



Former Stag Brewery
Statement of Case

Appellant's Statement of Case

On behalf of: Reselton Properties Ltd

Date 16 February 2024

Town and Country Planning Act 1990 Section 78; Town and Country Planning (Inquiries Procedure)
(England) Rules 2000

NTH/AKG/STHO/U0019289

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Contents

Page

1	Introduction	3
2	Background and Context	6
3	Planning Policy Framework	10
4	Appellant's Case	11

1 Introduction

- 1.1 This statement of case relates to two linked planning appeals arising from the non-determination of two linked planning applications for the comprehensive redevelopment of the former Stag Brewery (hereafter known as the ‘Proposed Development’) in the London Borough of Richmond upon Thames (‘The Site’).

Site and Surrounding Area

- 1.2 For a detailed description of the Site and Surrounding area see Section 5 of the Town Planning Statement (TPS), prepared by Gerald Eve LLP, dated 19 April 2022.

Proposals

- 1.3 Appeal A (known as ‘Application A’ in the planning application supporting documents) seeks outline planning permission, with some matters reserved, for:

“Hybrid application to include the demolition of existing buildings to allow for comprehensive phased redevelopment of the site:

Planning permission is sought in detail for works to the east side of Ship Lane which comprise:

a) Demolition of existing buildings (except the Maltings and the façade of the Bottling Plant and former Hotel), walls, associated structures, site clearance and groundworks

b) Alterations and extensions to existing buildings and erection of buildings varying in height from 3 to 9 storeys plus a basement of one to two storeys below ground

c) Residential apartments

d) Flexible use floorspace for:

- i. Retail, financial and professional services, café/restaurant and drinking establishment uses**
 - ii. Offices**
 - iii. Non-residential institutions and community use**
 - iv. Boathouse**
- e) Hotel / public house with accommodation**
- f) Cinema**
- g) Offices**
- h) New pedestrian, vehicle and cycle accesses and internal routes, and associated highway works**
- i) Provision of on-site cycle, vehicle and servicing parking at surface and basement level**
- j) Provision of public open space, amenity and play space and landscaping**
- k) Flood defence and towpath works**
- l) Installation of plant and energy equipment.**

Planning permission is also sought in outline with all matters reserved for works to the west of Ship Lane which comprise:

- a) The erection of a single storey basement and buildings varying in height from 2 to 8 storeys**
- b) Residential development**
- c) Provision of on-site cycle, vehicle and servicing parking**
- d) Provision of public open space, amenity and play space and landscaping**

e) New pedestrian, vehicle and cycle accesses and internal routes, and associated highways works.”

1.4 This reflects an updated description of development that was considered by the London Borough of Richmond upon Thames’ (LBRuT) Planning Committee on 19 July 2023 and subsequently again on 31 January 2024. This is explained further in Section 2.

1.5 Appeal B (known as ‘Application B’ in the planning application supporting documents) seeks:

“Detailed planning permission for the erection of a three-storey building to provide a new secondary school with sixth form; sports pitch with floodlighting, external MUGA and play space; and associated external works including landscaping, car and cycle parking, new access routes and other associated works”.

Application Structure

1.6 For full details of the application structure, see Section 3 of the TPS, prepared by Gerald Eve LLP.

1.7 An Environmental Statement (‘ES’) has been prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). In addition, several stand-alone reports have been prepared in accordance with LBRuT’s validation requirements and as agreed with LBRuT officers within a Planning Performance Agreement, dated 7 January 2022. A full list of documents and plans, including substituted material, is set out at Appendix A of this Statement.

1.8 Although the redevelopment proposals are the subject of two separate applications for planning permission, the majority of the submitted application documents, reports and assessments consider the development proposals as a collective whole (i.e. the scope of development proposed under both applications for planning permission). These documents were submitted under Applications A and B. Application B was accompanied by additional documents, drawings and reports relating specifically to the proposed works in respect of the proposed school.

