

Former Stag Brewery

Statement of Case by the Mayor of London

(Rule 6 party)

Appellant:	Reselton Properties Limited
At:	The Former Stag Brewery, Lower Richmond Road, Mortlake SW14 7ET
Local Planning Authority:	The London Borough of Richmond upon Thames
Council reference:	22/0900/OUT
GLA reference:	GLA/2022/0288/S1
PINS reference:	APP/L5810/W/24/3339060
Date:	16 April 2024

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1. The proposal

- 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 phased mixed-use redevelopment of the Former Stag Brewery, Lower Richmond Road, Mortlake ('the Site') in the London Borough of Richmond upon Thames.
- 1.2 Appeal A (known as 'Application A' in the planning application supporting documents) seeks part detailed and part outline planning permission, with some matters reserved, for:

"Hybrid application to include:

1. Demolition of existing buildings (except the Maltings and the façade of the Bottling Plant and former Hotel), walls, associated structures, site clearance and groundworks, to allow for the comprehensive phased redevelopment of the site:

2. Detailed application for the works to the east side of Ship Lane which comprise:

a) 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 to allow for residential apartments; flexible use floorspace for retail, financial and professional services, café/restaurant and drinking establishment uses, offices, non-residential institutions and community use and boathouse; Hotel / public house with accommodation; Cinema and Offices.

b) New pedestrian, vehicle and cycle accesses and internal routes, and associated highway works.

c) Provision of on-site cycle, vehicle and servicing parking at surface and basement level.

d) Provision of public open space, amenity and play space and landscaping.

e) Flood defence and towpath works.

f) Installation of plant and energy equipment

3. Outline application, 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 3 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."

- 1.3 Appeal B (known as 'Application B' in the planning application supporting documents)

seeks detailed planning permission for:

“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.”

2. Role of the Mayor of London

- 2.1 The Greater London Authority Act 1999 (as amended) (1999 Act) sets out the regional government arrangements in London. The statutory powers of the Greater London Authority (GLA) came into force on 3 July 2000 following elections for the Mayor and the London Assembly.
- 2.2 The power and functions of the Mayor and Assembly were amended through the Greater London Authority Act 2007 (2007 Act) and the procedures relating to this are set out in the Town and Country Planning (Mayor of London) Order 2008 (2008 Order) which replaced the Town and Country Planning (Mayor of London) Order 2000.
- 2.3 The 1999 Act sets out the roles of the Mayor and the London Assembly. It gives the Mayor the power to undertake any action calculated to further the ‘Principal Purposes’ of the Authority. These are:
 - Promoting economic development and wealth creation in Greater London;
 - Promoting social development in Greater London; and
 - Promoting the improvement of the environment in Greater London.
- 2.4 In undertaking any action the Mayor is required to have regard to the health of persons in Greater London and the promotion of sustainable development in the United Kingdom.
- 2.5 The Mayor is also responsible for ensuring that the strategic planning interests of London as a whole are taken into account in the policies and decisions of central and local government and of relevant bodies – both within London, and in surrounding areas where these could have significant impact on the planning and development of the capital.
- 2.6 The 1999 Act sets out the detailed arrangements for strategic planning in London, in particular in relation to the London Plan and the Mayor’s role in decisions on planning applications of strategic importance.
- 2.7 In respect of plan-making, the Mayor is required to publish a spatial development strategy and keep it under review. The spatial development strategy is known as the London Plan. The 1999 Act stipulates that that the London Plan should only deal with matters of strategic importance to Greater London, taking account of the ‘Principal Purposes’ of the Greater London Authority, as set out above.

- 2.8 In this regard, the provision of new employment and retail uses relates to the first Principal Purpose, 'promoting economic development and wealth creation in Greater London'. The provision of public space and affordable housing relates to the second Principal Purpose, 'promoting the improvement of the environment in Greater London'.
- 2.9 The 1999 Act gives the Mayor planning responsibilities and powers including in relation to planning applications which raise issues of strategic importance and which are contrary to the spatial development strategy (the London Plan) or good strategic planning in London.
- 2.10 The definition of the applications that must be notified to the Mayor is set out in the 2008 Order and comprises four main groups of developments proposals:
- Part 1: Large scale development;
 - Part 2: Major infrastructure;
 - Part 3: Development which may affect strategic policies; and
 - Part 4: Development on which the Mayor must be consulted by virtue of a direction of the Secretary of State.
- 2.11 These categories are designed to encapsulate developments, which through their size, location or nature, are most likely to be of strategic planning importance and relevant to the implementation of the London Plan.
- 2.12 The 2008 Order defines applications of strategic importance. The appeal application was referred to the Mayor under the following categories of the Order:
- "Category 1A: Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats;
 - Category 1B(c): Development (other than development which only comprises the provision of houses, flats, or houses and flats) which comprises or includes the erection of a building or buildings outside Central London and with a total floorspace of more than 15,000 square metres; and
 - Category 1C(c): Development which comprises or includes the erection of a building more than 30 metres high outside the City of London."
 - Category 3C - "Development which is likely to prejudice the use as a playing field of more than 2 hectares of land which (a) is used as a playing field at the time the relevant application for planning permission is made; or (b) has at any time in the five years before the making of the application been used as a playing field."

