 Health and Wellbeing
* Policy LP 31 Public Open Space, Play Space, Sport and Recreation
* Policy LP 34 New Housing
* Policy LP 35 Housing Mix and Standards
* Policy LP 38 Loss of Housing
* Policy LP 45 Parking Standards and Servicing
  1. The FALP policies relevant to the determination of this appeal are:

3.2 - Improving health and addressing health inequalities; 3.3 and Table 3.1 - Increasing Housing supply; 3.4 and Table 3.2 - Optimising housing potential; 3.5 - Quality and design of housing developments; 3.6 - Children and young people’s play and informal recreation facilities; 3.8 - Housing choice; 3.9 - Mixed and balanced communities; 3.10 - Definition of affordable housing; 3.11 - Affordable housing targets; 3.12 - Negotiating affordable housing on individual private residential and mixed use schemes; 3.13 - Affordable Housing Thresholds; 5.1 - Climate change mitigation; 5.2 - Minimising carbon dioxide emissions; 5.3 - Sustainable design and construction; 5.7 - Renewable energy; 5.9 - Overheating and cooling; 5.10 – Urban Greening; 5.11 - Green roofs and development site environs; 5.12 - Flood risk management; 5.13 - Sustainable drainage; 5.14 - Water quality and wastewater infrastructure; 5.15 - Water use and supplies; 5.21 - Contaminated land; 6.3 - Assessing effects of development on transport capacity; 6.9 – Cycling; 6.10 - Walking; 6.13 - Parking; 7.1 - Lifetime neighbourhoods; 7.2 An inclusive environment; 7.3 - Designing out crime; 7.4 - Local character; 7.5 – Public realm; 7.6 – Architecture; 7.7 - Location and design of tall and large buildings; 7.8 – Heritage Assets and Archaeology; 7.14 - Improving air quality; 7.15 - Reducing noise and enhancing soundscapes; 7.19 - Biodiversity and access to nature 7.21 – Trees and woodlands; 8.3 - Community infrastructure levy.

1. MATTERS NOT IN DISPUTE
   1. This section sets out a factual account of all matters that both parties agree are not in dispute. These include:
2. Description of Development for Appeal A and Appeal B;
3. Principle of Residential Development;
4. Demolition of 6 Manor Road;
5. Measurements in relation to adjacent existing buildings as shown on Dwg: 5039-3-115
6. Housing Requirement and Mix of house types and sizes for the site;
7. That the adopted housing requirement for the LBRUT administrative area is 315 net additional homes per annum over the FALP Plan Period of 2015 – 2025. This target is rolled forward until it is replaced by a revised London Plan target;
8. That the Council is currently passing the annual Housing Delivery Test (2019) based on these numbers and that currently no action plan is required; and
9. On adoption of the new draft London Plan (anticipated in Summer 2020) the annual housing numbers for LBRuT will be 411 dpa, however, these numbers should be given significant weight given the status of the draft London Plan housing policies.
10. Plan Reference 5039\_3\_114\_B has been prepared in agreement between the parties to reflect the viewpoints both parties would like the Inspector to note in undertaking a site visit (see **Appendix 3**).
11. Daylight/sunlight considerations relevant to potential reason for refusal 3 is not a matter between the parties;
12. Potential reason for refusal 4 in respect of Appeal A only – Trees, Biodiversity and Ecology subject to the imposition of conditions – see **Appendix 4 and Appendix 5**;
13. Potential for refusal Reason 5 – Sustainable Drainage Systems subject to the imposition of conditions attached at **Appendix 4 and** **6**.
14. Potential for refusal Reason 7 – Health Impact Assessment
15. Potential for refusal Reason 8 – Pedestrian Highway Safety including refuse storage, collection and parking, subject to the imposition of conditions set out in the conditions attached at **Appendix 4;**

**Appeal B – Trees**

* 1. The parties have agreed the following regarding trees relevant to Appeal B. There is universal agreement in light of the decay detection tests that that tree T26 (Copper Beech) is allowed for removal, subject and condition upon replanting.  Whilst the tree is structurally sound for the short term, the trees condition and advancing decay plus safe useful life expectancy makes longer term retention questionable.  It would not be reasonable to insist this tree is retained.
  2. With regards to T29, there was agreement that the root protection area is likely more extensive than a notional root protection area (RPA) circle, and would be bias towards the existing building.  The existing ground levels within the trees RPA have been historically raised, but the overall loss of this modified ground is not as significant as originally thought.  The cantilevered foundation proposal overcomes the need for extensive foundations within the trees RPA and the loss of soft ground is broadly acceptable.