2 Background and Context

- 2.1 For background information and context, including information of relevant planning decisions pertaining to the Site, see Section 2 of the TPS, prepared by Gerald Eve LLP.
- 2.2 Following the submission of the 2022 applications, and as a result of comments received during the first consultation period, a series of amendments were made to the scheme (the First Substitution Pack). The explanation of these changes together with the identification of those plans and documents required to be substituted is set out in document 345a of this appeal bundle. These changes were submitted in August 2022 and were the subject of a further round of statutory consultation undertaken by the Council between 16 December 2022 and 14 January 2023.
- 2.3 On 12 December 2022, the Applicants met with the GLA and LBRuT to discuss the scheme and the extent to which it would be able to be supported by the GLA. From this meeting it was clear that there were significant differences of opinion relating to the outcome of the Financial Viability Assessment and the maximum reasonable quantum of affordable housing that could be supported by the scheme. For this reason, the Applicant concluded that, even in the event of a positive resolution from the LBRuT and given the Mayor's previous decision to overturn his own officer's recommendation for approval in 2021, it was likely that the GLA would direct refusal if the applications were referred to the Mayor.
- 2.4 Notwithstanding this, the Appellant has continued to work with LBRuT to ensure the applications respond as far as possible to the Council's comments. The Applicant has also engaged regularly with the GLA to continue to seek their agreement. As a result of feedback from LBRuT, a further submission of amendments was made on 28 April 2023 (the Second Substitution Pack). This submission reflected a revised affordable housing offer which had been discussed and agreed with LBRuT officers.
- 2.5 Initially, there were two statutory consultation periods for the Applications the first: April - May 2022 and the second: December 2022 – January 2023. Appeal document 580 summarises responses received from statutory consultees and the Appellant responses in

September 2022. Appeal document 623 summarises responses received from statutory consultees and the Appellant response in February 2023. The Appellant has sought to positively respond to all statutory consultations as far as possible.

2.6 The Applications were heard at the LBRuT's Planning Committee on 19 July 2023. The Planning Committee resolved to approve both Applications. The Officer's Report recommends both Applications for approval, subject to four provisions i) referral to the Greater London Authority (GLA) at Stage 2 and no adverse direction being received in response from the GLA; ii) Completion of a Section 106 Legal Agreement; iii) Conditions and informatives; and ix) Additional and amendments to conditions and heads of terms as considered to be required by the Assistant Director, ECS (Planning & Transport Strategy), subject to these not being significant in nature and go to the heart of the Application (see Officer's Report pages 5-6).

2.7 The report concluded the following for each Application:

Application A: **"To conclude: Both applications raise a number of detailed issues with technical complexity. The report sets out a thorough assessment of the proposals in order to achieve an Officer recommendation on the two schemes. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. There are a number of instances where the proposals, particularly Application A, do not meet policy requirements; nevertheless, officers conclude that – on balance – the proposals comply with the Development Plan when taken as a whole, there are clear public benefits arising from the scheme of very substantial weight in support of the proposal and there are no material considerations of sufficient weight that indicate a different decision should be taken. The applications are therefore recommended for approval"** (paragraph 11.18).

Application B: **"As the report identifies there are aspects of the application that do not fully comply with planning policy and guidance or has shortcomings. However, it is necessary to decide what weight should be afforded to be each of these, and whether the harm is outweighed by the mitigation measures or benefits this scheme delivers. Overall, with the**

Heads of Terms and conditions agreed, this application is deemed to represent a high quality development that will deliver significant community benefits that outweigh the harm, through the opportunity to provide a much needed secondary school and sporting facilities” (paragraph 11.27

2.8 Following the LBRuT’s resolution to grant both Applications, the Government confirmed their intention to mandate second staircases in new residential buildings above 18 metres. In response, the Appellant revised Application A so that all buildings over 18 metres in height provided a second stair core. The amended designs and relevant supporting documentation were formally submitted to LBRuT on 3 November 2023 to supersede previously provided information and now form part of Application A (the Third Substitution Pack). Application B remained unchanged.

2.9 The changes required to Application A were subject to a third statutory consultation period between November – December 2023.

2.10 Application A was heard at planning committee on 31 January 2024. The Planning Committee resolved to approve the application. The Officer’s Report recommended the Application for approval, subject to five provisions: i) referral to the Greater London Authority (GLA) at Stage 2 and no adverse direction being received in response from the GLA; ii) referral to the Secretary of State (NPCU) and no adverse direction being received in response; iii) completion of a Section 106 Legal Agreement securing the Heads of Terms set out in Section 9 to the satisfaction of the Head of Development Management; iv) conditions and informatives set out in Sections 12 and 13 of the report; and v) additional and amendments to conditions and heads of terms as considered to be required by the Head of Development Management, subject to these not being significant in nature and not go to the heart of the Application (see Officer’s Report pages 7-8 and 120).

2.11 The report concluded the following:

“As set out in Section 8 of this report, the amendments are minor in nature and do not go to the heart of the application. Whilst there are new benefits ‘disabled parking bays to the affordable M4(3) homes with no charge’ and more harms ‘increase in single aspect units



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and units with poor outlook’, these do not alter the planning balance overall reached in the July scheme. Therefore, when comparing the amended scheme against the planning balance of the July Report (as summarised in paragraph 11.2 above), the same conclusions are reached, and ultimately paragraph 11.3 still applies.”