- 2.13 In accordance with article 4 of the 2008 Order, the London Borough of Richmond upon Thames (LBRuT) consulted the Mayor on the Applications on 12 April 2022. The Mayor provided a joint initial representation (Stage 1 report) in respect of both Application A and Application B on 20 June 2022, raising a number of concerns with the appeal applications and advising LBRuT and the Appellant that the Applications did not fully comply with the London Plan. LBRuT resolved to approve both planning applications at the Council's Planning Committee meeting on 19 July 2023, subject to referral to the GLA at Stage 2 and no adverse direction, the completion of a Section 106 Legal Agreement and the imposition of conditions and informatives. Following amendments to Application A, LBRuT resolved to approve amended Application A at the Council's Planning Committee meeting on 31 January 2024.
- 2.14 An appeal was submitted to the Planning Inspectorate (PINS) on 16 February 2024 on the grounds of non-determination.
- 2.15 It should be noted that, by reason of an appeal being made against non-determination (notwithstanding LBRuT's resolution), there was no referral (known as a Stage II referral) made to the Mayor of London pursuant to Article 5(1)(a) of the Town & Country Planning (Mayor of London) Order 2008. As such, the Mayor has been denied the opportunity to formally consider the applications at Stage 2 and thus was not in a position to consider the exercise of the provisions set out in Article 5(1)(b), Article 6 nor Article 7 of the Town & Country Planning (Mayor of London) Order 2008 whereby the Mayor may give a direction to allow the draft decision to proceed unchanged, to direct LBRuT under Article 6 to refuse the application or, to issue a direction to LBRuT under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application and any connected application.
- 2.16 On 28 February 2024 the Planning Inspectorate advised LBRuT by letter that the appeals had been validated and that the appeal would follow the Inquiry procedure.
- 2.17 On 4 April 2024 PINS confirmed following a request from the Mayor, that the Mayor had been given 'Rule 6 status' and was thus entitled take a full part in the upcoming Public Inquiry into the appeals.
- 2.18 This statement of case is submitted by the Mayor and sets out the case that GLA officers will be making on his behalf in relation to the appeal application.

3. Appeal site and surroundings

- 3.1 The Mayor will primarily rely upon the GLA's Stage 1 response in respect of the description of the Site and surroundings. However, the GLA will if necessary elaborate on description, detail and other particulars of the Site and its surroundings within the Proofs of Evidence of expert witnesses. That said, in large measure these matters are factual and are unlikely to be or should not be controversial. The Mayor will seek to settle relevant matters concerning the description of the appeal site and the relevant surroundings as common ground.

4. Planning history and context

4.1 The Mayor will rely upon the Stage 1 response in respect of the planning history and provide any further details in proofs or as common ground. Matter of planning history should be uncontroversial and capable of being addressed as common ground.

4.2 The planning history of most relevance to the current appeal is likely to arise from two linked applications submitted to LBRuT in 2018 (LPA ref: 18/0547/FUL & 18/0548/FUL / GLA ref: 4172, 4172a & 4172b).

4.3 Planning application ref 18/0547/FUL (GLA ref: GLA/4172) comprised a hybrid application including:

1. The demolition of existing buildings and structures (except 'The Maltings' and the facade of the Bottling Plant and former Hotel). Site clearance and groundworks to allow for the comprehensive phased redevelopment of the site.

2. Detailed application for works to the east side of Ship Lane, which comprise:

a. Demolition of existing buildings (except The Maltings and the facade 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 10 storeys plus a basement of one and two storeys below ground.

c. Residential apartments.

d. Flexible use floorspace for:

i. Retail, financial and professional services, cafe/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 service 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 centres

3. Outline application, 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 3 to 8 storeys
 - b. Residential development
 - c. Provision of on-site cycle, vehicle and service 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 highway works
- 4.4 The hybrid 813-unit scheme provided 17% affordable housing by habitable room and received a resolution to grant planning permission at LBRuT's Planning Committee on 29 January 2020.
- 4.5 These applications were called in by the Mayor, acting as the Local Planning Authority. The revised scheme comprised a total of 1,250 residential units and provided 30% affordable housing by habitable room. A Public Representation Hearing was held on 27 July 2020. The Mayor refused planning permission on the 17 August 2021 for application ref: 18/0547/FUL for the following reasons:

1. Height, massing and visual impact

The proposal, by reason of its height, scale, bulk and massing, would result in an unduly obtrusive and discordant form of development in this arcadian setting which would be harmful to the townscape, character and appearance of the surrounding area. The proposal would therefore be contrary to London Plan (2021) Policies D3 and D9; Richmond Local Plan (2018 & 2020) Policies LP1, LP2, LP5 and SA24 and the Stag Brewery Planning Brief SPD (2011).