**Views with Regard to Sequential and Exceptions Test**

* 1. The Inspectorate has asked for the parties views with regard to the schemes in terms of the sequential and exceptions tests for development in flood areas. The Council’s Strategic Flood Risk Assessment confirms that a considerable proportion of the Borough is at risk of flooding (para 3.31 submitted Flood Risk Assessment Dec 2018). With also two large Royal parks (Richmond Park and Bushy Park), the Borough does not have large areas of unconstrained land available for new housing. It is therefore essential that every site within the Borough’s important towns of Richmond, Twickenham and Teddington are carefully considered on their merits for the contribution that they can make to the economic vitality of these towns even when located within a flood zone. Close to the appeal site, the project of 220 flats on the banks of the River Thames at Teddington Riverside was recently completed following the completion of a sequential test. The subject site is surrounded on all 4 sides by housing completed in the Victorian era, the Edwardian era, in the 1960’s and in the 1980’s with each development making its own allowance for its flood plain location.
  2. Water Environment Ltd (WEL) has undertaken all the assessments and reports relating to the appeal site since the 2016 application and has consulted with the Council regarding the methodology to be used in the sequential tests and to obtain the latest list of available housing sites from the Councils housing Monitoring Reports.
  3. The Sequential Test (ST) dated June 2016 and submitted in support of Appeal A concluded that the ST is considered to be passed. The Flood Risk Assessment (FRA) dated June 2016 in support of Appeal A also confirms at para 5.50 that the development passes the Exception Test (ET).
  4. The ST dated November 2018 submitted in support of Appeal B concluded that the ST is considered to be passed. The Flood Risk Assessment, SUDS Strategy and Exception Test dated December 2018 in support of Appeal B at para 5.50 confirms that the development passes the ET To ensure that the conclusions of the original sequential tests remain relevant. A new Sequential Test Update dated May 2020 was prepared and submitted in respect of both applications and this also concluded that the ST is considered to be passed.
  5. It is agreed therefore that both appeal schemes meet both parts of the requirements of the NPPF exception test set out in paragraphs 160 and 161. With regard to flood risk it is agreed that the schemes meet the criteria of paragraph 163 of the NPPF, with the imposition through conditions to implement the agreed Flood Emergency Evacuation Plans.
  6. It is agreed that the schemes incorporate sustainable drainage systems in accordance with paragraph 165 of the NPPF.
  7. Affordable Housing – Financial Viability Assessment Matters
  8. The updated Affordable Housing & Viability Report prepared by Bailey Venning Associates on behalf of the Appellants and dated April 2020 (the BVA Report) confirms that neither development proposal has a current viability that is sufficient to make a contribution towards affordable housing. This report was reviewed by Bespoke Property Consultants on behalf of the Council and their reports (the BPC Review) dated June 2020 agree the conclusion of the BVA Report but arrive at that conclusion using alternative assumptions.
  9. The BVA Report and the BPC Review therefore confirm that the Appeal A and Appeal B are each providing the maximum reasonable amount of affordable housing in accordance with Local Plan policy LP36 including viability considerations.
  10. The Appellants and the LBRuT will enter into a bi-lateral legal agreement that will include a review mechanism in line with current adopted local plan policies and the draft London Plan policies to ensure that, if the viability level sufficiently improves, an off-site contribution towards affordable housing will be made in line with agreed formulas for its calculation. In the absence of this completed legal agreement, this would be a matter in dispute.

Agreed Viability Inputs

* 1. The following viability inputs for the 2016 application are agreed as between the Appellants and the Councils consultants with the figures for the 2018 application shown in brackets where different:

Ground Rents : £450 per unit capitalised at 5.5%

Development Value : £8,955,000 (£12,567,000)

Benchmark Land Value : £2,425,000 (£2,600,000)

Site Acquisition Costs : 1.75% plus stamp duty

Professional Fees : 10%

Construction Period : 18mths

Contingency : 5%

Sales & Marketing : 3%

* 1. Whilst the Appellants and the Councils consultants have different views regarding the level of building costs and developers profit as described below they have both arrived at the same overall conclusion on viability as set out in para 4.3 above. The route by which the conclusion was reached and the viability assessment model used were different but the conclusion reached was the same. As such, the Appellants have not considered it necessary to further discuss either aspect with the Councils consultants.

Build Costs

* 1. The BVA Report included a cost plan prepared by Christopher Smith Associates (CSA) which indicated a build cost figure of £3,949,480 (£5,686,000) . The BPC Review included a review of the CSA build costs by MiCam which suggested that the build cost should be lower at a figure of £3,667,271(£5,144,604). The review by MiCam included a number of supplier quotes which has led to a more informed understanding of the likely out turn build costs for the project which has been helpful to the process.

1. Matters in dispute AND POSITION STATEMENT
   1. The matters that remain in dispute between the parties are:

Appeals A and B

1. Design and Conservation Area Impact – the position of each party is covered in the respective Statements of Case
2. Neighbouring Impact in terms of Quay West Court and existing residents of 4MR – the position of each party is covered in the respective Statements of Case
3. Affordable Housing- whilst both parties agree that neither Appeal A or Appeal B can make a viable contribution to affordable housing at this time, in the absence of a completed legal agreement securing an agreed affordable housing review, the parties disagree on this matter.
4. CO2 Emissions - In the absence of a completed legal agreement to pay a carbon off-set payment of £6,391 for Appeal A and £10,107 for Appeal B, this remains a matter of dispute.

The appellants and the Council are in the process of trying to complete a bi-lateral legal agreement which would resolve the above two matters, and it is still hoped that this will be resolved prior to the hearing. Please note that the Council does not agree with a UU regarding the affordable housing, as there are obligations on the Council’s External Consultant to assess viability information and agree the results.

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**On behalf of the Appellants by Powerhaus Consultancy**

**Date: 1st September 2020**

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**On behalf of LBRuT**

**Date: 1st September 2020**