- 2.12 Prior to the committee meeting the Applicant spoke again with officers at the GLA who again indicated that, if the scheme were referred, it was likely to be refused. It is for this reason, and this reason alone, that the Appellant has reluctantly taken the decision to expedite the determination of the applications through the submission of Appeals on the ground of non-determination.
- 2.13 The Appellant has submitted a draft Statement of Common Ground and a separate draft Statement of Common Ground (covering viability matters only) which will be progressed with all parties and submitted prior to a Public Inquiry.

3 Planning Policy Framework

- 3.1 For details of the Planning Policy Framework see Section 8 of the TPS, prepared by Gerald Eve LLP.
- 3.2 At the point of submission (March 2022) the LBRuT draft Local Plan was at Regulation 18 stage. At that time, given the early stages of the consultation on the draft new Local Plan, it was considered the plan had limited weight in planning decision making in the borough.
- 3.3 The Publication Version Local Plan and evidence base was submitted to the Secretary of State for examination on 19 January 2024.
- 3.4 The addendum to the Officer's Report for committee on 31 January 2024 stated that the submission documents "do not form part of the statutory development plan for the Borough, however, by publishing and submitting the Borough Local Plan for independent examination the Council has formally confirmed its intention to adopt the Publication Plan".
- 3.5 At this time, it is considered the weight to be given to this emerging policy is limited given it has not been subject to the rigour of an independent examination in public. It does, nevertheless, identify the Council's clear intent.
- 3.6 The weight carried by the policies contained within the Publication Version Local Plan was considered by the LBRuT in July 2023 to be a "material consideration for the purposes of decision-making" on planning applications (paragraph 6.2). This position was unchanged in the officer's report in January 2024 (paragraph 6.3).
- 3.7 An updated National Planning Policy Framework was published in December 2023 which is a material consideration to the determination of planning applications

4 Appellant's Case

4.1 The following assessment summarises the key planning matters pertinent to the determination of the applications (A and B).

4.2 Section 70 of the Town and Country Planning Act 1990 relates to the determination of applications for planning permission. Subsection (2) states:

"In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."

4.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

Principle of Redevelopment

4.4 The principle of comprehensive mixed-use redevelopment at the Site accords with planning policies and guidance at all levels, which seek to bring forward appropriate sites, in appropriate locations for residential-led mixed-use development. Locally, the adopted Stag Brewery Planning Brief (SBPB), dated July 2011, and Local Plan development allocation (Policy SA 24) contain detailed information regarding the form of development that should be delivered at the Site

4.5 The Application proposals would deliver the vision for the Site (as identified in the adopted SBPB and Policy SA 24 and emerging Site Allocation 35) and would regenerate Mortlake through substantial housing delivery and sustainable mixed-use development. The principle of losing the former industrial brewery use has been accepted, both at a strategic and local level, and there is no policy requirement for the re-provision of industrial uses. The loss of the existing playing fields has been justified in the context of the masterplan and the wider substantial sporting benefits the scheme will deliver.

4.6 The principle of the proposal is supported by national planning policies and guidance, at the strategic London-wide level, and also in adopted and emerging local policies, objectives and guidance.

4.7 The principle of the Site's redevelopment therefore fully complies with planning policy and should be supported and encouraged.

Housing

4.8 Following the Third Substitution Pack, submitted on the 3 November 2023, the applications would provide up to 1,075 residential units.

4.9 The Site is a brownfield site and, in line with national, London Plan and local policy aspirations both adopted and emerging, the Proposed Development would deliver homes for which there is a clear identified need. It is therefore considered that the principle of the development of housing on the Site is fully supported by planning policy at all levels and encouraged

Town Centre Uses

4.10 Application A proposes to deliver the following town centre uses (as set out in appeal document 267g):

- a) 4,909 sqm (GIA) 'Flexible use' floorspace to allow for a mix of shops, restaurants, cafes, pubs and bars, offices, leisure and community spaces along the new High Street and the new riverside walk, as well as through the connecting routes;
- b) 1,897 sqm (GIA) office floorspace (Building 5);
- c) A new cinema, located on the corner of Lower Richmond Road and Sheen Lane (Building 1); and
- d) A new hotel/pub with accommodation (up to 15 beds) within the Former Hotel Building (Building 5).

- 4.11 The Site is within an Area of Mixed Use (AMU), where town centre uses that serve primarily local needs will be considered appropriate (LP 25 Part C(1)). In addition, the Site is also subject to a Site Allocation (SA 24) which supports town centre uses, as does the Stag Brewery Planning Brief (SBPB). The AMU designation is not carried forward in the Publication Version of the Local Plan. Emerging Policy 1 of the Publication Version Local Plan seeks a mixed pattern of land uses to achieve the LBRuT's 'living locally' concept and there is focus on commercial, retail and community uses through the emerging general retail, community infrastructure and employment policies. Further, the Publication Local Plan place-based strategy for Mortlake & East Sheen sets the vision to create a new recreational and living quarter through the redevelopment of the Stag Brewery site, with commercial uses generating vibrancy, local employment, community and leisure opportunities, along with a link between the town and the Riverside. The draft Site Allocation (35) also seeks an appropriate mix of uses.
- 4.12 Therefore, the development of town centre uses as part of the wider masterplan is entirely appropriate in policy terms and will contribute positively towards meeting the stated aims and objectives of the SBPB, the adopted Local Plan and the emerging Local Plan.