2. Heritage impact

The proposal, by reason of its height, scale, bulk and massing would result in less than substantial harm to the significance of several listed buildings and conservation areas in the vicinity. The less than substantial harm is not clearly and convincingly outweighed by the public benefits, including Affordable Housing, that the proposal would deliver. The proposal would therefore be contrary to the London Plan (2021) Policies HC1 and D9, Richmond Local Plan (2018 & 2020) Policies LP3, LP4 and SA24 and the Stag Brewery Planning Brief SPD (2011).

3. Neighbouring amenity impact

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. Overall absence of a legal agreement

The proposal, in the absence of a S106 agreement, would fail to deliver a range of environmental improvements, community benefits and infrastructure to adequately mitigate the other harmful impacts of the development. The proposal would be contrary to the London Plan (2021) Policies T9 and DF1; Richmond Local Plan (2018 & 2020) Policies LP28, LP29, LP30, LP31, LP36, LP44 and SA24, the Stag Brewery Planning Brief SPD (2011) and Richmond Planning Obligations SPD (2020).

- 4.6 The Mayor also refused planning permission on the 17 August 2021 for application ref: 18/0548/FUL (GLA ref: GLA/4172a/07) for the following reason:

Open space, transport mitigation, comprehensiveness and place-making

The proposal is intrinsically linked to the development proposed within Application A, particularly in terms of the re-provision of designated Other Open Land of Townscape Importance (OOLTI), transport mitigation, safe and convenient access, comprehensive development and overall place-making. Application B in isolation would not constitute sustainable development and would be contrary to the London Plan (2021) Policies D1, D3, D4, D8, D11, G4, T1, T2 and T4; Richmond Local Plan (2018 & 2020) Policies LP1, LP14, LP44 and SA24 and the Stag Brewery Planning Brief SPD (2011).

5. Current appeal application

Pre-application stage

- 5.1 While there were informal meetings between the GLA and the applicant prior to the submission of the application, the appellant did not engage with the GLA's formal pre-planning application service in respect of the appealed schemes, prior to the submission of the applications to LBRuT in March 2022. Formal pre-planning application discussions took place in respect of the refused schemes (GLA ref: GLA/4172/4172a/03, LPA ref: (A) 18/0547/FUL and (B) 18/0548/FUL). Specifically, meetings were held with GLA officers on 17 January 2017, 6 April 2017, 30 August 2017 and 30 January 2018 in that respect.

Mayor of London consultation (Stage 1)

- 5.2 LBRuT formally consulted the Mayor on the Application on 12 April 2022 and Jules Pipe CBE, Deputy Mayor for Planning, Regeneration and Skills, acting under delegated authority from the Mayor of London, considered a report on the Application on 20 June 2022. The Mayor's Stage 1 response advised that the applications do not comply with the London Plan for the following reasons:

- **Land use principles:** The comprehensive mixed use redevelopment of the site including the proposed land uses is in line with the land use objectives set out in the Local Plan Site Allocation and Planning Brief SPD.
- **Housing and affordable housing:** 15% affordable housing (by unit) with a 20:80 tenure mix weighted towards intermediate shared ownership is wholly unacceptable. The overall level of affordable housing should be increased, and the tenure mix revised and weighted in favour of social rent. Housing affordability levels should be secured alongside early, mid and late stage viability review mechanisms. A number of the assumptions and conclusions in the applicant's Financial Viability Assessment are not accepted including profit requirements, residential sales values and the substantial deficit. The quantum of affordable housing in the outline element of the scheme and in particular within Building 18 should be further optimised within the proposed building footprint and massing.
- **Urban design and heritage:** Whilst the massing has been revised the application conflicts with London Plan policies on heritage and the heights exceed the Council's Planning Brief SPD. Harm to heritage assets must be clearly and convincingly outweighed by public benefits associated with the proposal.
- **Transport:** Financial contributions towards bus capacity, the A205 Upper Richmond Road/Sheen Lane junction improvement scheme, and the delivery of a crossing and shared footway / cycleway improvements on the A316 Clifford Avenue are required. The highway assessment should be revisited to take into consideration new surveys and forecasts in order to bring the assessment up to current standards. A sustainable Travel Fund should be secured to encourage active travel.
- **Climate change:** Further discussion is required relating to energy efficiency measures in the non-residential element and additional clarifications on the applicant's air quality assessment.

5.3 The Mayor's Stage 1 response advised that the applications do not comply with the London Plan and required LBRuT to refer the applications back to the Mayor, once it resolved to determine it, for his decision as to whether to direct refusal; take over it for his own determination; or, allow the Council to determine itself.

Post Stage 1

5.4 Following the Mayor's Stage 1 response, a series of revisions have been made to the application, including before the first LBRuT Committee resolution (July 2023); and between the first and second resolutions (January 2024). The principal revisions made to the scheme after the GLA's Stage 1 response and prior to LBRuT's first resolution to

grant are as follows:

- Building 1 - Cinema
 - Height reduced and top floor set back
 - Design alterations to cinema and office entrance
- Building 10 – reduced by 1 storey and loss of 9 residential units - Updated wheelchair accessible unit layout
- Number of residential units – reduction of 14 units (9 in building 10 and 5 in Development Area 2)
- Loss of 79 sq.m. GIA flexible office space
- Total loss of 55 sq.m. of flexible use floor space and loss of 90 sq.m. of flexible use space in High Street Zone -
- Amended strategies – lighting, drainage, refuse, waste, energy, -
- Landscaping updates -
- Amendments to Mansion building elevations
- Amendments in response to fire requirements
 - internal separation between the basement stairs and above ground stairs
 - separate lift shafts serving the basement and above ground levels
 - refuse stores relocated to ground floor, so only accessible from external areas.
- Revised Whole Life Carbon Assessments, Circular Economy Statements and BRE guidelines assessments of certain elements of both applications A and B.
- Design code – stepping down on end of terrace units to 2 storeys
- Affordable housing mix, provision and location within the masterplan.
Specifically, the affordable housing provision was reduced from 15% by unit (17% by habitable room) with a tenure split of 80% intermediate housing and 20% social rent to 6% by unit (7.6% by habitable room) at a tenure split of 80% social rent and 20% intermediate housing.
- Updates to the Transport Assessment
- Noise Impact Assessment to play spaces
- Air Quality Positive Assessment
- Flood Risk Assessment Addendum for the exception test
- Update to basement impact assessment
- Drainage Strategy
- Biodiversity net gain.
- Revisions to the specification of the luminaires of the floodlights to remove light spill to Buildings 18 and 19

5.5 Further changes made between the first LBRuT resolution and the second LBRuT resolution to grant impact principally upon elevation design, internal arrangements, unit numbers and non-residential floorspace, parking, waste strategy and landscaping, as summarised below:

Changes to land use:

- Increase in residential floorspace by +1,722 sqm GIA and increase in 7 private residential units (+17 units in Development Area 1 (within Building 1) and -10 units in Development Area 2).
- Change in mix of residential units and M4(3) homes. It is noted that the affordable housing provision in the scheme considered by the Council's Planning Committee in July 2023 was 7.6% by habitable room, but that following design revisions the affordable housing provision was reported as 7.5% by habitable room in the scheme considered by the Council's Planning Committee in January 2024.
- Reduction in office floorspace (-2,571 sqm GIA).
- Increase in cinema floorspace (+149 sqm GIA). Increase in flexible use (+125 sqm GIA).
- Increase of 11 sqm GIA flexible use floorspace within the High Street Zone.

Amendments to basement:

- Changes to waste stores, partitions and enlarged sprinkler tanks to satisfy updated electric vehicle fire regulations resulting in a reduction of 15 car parking spaces across the Development.
- Re-introducing connections to the basement car park for the two stair buildings.

Waste strategy amendments:

- Moving the refuse and recycling stores for Buildings 2, 7, 8, 11 and 12 to the basement level. For these buildings, holding stores at ground level have been provided in Buildings 3, 8 and 12 to support the collection process.
- Buildings 1, 3, 4, 5, 6, 9, 10 and all buildings in Development Area 2 maintain refuse and recycling stores at ground level. 4.12 Landscaping
- Updates associated with changes to ground floor entrances for Blocks 8, 11 and 12.
- Amendments to the length of private gardens, additional planting and steps moved.

6. The Development Plan and relevant planning guidance

- 6.1 Planning applications must be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise (S.38(6) Planning and Compulsory Purchase Act 2004).
- 6.2 Paragraph 47 of the National Planning Policy Framework (NPPF/2023) reiterates that statutory planning law requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.3 The following Development Plan documents and guidance will be referred to by the

GLA during the Public Inquiry and the GLA reserves the right to refer to further planning policy/guidance in response to the cases advanced by other parties to the inquiry or as necessary to address issues which may hereafter arise.

- 6.4 The Development Plan currently in force for the area comprises the London Plan (2021) and the LBRuT Local Plan (2018).