Leisure

- 4.13 The masterplan proposes a new cinema in Building 1 and 4,909 sqm (GIA) of flexible commercial space which includes the potential for leisure floorspace and a new boathouse.
- 4.14 London Plan Policies S1 and S5 state that development, providing high quality, inclusive social infrastructure which addresses a local or strategic need, and which delivers sport and recreation facilities, should be supported. London Plan Policies SI14 and SI16 also support leisure uses involving the use and enjoyment of the River Thames. With regard to evening economy uses, LBRuT Local Plan Policy LP 28 supports developments where social and community infrastructure is proposed, in line with the London Plan.
- 4.15 Local Plan Policy LP 18 expressly supports river activities, stating that developments which 'incorporate uses that enable local communities and the public to enjoy the riverside, especially at ground level in buildings fronting the river' will be supported. The Site Allocation

and the SBPB also encourage river activities and uses. The Publication Version draft Local Plan's place-based strategy for Mortlake & East Sheen expects future development along the river to contribute to "its valued leisure facilities" with the Stag Brewery site identified as a "significant opportunity" to create leisure opportunities.

- 4.16 The cinema, along with other leisure uses, has been assessed by RPS and found to have a positive and beneficial effect on local centres. Both uses would also help to deliver local employment. It is therefore considered that the policy objectives to ensure the vitality and viability of town centres are satisfied and that the proposed leisure uses at the Site fully support adopted and emerging planning policy on these matters.

Offices

- 4.17 Appeal A would deliver 1,897sqm standalone office (Class E) floorspace. Coupled with a minimum of 2,000 sqm in the flexible use area for offices, a minimum of 3,897 sqm office floorspace (maximum of 4,097sqm) will be provided at the Site.
- 4.18 Both the SBPB and the Site Allocation provide particular support for employment uses such as creative, scientific and environmental industries. Start-up units and lower cost units suitable for smaller businesses are also encouraged. The emerging Site Allocation also continues to seek employment generating uses.
- 4.19 The office space provided within the Proposed Development will be designed to be flexible and adaptable, suitable for a range of uses and provision of co-working and will be provided in Building 5. In line with LBRuT Local Plan Policy LP 41 and London Plan Policy E3 and the intention of emerging Local Plan Policy LP25, 10% of the office space will be provided as affordable workspace.
- 4.20 The proposed office floorspace is in line with policy aspirations to deliver employment generating uses on the Site and support a strong, competitive economy. The proposed office provision at the Site is considered entirely acceptable in planning policy terms in the context of both the adopted and emerging Local Plans.

Retail

- 4.21 The scheme proposes a range of flexible uses with suggested caps to ensure an appropriate mix and balance of uses comes forward to achieve this aim. These are set out in Table 4 of the TPS.
- 4.22 Policy E9 states that the Mayor will, and Boroughs and other stakeholders should, support a successful, competitive and diverse retail sector.
- 4.23 At a local level, Policy LP 25 (Part A) states that retail will be acceptable in AMUs, subject to other policy considerations. Part C of Policy LP 25, which applies to the Mortlake AMU, recognises that retail can be an appropriate use. The AMU designation is not carried forward in the Publication Version of the Local Plan. Emerging Policy 1 of the Publication Version Local Plan seeks a mixed pattern of land uses to achieve the LBRuT's 'living locally' concept and there is focus on retail use through the emerging Policy 20. Further, the Publication Local Plan place-based strategy for Mortlake & East Sheen sets the vision to create a new recreational and living quarter through the redevelopment of the Stag Brewery site. The draft Site Allocation (35) also seeks an appropriate mix of uses.
- 4.24 The Site Allocation (SA 24) specifically states that appropriate uses on the Site include retail. The SBPB also recognises the role that retail/restaurant/café/bar uses can play in encouraging more activity on the Site.
- 4.25 Retail sequential and impact assessments have been undertaken by RPS which conclude that the proposed retail uses would have a positive and beneficial effect on local centres and would complement existing provision found within the local area, rather than compete.
- 4.26 Therefore the provision of retail in this location is entirely consistent with adopted and emerging planning policy.