Emerging planning policy:

- 6.5 The Draft Local Plan (Regulation 19 version) was submitted to the Planning Inspectorate in January 2024. It is understood at the time of writing that the Examination in Public of the Draft Local Plan is scheduled to take place from January 2024 to Autumn 2024.

- 6.6 The Draft Local Plan includes the Stag Brewery Site as Draft Site Allocation 35.

LBRuT Draft Local Plan Evidence Base:

- 6.7 The London Borough of Richmond upon Thames: Local Plan Viability Assessment (April 2023) produced by BNP Paribas Real Estate serves as an evidence base document for the Draft Local Plan.
- 6.8 Richmond Local Housing Market Assessment – final stage 1 report (December 2021) produced by Icen Projects Limited serves as an evidence base document for the Draft Local Plan.
- 6.9 Richmond Local Housing Market Assessment – update report (April 2023) produced by Icen Projects Limited serves as an evidence base document for the Draft Local Plan.
- 6.10 Local Plan Authority Monitoring Report – Housing – 2022/23 (November 2023).
- 6.11 The Urban Design Study produced by ARUP (April 2023) as an evidence base document for the Draft Local Plan.

Supplementary Planning Guidance (SPG)/Documents, Strategies and other documents

- 6.12 The documents most relevant to this proposal are included below:

London Plan Guidance:

- *London Plan; Public London Charter LPG;*
- *Housing Design Standards LPG;*
- *Optimising Site Capacity: A Design-Led Approach LPG;*
- *Play and Informal Recreation SPG;*
- *Fire Safety draft LPG;*

- *Affordable Housing and Viability SPG*
- *Housing SPG*
- *Social Infrastructure SPG*
- *Circular Economy Statements LPG;*
- *Whole-life Carbon Assessments LPG;*
- *'Be Seen' Energy Monitoring Guidance LPG;*
- *Urban greening factor LPG*
- *draft Affordable Housing LPG*
- *draft Viability LPG*

LBRuT Guidance:

- *LBRuT Local Plan Supplementary Planning Guidance*
- *LBRuT Stag Brewery Planning Brief (2011)*
- *LBRuT Planning Obligations SPD (June 2020)*
- *LBRuT Mortlake Village Planning Guidance (2015)*
- *LBRuT Buildings of Townscape Merit SPD (2015)*
- *LBRuT Conservation Area Statements – Mortlake, Mortlake Green, Sheen Lane and Barnes Green Conservation Areas.*
- *LBRuT Conservation Areas Study: Mortlake, Mortlake Green and Queen's Road, Areas 33, 35 and 51 and Analysis Map and Proposals Map*
- *LBRuT Barnes Green Conservation Area Appraisal (online only at https://www.richmond.gov.uk/services/planning/conservation_and_urban_design/conservation_areas/barnes_green_conservation_area_appraisal)*
- *LBRuT Barnes Green Conservation Area Study Map with Proposals*
- *LBRuT Local Housing Need Assessment (LHNA).*
- *The Sustainable Urban Development Study (Sept 2008) prepared by Turley Associates*

Other:

- *Thames Strategy Kew to Chelsea, GLA and others, 2002*
- *National Design Guide*
- *The LBRuT Draft Revised Affordable Housing SPD (June 2022)*
- *National Planning Practice Guidance: Viability*
- *Assessing viability in planning under the National Planning Policy Framework 2019 for England was published by the RICS in March 2021 and reissued as a professional standard in April 2023.*
- *The London Strategic Housing Market Assessment (SHMA) 2017*

6.13 The GLA may refer to any additional material, Government advice or matters of planning policy which are considered relevant to the determination of this planning appeal.

7. Summary and Case for the Mayor

7.1 The Mayor's objects to Appeal A on the following basis:

- The failure of the appellant to demonstrate that they are providing the maximum viable amount of affordable housing.
- The proposed development would cause direct harm to significance of the Non-Designated Heritage Assets within the site (the Hotel, Bottling building and Maltings) as well as direct harm to the character, appearance and significance of the Mortlake Conservation Area, a designated heritage asset. Harm will also be caused to the contribution made by setting to their significance. The proposed development would cause indirect harm to the setting of designated and non-designated heritage assets nearby, as detailed below and in circumstances where the setting of the assets contributes to their significance. The proposed development is contrary to national and local policy and guidance in relation to the historic environment. The information provided for the assessment of harm to heritage assets uses inappropriate methodologies and is technically inadequate, as detailed below. The appellants' heritage assessment is insufficient and flawed and should be awarded little weight by the decision-maker. The elements of the development which form mitigation of heritage harm and which form heritage benefits are not adequately secured by the proposed conditions and Section 106 Agreement terms. The proposed phasing of the development is arranged, through conditions and the Section 106 Agreement terms, in such a way that the heritage benefits are not adequately secured.
- The height, scale, bulk and massing of the proposal would be harmful to the townscape, character and appearance of the surrounding area.
- By reason of the above impacts, a conflict arises with the Development Plan as a whole. This conflict is not outweighed by other material considerations so as to justify the grant of planning permission in accordance with s.38(6) PCPA 2004.

7.2 The basis of the Mayor's case in respect of each of these matters is summarised in more detail below.

7.3 While one of the reasons for refusal of the previous application (LPA ref: 18/0547/FUL & 18/0548/FUL / GLA ref: 4172, 4172a & 4172b) was on grounds of neighbouring amenity, although the Mayor consider that adverse effects continue to arise in this respect, on balance, does not seek the dismissal of the current appeals by reason of impact on neighbouring amenity. It will be for the decision maker to consider neighbouring amenity and residential amenity matters in the overall planning balance having regard to the comments made within LBRuT SoC at paragraphs 4.55 to 4.58, in respect of impacts on light, and paragraph 5.2, noting that a number of units do not meet standards in terms of light, noise to balconies, private amenity space, limited spacing between buildings raising privacy and outlook implications, and north

facing and / or single aspect units.

The failure of the appellant to demonstrate that they are providing the maximum viable amount of affordable housing

- 7.4 The Mayor's principal concerns in relation to affordable housing are summarised below:
- i) The proposed level of affordable housing at 7.5% by habitable room is significantly below the 50% affordable housing threshold which applies to the Site under London Plan Policy H5. As such, the scheme would fail to deliver a mixed and inclusive community.
 - a) The Financial Viability Assessment (FVA) prepared by BNP Paribas for the appellant is deficient and unreliable and does not adequately demonstrate that 7.5% affordable housing provision is the maximum viable amount.
 - b) The details of the viability review mechanisms in the draft S106 Agreement dated 4 March 2024 are incomplete and so it is not possible to confirm whether they will operate effectively to secure and to ensure affordable housing delivery is maximised over the lifetime of the proposed Development.
- 7.5 There is substantial need for affordable housing in the London Borough of Richmond and across London as a whole. The redevelopment of the Stag Brewery Site, one of the largest sites in the borough and offers a critical opportunity to make a significant contribution towards meeting affordable housing need.
- 7.6 Despite the proposed scheme being a significant residential-led mixed use development located on a prominent West London riverside site, the proposed level of affordable housing is the lowest provided by larger schemes (500 units+) referred to the Mayor over at least the past 8 years. There are numerous large schemes across London that are delivering significantly more affordable housing as well as social infrastructure and new and improved public realm. The Appellant's offer is a significant outlier when considered against these schemes and this of itself should lead to scepticism as to its validity. At the very least, it gives rise to the need for significant scrutiny of the Appellant's justification.
- 7.7 Where a FVA is relied on by an applicant as a material consideration to justify a reduction in expected contributions, the decision-maker should determine the weight to be given to the viability assessment in line with NPPF Paragraph 58 and London Plan Policy DF1.
- 7.8 The Mayor's principal concerns relating to the Financial Viability Assessment are as in respect of the following inputs (which, for the avoidance of any doubt, are not agreed by the Mayor):

- i)
 - (a) Residential values; these are considered to be too low and do not reflect or take sufficient account of the place-making nature of the proposed scheme.
 - (b) Build costs; the build costs used have not been fully or sufficiently justified, at this stage, and the costs used are too high when benchmarked against comparable schemes.
 - (c) Development programme; the assumed programme used in the FVA does not accord with the programme used for the Environmental Statement and alternative programmes should be tested.
 - (d) The approach to the assumed CIL costs and S106 costs related to the school; there is limited justification for use of higher amount of CIL, compared to the range of scenarios in terms of CIL liability which may arise when the development is commenced and the justification for the assumed s106 costs arising from the provision of the school is not clear or therefore sufficient.
 - (e) Developer's return. alternative measures to return such as the Internal Rate of Return have not been considered which means that the viability testing is not considered to be robust.

- ii) The outturn of the viability appraisal and the conclusion of the FVA has not been subject to a 'stand back' review nor a full or sufficient sensitivity analysis of key appraisal input assumptions provided, in line with professional guidance. These steps should be included and should consider the impact of higher values/lower costs and different rates of growth/inflation on viability and the provision of affordable housing. Sensitivity analysis should also be used to test different delivery scenarios within the Outline component of the application.

- iii) The draft viability review provisions in the draft S106 Agreement are incomplete. This includes the timing of the Mid Term Reviews and the figures for the Application Stage GDV and Build Costs. It has not been demonstrated that the reviews will be effective in maximising the delivery of affordable housing over the lifetime of the development in line with London Plan policy H5, the Mayor's Affordable Housing and Viability SPG and National Planning Practice Guidance: Viability. GLA officers would welcome the opportunity to engage with the Appellant and the LPA in respect of the drafting of the s106 Agreement to address these concerns.