Hotel/ Pub with Accommodation

- 4.27 It is proposed to provide a small ‘pub with rooms’/hotel within part of the Former Hotel Building (block 5) in the south eastern portion of the Site to provide up to 15 hotel rooms. This would bring the Former Hotel Building back into its original use.
- 4.28 Policy E10 of the London Plan supports the expansion of London’s visitor economy, seeking improvement to the capacity, range and quality of visitor infrastructure.
- 4.29 Local Plan Policy LP 43 encourages an increase in hotel bedspaces, subject to other Local Plan considerations (including location in accordance with Policy LP 25). A range of visitor accommodation will be encouraged and local policy also seeks for new accommodation to be accessible for all. Policy 26 of the emerging Local Plan takes a similar approach, reflecting the London Plan requirements for accessible hotel bedrooms.
- 4.30 The proposed small-scale hotel use is located amongst, and considered complementary to, the mix of flexible retail, leisure and employment generating uses proposed in the eastern portion of the main application site.
- 4.31 Therefore the provision of a hotel is entirely supported in planning policy terms and is wholly appropriate for the Site.

Social and Community Uses

- 4.32 The scheme would deliver a range of social and community uses, including a new secondary school, sports facilities, a new boathouse, community spaces and open green space.
- 4.33 The London Plan places a strong emphasis on delivering additional and enhanced social infrastructure to meet the needs of London, with Policies S1 and S5 supporting proposals which provide high quality social infrastructure in light of strategic and local need.
- 4.34 London Plan Policy S6 states that public toilets should be delivered in major development proposals. Emerging Local Plan Policy 51 also seeks this.

- 4.35 Local policy also sets out that new social and community infrastructure will be supported (Policy LP 28) with detailed policies going on to state that this support will be where it responds to local need, is of a high-quality design and accessible for all, is in a sustainable location and considers impact on transport and local character and amenity. Both the SBPB and the Site Allocation identify that the redevelopment of the Site should provide a mix of vibrant uses, which includes social infrastructure and community uses, including leisure and sport and health uses.
- 4.36 Social and community use are being provided in response to local needs and are therefore supported at all levels of planning policy. The scheme would provide flexible community uses, in line with policy aspirations for the Site. These would be delivered as part of the overall ‘flexible’ uses on the eastern part of the Site. These uses would contribute to the mix of uses being delivered on Site and help to create a new village heart for the Mortlake community.
- 4.37 In respect of Policy S6, at this stage, the proposals do not provide public toilets. It is acknowledged that this is contrary to Policy S6, however a condition (draft no. 92) is proposed that allows for further consideration of the potential for providing public toilets within the site at a later date.

School

- 4.38 The masterplan would deliver a new six form entry secondary school with sixth form on the western side of the Site.
- 4.39 London Plan Policy S3 seeks to ensure there is a sufficient supply of good quality education and childcare facilities to meet demand and offer educational choice.
- 4.40 At a local level, Local Plan Policy LP 29(A)(1) supports the development of new secondary schools where this meets a local need. Paragraph 8.2.11 of the Local Plan and Site Allocation (SA 24) both indicate that redevelopment of the application site must include a new 6-form entry secondary school, including sixth form. Emerging Local Plan Policy 50 also reflects this.

- 4.41 In line with aspirations of the London Plan (Policy S3) and LBRuT (Policies LP 28 and LP 29), the external play pitch, indoor sports hall and MUGA would be available for community use out of school hours.
- 4.42 Delivering a new school which meets local need is supported by the London Plan (Policy S3) and LBRuT's Local Plan (Policy LP 29 and Site Allocation Policy SA 24) as well as the emerging Local Plan.

Design

- 4.43 The London Plan requires good growth and high-quality architecture. Policy D3 sets out how site capacity should be optimised through a design-led approach. The factors considered in this are form and layout, experience and quality and character. Policy D4 provides more detail in respect of how masterplans should be developed to ensure they deliver high quality design, and what should be submitted alongside planning applications. Part D of the policy sets out that development proposals referable to the Mayor 'must have undergone at least one design review... before a planning application is made'.
- 4.44 The Appellant engaged with the LBRuT Design Review Panel (DRP) on two separate occasions. Following the first meeting (held on 30 September 2020) the Appellant made changes to the scheme design to respond to comments received (see Section 3.4 of the DAS, prepared by Squire & Partners). Following the second meeting the Appellant made further changes to the scheme design to respond to comments received (see Section 3.4 of the DAS, prepared by Squire & Partners).
- 4.45 London Plan Policy D5 requires development proposals to achieve the highest standards of accessible and inclusive design.
- 4.46 At a local level, the Local Plan sets out that all new development should recognise distinctive local character and contribute to creating places of a high architectural and urban design quality that are well used and valued. Policy LP 1 states that all development should be of high architectural and urban design quality. Whilst the emerging Local Plan Policy 28 reflects many of the requirements of adopted Policy LP1, it also identifies 'places', which need to be

maintained and their character enhanced where opportunities arise. The site falls within Urban Design Study Area H1 'Mortlake Riverside'. The Urban Design Study (UDS) identifies Mortlake Riverside as having a distinctive sense of place and heritage, with an overall high sensitivity to change. The Vision for H1 'Mortlake Riverside' is to create a new focus to the village by the redevelopment of the Stag Brewery, creating a recreational and living quarter and a link between the town and the Riverside as set out in the place-based strategy for Mortlake & East Sheen.

- 4.47 The SBPB sets out the key principles for the design of development on the Site.
- 4.48 The Proposed Development will deliver well-considered and high-quality architecture which is entirely appropriate for its location and context. The masterplan and architectural approach have been carefully considered and designed to respond to the local area and, in particular, provide an enhancement of views of the Site from the river front.

Public Realm and Playspace

- 4.49 Integrating well-designed open and green spaces and improving the permeability of the Site has been fundamental to the masterplanning of the scheme, which is in line with the Council's vision for the Site as set out within the SBPB and the Site Allocation.
- 4.50 The London Plan Policy S4 states that development should increase opportunities for play and informal recreation and provide at least 10 sqm of playspace per child. LBRuT's Strategic Vision (as set out within the Local Plan) also encourages the development of an attractive public realm which encourages walking and cycling.
- 4.51 The main elements of the public realm for the detailed elements of Application A are set out in paragraph 14.7 of the TPS. The detail of the public realm for the outline elements of Application A will be secured via Reserved Matters submissions.
- 4.52 Appeal document 509d sets out the playspace to be delivered at the Site. The proposals will deliver 7,470 sqm of playspace (excluding the school), which is significantly above the GLA target of 4,630 sqm.

- 4.53 In line with planning policy at all levels, the project team has taken a considered approach to landscaping and public realm and has sought to develop attractive and generous spaces which are efficient and functional.

Townscape

- 4.54 The proposed buildings will be in line with, or lower than, the heights of the existing buildings on the Site and have been designed to step back from the Maltings buildings (a Building of Townscape Merit (BTM)). As set out on page 14 of the DAS, the existing buildings are of **“little historic or visual importance since they were built using utilitarian materials and to inappropriate scales, for an industrial purpose that no longer exists”**.
- 4.55 The DAS also sets out that **“it must be recognised that the historic condition of this area was not one of buildings diminishing to the path or riverside”** (p. 57). The proposed buildings **“diminish to the boundary with the local context, to the north adjacent to the riverside, they do not step down significantly but rather address the riverside”** (p. 57). The Townscape and Visual ES Chapter (16) found that, in terms of visual amenity, the likely residual effect of the Proposed Development would be that **‘most local views would experience either insignificant or long term, local effects, ranging from minor to major beneficial significance depending on angle, range and context of view’** (Table 16.10). In terms of townscape character, the likely residual effect of the Proposed Development would be that **‘long-term, local effects of moderate, beneficial significance would result to TCA1: Mortlake (within the Site). Long-term, local effects of major, beneficial significance would result to TCA7: Stag Brewery (within the Site). Effects on surrounding TCAs would be insignificant to long-term, local, and minor beneficial significance in the vicinity of the Site’** (Table 16.10). Relevant townscape views were reviewed as part of the Fire-Led design amendments and the ES Addendum, dated 3 November 2023, confirms at paragraph 3.37 that the design amendments **“are not considered likely to materially alter the nature or significance of the townscape and visual effects”** that were reported in Chapter 16 of the ES.
- 4.56 The SBPB notes that the Site is within an area which may offer opportunities for new development of **“around six storeys”** (paragraph 5.30). New buildings should be less than the

height of the Former Maltings Building and development should consider views of this building to ensure this is not obscured or subsumed by new surrounding development. A mix of heights across the Site will be required to reflect and relate to the existing urban grain and scale. If taller buildings are necessary to ensure a viable scheme, higher buildings could be located at the core of the Site – generally where the larger and higher existing buildings are located, and that height and scale should diminish towards the perimeter of the Site or along the riverside.

- 4.57 Adopted policy specifies that tall buildings are defined as over 6 storeys, or 18 metres in height (consistent with London Plan Policy D9). The adopted policy does not identify the site as being in an area identified for tall buildings. Appendix 3 of the Publication Version of the Local Plan (2023) does identify the Site as a location for mid-rise and tall buildings. The draft policy also states that any building heights of up to 7 storeys would be appropriate. However the emerging policy carries limited weight.
- 4.58 As a result, the Applications were considered against the assessment criteria set out in London Plan Policy D9 (C) which covers visual, functional and environmental impacts (see TPS paragraphs 13.41 – 13.81).
- 4.59 The detailed assessment of the Proposed Development against the criteria framework set out to assess the acceptability of a tall building and clearly demonstrates that the scale of the buildings proposed in this development would be appropriate and compliant with Policy D9 when considered as a whole.