Harm to the significance of heritage assets, failure to conform with national and local policy and guidance, insufficient and flawed heritage assessment and failure to detail and secure heritage benefits.

- 7.9 The proposed development would cause direct harm to the Non-Designated Heritage Assets within the site (the Hotel, Bottling building and Maltings) as well as direct harm

to the Mortlake Conservation Area. This element of harm is caused by the proposals for facade retention of the Hotel and Bottling building, which results in the loss of historic fabric including the external walls on three sides and the roof, along with the loss of historic internal features, together with the loss of the remaining historic floorplan, together with external elevational changes to the retained facades associated with the new uses. The element of harm to the Maltings is caused by the loss of remaining internal features including the staircase and surviving structural elements, together with external elevational changes to the retained facades associated with the new uses. The element of harm to the character, appearance and significance of the Mortlake Conservation Area is caused by the above works to the NDHAs within the area and by the location, height, bulk, massing and detailed design of the proposed development. The harm is considered to be less than substantial harm when considering the impact on the area as a whole.

- 7.10 For the avoidance of doubt, the conclusions of the appellant's assessment of significance of the other NDHAs on site including the various boundary walls, the two historic gates, the various memorials and wall-mounted features and the riverside transport features is not disputed. The GLA supports the general direction of the proposals in relation to these features, however, issues will be raised in terms of the proposed approach to securing the retention and relocation of these features.
- 7.11 The proposed development would cause indirect harm to the setting of the Non-Designated Heritage Assets on site and therefore further harm their significance, given that their setting contributes to that significance. The location, height, scale, bulk, massing and detailed design of the proposed development is considered to cause harm to the significance of the Hotel, Bottling building and Maltings as NDHAs. The location, height, scale, bulk, massing and detailed design of the proposed development is considered to cause less than substantial harm to the setting of the Mortlake Conservation Area.
- 7.12 The location, height, scale, bulk, massing and detailed design of the proposed development would cause indirect harm to the setting of designated heritage assets nearby, listed below, and thus to the significance of these assets given that their setting is considered to contribute to significance. This harm is considered to be less than substantial.
- Thames Cottage at 1 and 2 Thames Bank, listed Grade II
 - Tudor Lodge, Thames Bank, listed Grade II
 - Thames Bank House, listed Grade II
 - Leyden House, listed Grade II
 - Riverside House, at 1-8 Thames Bank, listed Grade II
 - Garden Wall, east of 1-8 Riverside House and behind 1-24 Reid Court, listed Grade II
 - Gateway, formerly to Cromwell House, listed Grade II
 - Cottage buildings at 44 & 46 Victoria Road, listed Grade II

- Parish Church of St Mary, listed Grade II*
- Acacia House, at 115 Mortlake High Street, listed Grade II
- Number 117 Mortlake High Street, listed Grade II
- Limes House and forecourt piers, 123 Mortlake High Street, listed Grade II*
- Numbers 28, 30 and 31 The Terrace, listed Grade II
- Suthrey House and attached Railings, at 119 Mortlake High Street, listed Grade II
- Chiswick Bridge and Attached Balustrades, listed Grade II
- Mortlake Crematorium and associated Hammersmith Memorial to World War II Civilian Dead, Mortlake Cemetery, listed Grade II
- Polytechnic Stadium, listed Grade II
- Mortlake Conservation Area (LBRuT)
- Mortlake Green Conservation Area (LBRuT)
- Grove Park Conservation Area (LB Hounslow)
- Barnes Green Conservation Area (LBRuT)

7.13 The location, height, scale, bulk, massing and detailed design of the proposed development would cause indirect harm to the setting and thereby the significance of non-designated heritage assets nearby, including:

- The Jolly Gardeners Public House, 36 Lower Richmond Road, Mortlake, London SW14 7EX;
- The Ship Public House, Thames Bank, Mortlake, London SW14 7QR
- The Old Stables, Thames Bank, Mortlake, London SW14 7QR
- Asplin Cottage, Thames Bank, Mortlake, London SW14 7QR
- 6 and 7 Thames Bank, Varsity Row, Mortlake, London SW14 7QP
- 1-14 Parliament Mews, Mortlake, London SW14 7QP
- Numbers 1 (The Tapestry Tapas Bar formerly the Jolly Milkman Public House) to 9, 33, 37 to 51 Lower Richmond Road, Mortlake, London SW14 7HH
- Boat Race House, 61 to 69 Mortlake High Street, Mortlake, London SW14 8HL

7.14 The level of harm caused to nearby NDHAs by the proposed development will be further specified in the GLA's Proof of Evidence in due course.