Heritage

- 4.60 The heritage context of the Site is set out in Chapter 15 of the Environmental Statement (ES), prepared by Waterman IE (appeal document 419).
- 4.61 The effect of the Proposed Development upon the non-designated heritage assets has been considered. Appeal document 419 concludes that the Completed Development would have ‘likely residual effects’ on the assets ranging from: “insignificant to direct, long-term, local,

adverse effect of minor significance” to: “direct, long-term, local beneficial effect of minor significance” (see Table 15.11).

4.62 In terms of the Buildings of Townscape Merit at the Site, Waterman IE consider that the proposed works to the Former Bottling Building would have a minor adverse impact as the building’s architectural character would be different, albeit with certain key features retained which allows its former use to be understood. It is considered that there would be an insignificant to direct, permanent, local, adverse effect of minor significance on the heritage significance of the locally listed building. In terms of the Maltings Building, Waterman IE have judged that the proposals would have an insignificant to direct, long-term, local, adverse effect of minor significance on the heritage significance of the Maltings building (Table 15.11, pages 28-29).

4.63 The Proposed Development was also found to ‘likely give rise to insignificant to long-term, local, beneficial effects of minor significance to the heritage significance of the listed and locally listed buildings on Thames Bank’ (ES Chapter 15, paragraph 15.107). The ES states at paragraph 15.107 that proposed works would be an enhancement when compared to the existing situation and that they would not compromise the Mortlake Conservation Area’s relationship with the positive elements of its setting. In terms of the Mortlake Green Conservation Area, Waterman IE conclude that the positive elements of the Conservation Area’s setting would be sustained, and that the high-quality architecture of the proposed new development would lead to a long-term, local, beneficial effect of minor significance on the heritage significance of Mortlake Conservation Area and heritage assets contained within it due to a change in setting. The ES Addendum, dated 3 November 2023, submitted in support of the fire-led design amendments, concluded at paragraph 3.36 that the “likely effects, mitigation measures and likely residual effect of the Development” that were reported in Chapter 15 of the ES (March, 2022) are “not materially altered and remain robust and valid”.

NPPF Tests

- 4.64 Designated heritage assets: The built heritage assessment has not identified any adverse impacts or effects to designated heritage assets, and therefore none would be subject to any harm as a result of the Proposed Development.
- 4.65 Non-designated heritage assets: Adverse effects on non-designated built heritage assets have been identified during the construction phase, however these are judged to range from insignificant to minor significance, so are the lower end of Less than Substantial Harm.
- 4.66 The public benefits set out in Paragraph 16.38 of the TPS would result in substantial social economic and environmental benefits. These benefits, in the context of paragraph 209 of the NPPF, significantly outweigh the identified harm caused to non-designated heritage assets. Therefore, the Proposed Development is considered to comply with the policies of the NPPF on this matter.

Living Conditions and Residential Amenity

- 4.67 One of the reasons for refusal for the GLA Refused Scheme was **“the proposal, by reason of the excessive bulk, scale and siting of Buildings 20 and 21 in close proximity to the rear of neighbouring residential properties in Parliament Mews and the rear gardens of properties on Thames Bank, would result in an unacceptable overbearing and unneighbourly impact, including direct overlooking of private amenity spaces. The measures set out in the Design Code would not sufficiently mitigate these impacts. The development would be contrary to the London Plan (2021) Policies D3 and D9, Richmond Local Plan (2018 & 2020) Policy LP 8, the Stag Brewery Planning Brief SPD (2011) and Richmond Residential Development Standards SPD (2010).”**
- 4.68 The Proposed Development amended the designs of Buildings 20 and 21 when compared with the GLA Refused Scheme, in direct response to this reason for refusal. Buildings 20 and 21 have been set back from the buildings along Thames Bank and reduced in height by 1

storey when compared to the GLA Refused Scheme and are now proposed as a single terrace of 2-3 storey townhouses.

4.69 Appeal document 347 states that the revised layout of Buildings 20 and 21 reduces the **'impact on surrounding buildings to the north and west, some of which are listed'** (paragraph 5.2).

4.70 Tables 18.7, 18.8 and 18.9 of appeal document 422a present the results of Eb7's assessment of the BRE Guidance. The overall conclusions of appeal document 422a are that the Completed Development would result in 'likely residual effects' ranging from "insignificant" to "local, long-term adverse and of moderate to major significance". Specifically the GLA raised concerns in their reasons for refusal of the GLA Refused Scheme regarding unacceptable overbearing and unneighbourly impact to the properties at Parliament Mews and Thames Bank. Paragraph 18.80 states that Parliament Mews and Thames Bank Cottage would not see a noticeable effect in terms of daylight potential at the window face. Paragraph 18.144 states that Parliament Mews, Thames Bank Cottage and Thames Bank House would not see a noticeable effect in terms of sunlight potential. In terms of overshadowing paragraph 18.169 states that the rear gardens at Thames Bank House and 1-2 Thames Bank will experience some minor additional overshadowing during the afternoon on 21 March. Paragraph 18.170 states that the 'real world' impacts of the Proposed Development are likely to be 'marginal' in respect of additional shading.

4.71 The overall conclusions of appeal document 422a are that the Completed Development would result in 'likely residual effects' ranging from "insignificant" to "local, long-term adverse and of moderate to major significance".

Viability

4.72 The application, incorporating the latest amendments, have been the subject of a detailed Financial Viability Assessment (FVA) involving the Appellant's consultants (BNP Paribas) and the Council's own advisors (Carter Jonas). While there is dispute over some of the inputs,

both consultants agree that the maximum reasonable quantum of affordable housing that could be supported by the scheme is 0%.

4.73 Following discussions with LBRuT regarding the outcome of the viability exercise it was clear there was concern regarding the quantum of affordable housing being proposed. In addition, there was also a request to increase the proportion of 3 bed social rented units.

4.74 In response to this and by accepting the principle of a smaller developer's profit than would normally be acceptable, in the interests of proceeding with the scheme following significant investment, the Appellant has committed to a greater minimum quantum of affordable housing being 7.6% by habitable rooms (65 units). The detail of this offer is reflected in the Second Substitution Pack made on the 28th April 2023. As a result of the Third Substitution Pack the offer has been adjusted to 7.5% by habitable rooms. The number of affordable units proposed remains unchanged and the offer continues to exceed the maximum reasonable quantum of affordable housing that both the Appellant's and the LPA's viability consultants have agreed could be supported by the scheme.

4.75 On this basis, the application complies with the policy requirements in respect of affordable housing.

Other Matters

4.76 With regard to other matters for assessment, a full suite of reports and drawings was submitted in support of the application, which assessed the impact of the proposals including:

- i. Access
- ii. Acoustics
- iii. Air Quality
- iv. Amenity and Primary Health
- v. Arboriculture
- vi. Construction
- vii. Daylight and Sunlight Statement

- viii. Contamination
- ix. Ecology
- x. Energy
- xi. Flood Risk
- xii. Fire Strategy
- xiii. Ground contamination
- xiv. Lighting
- xv. Local economy and employment
- xvi. Microclimate
- xvii. Noise
- xviii. Odour
- xix. Services and Utilities
- xx. Sustainability
- xxi. Transport, delivery and servicing.

4.77 All technical matters have been considered in detail and are considered to comply with the relevant policy requirements, subject to appropriate conditions and mitigation measures, which have been agreed with LBRuT.

Material Considerations

4.78 The principal planning benefits that are material considerations to the assessment of the Proposed Development are set out below.

- i. Up to 1,075 new homes across the Site;
- ii. Provision of 65 affordable housing units;
- iii. Provision of land for the delivery of a new 6 form secondary school including community sporting facilities;
- iv. Creation of a mix of high street uses;
- v. Introduction of river uses next to River Thames;
- vi. Retention and refurbishment of the Maltings building and other heritage assets on site;

- vii. Delivery of new, well-designed architecture;
- viii. Job creation (263 net full time equivalent jobs);
- ix. Significant highway upgrade works to Chalkers Corner, Sheen Lane and Mortlake High Street;
- x. Provision of bus contribution in-lieu (£3,200,000)
- xi. Creation of new public routes and cycle ways;
- xii. Provision of 2,670 new cycle parking spaces;
- xiii. Improvements to the city's green infrastructure, providing over 400 new trees;
- xiv. Contribution to Mortlake Green improvement works (£196,316.13);
- xv. Contribution to towpath improvement works (£44,265);
- xvi. Provision of 4.83 (including towpath) / 4.54 (excluding towpath) of open space across the Site; and
- xvii. Creation of new public route along the River Thames.

4.79 Collectively it is considered these benefits should be afforded very substantial weight.

Conclusion

4.80 The Proposed Development would deliver a scheme which responds to the strategic objectives of the Mayor's policy, as well as realising LBRuT's ambitions for the Site as set out in LBRuT Local Plan Policy SA 24 and emerging local planning policy. The Proposed Development will deliver significant, compelling public benefits, including delivery of housing (including affordable housing), along with new jobs, new open and green spaces for existing and future communities, new active uses to deliver a new 'heart' for Mortlake, as well as providing land for the development of a new multi-generation secondary school with sixth form, plus community sports facilities.

4.81 For the above reasons, the Appellant respectfully asks the Inspector to allow the Appeals for the Proposed Development pursuant to Appeals A and B.