7.15 Moreover, the information provided for the assessment of harm to heritage assets uses inappropriate methodologies and is technically inadequate, as detailed below. The appellants' heritage assessment is insufficient and flawed. The issues include the failure to provide existing floorplans of the Hotel, Bottling building and Maltings; the failure to provide a planning assessment of the harm caused using the language of NPPF rather than EIA terminology; the failure to use the necessary and appropriate expertise required by NPPF Para 200 in heritage assessment; the failure to following Historic England's guidance *Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition, 2017)*; the use of an inappropriate assessment

methodology (*National Highways: Design Manual for Roads and Bridges (DMRB) LA 1046 and LA 1067*); the use of an inappropriate method for assessing relative levels of significance; the failure to use either distance based circles or a Zone of Theoretical Visibility or Zone of Visual Influence in the scoping of heritage assets; the use of visualisations in place of AVRs; issues with the technical methods for producing the AVRs; the use of summer views in some imagery; the use of misleading colours to show outline elements in submitted views; the failure to adequately define the contribution made by setting to significance and the ability to appreciate significance and the confusion of mitigation with heritage benefits, together with the use of the internal balance of harm in assessing the quantum of heritage harm. Overall, the assessment of impacts to the historic environment is considered to be flawed and unreliable.

- 7.16 The elements of the development which form mitigation of heritage harm and which form heritage benefits are not adequately secured by the proposed conditions and Section 106 Agreement terms. The proposed phasing of the development is arranged, through conditions and the Section 106 Agreement terms, in such a way that the heritage benefits are not adequately secured.
- 7.17 The Mayor considers that the appeal proposal would be contrary to the NPPF, London Plan Policies D9 and HC1 and Richmond Adopted Local Plan (2018) Policies LP1, LP2, LP3, LP4, LP5, LP18 and SA24. The proposal fails to meet the objectives of the Stag Brewery Planning Brief SPD (2011), the Mortlake Village Planning Guidance (2015) the Conservation Areas Study, and the Mortlake Conservation Area Analysis, Proposals and Statement (n.d.). The Mayor's case will be that the public benefits associated with the proposed development, as advanced by the Appellant, would not be sufficient to outweigh this harm.

The height, scale, bulk and massing of the proposal would be harmful to the townscape, character and appearance of the surrounding area

- 7.18 It is the Mayor's case, and will be the Mayor's evidence, that the height, scale, bulk and massing of the proposed buildings proposed within Appeal A would be harmful to the townscape, character and appearance of the surrounding area and that the proposal fails to satisfy the policy tests for such buildings in this location.
- 7.19 The evidence will assess the impacts of the proposal from various views and give consideration to the design and architectural quality of the development, and the appropriateness of the proposed residential building typologies. The Mayor's evidence will address the relationship between buildings, and the impact of scale and height on the quality and functionality of the public realm, including new public spaces along the riverfront.
- 7.20 It will address the loss of singularity and current prominence of the Maltings from river and riverside approach views within the context of 8 and 9 storey proposed building

heights. Taking notice of the planning brief guidance to avoid a 'continuous ribbon of development' the evidence will consider the collective impact of proposed mass within the character of the riverside and in relation to the local open grain and low rise character of the wider river context.

- 7.21 Evidence will consider how the appellant has made use of their site analysis, particularly with regards to local area character and townscape, to achieve 'compatibility' required by LP Policy and to address the aspirations of the planning brief for integration with the existing.
- 7.22 The Mayor's case will be that the proposal would be contrary to the NPPF, the National Design Guide, London Plan Policies D3 and D9; Richmond Local Plan Policies LP1, LP2, LP5 and SA24 and the Stag Brewery Planning Brief SPD (2011).

The Planning Balance and conclusions

- 7.23 The Mayor's evidence will demonstrate that the Appeal A proposal is contrary to the Development Plan when considered as a whole. Planning permission should therefore be refused unless material considerations exist which outweigh the policy conflict and associated planning harm.
- 7.24 The Mayor's evidence will consider the NPPF and the benefits relied upon by the appellant, and the weight that should be attached to them. Among other matters, this will include discussion on the weight to be given to transport, environmental matters, public realm, and neighbouring amenity considerations. The Mayor's case will be that a conflict arises with the NPPF in several respects and, as a material consideration, the application of the NPPF does not outweigh the Development Plan conflict or otherwise support the grant of planning permission. It will be the Mayor's case that the scheme benefits do not outweigh either the conflict with the Development Plan or the associated planning harm, including the harm to heritage assets enjoying the highest level of legal and policy protection. The design would result in harm to the character and appearance of the area and the very low level of affordable housing provided weighs heavily against the scheme.