

**THE GLASSMILL, 1, BATTERSEA BRIDGE ROAD, LONDON SW11 3BZ.**

**APPEAL REFERENCE: 6002127**

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**SUBMISSIONS FOR THE LONDON BOROUGH OF WANDSWORTH**

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1. In these submissions, we will adopt as a structure the main issues, identified by the Inspector at para.6 of the post-CMC note. Those main issues are as follows:
  - a) the effect of the proposal on the character and appearance of the area;
  - b) the effect of the proposal on the significance of heritage assets;
  - c) whether the proposal would make appropriate provision for infrastructure;
  - d) the overall planning balance, having regard to the development plan and any proposed benefits.

Main Issue (a) - The effect of the proposal on the character and appearance of the area

2. We begin with the policy context.
3. There are several important matters of common ground.
4. First, it is common ground, obviously, that the appeal proposal includes a tall building<sup>1</sup>, and a very tall building at that.
5. Secondly, it is common ground that the appeal proposal engages the strategic policies of the development plan which concern the acceptability of tall buildings. These are, principally, policy D9 of the London Plan 2021 (CD 5.01) and policy LP4 of the LBW Local Plan 2023 (CD 5.02).
6. Thirdly, it is common ground that the appeal proposal is, through the local plan and in particular policy LP4, within a “mid-rise building zone”. That zone is identified, physically and by reference, within Appendix 2 to the Local Plan. The relevant mid-rise building zone is MB-B2-02 (see LP App.2 p.472). The height of a

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<sup>1</sup> The LBW Local Plan 2023 (CD 5.02) defines a tall building as a building over 7 storeys or 21 metres (Policy LP4 A)

mid-rise building/buildings in zone MB-B2-02 is up to 6 storeys (18 m). The tall building element of the appeal proposals – now at ground plus 28 storeys – exceeds and exceeds markedly the height parameters for the relevant mid-rise zone. In xx, both Mr Barbalov (“PB”) and Dr Miele (“CM”) agreed that the tall building element of the proposals is approximately five times greater than the height prescribed for the relevant mid-rise zone.

7. It is also agreed that the tall building element of the proposal, comprising ground plus 28 storeys, is a tall building within the terms provided by LP4 (see LP4 A), and indeed of a height which is approximately 2.5 times greater than the maximum height for a tall building in the identified tall building zones to the east and to the west, beyond Battersea Bridge Road (TB-B2-04 and TB-B2-03 respectively (see Local Plan 2023 p.456)).
8. It follows thereby and is agreed that the appeal proposal, by exceeding the height parameters for the mid-rise zone in which it is located and by introducing a very tall building outside any identified tall building zone, thereby conflicts with the locational elements of policy LP4 of the Local Plan 2023, in particular, LP4B and C. For the same reason, a conflict arises with the strategic policy for Wandsworth Riverside in the Local Plan 2023, policy PM9, part 4.
9. The proposal conflicts also with policy D9 of the London Plan 2021, part B(3), which provides that “tall buildings should only be developed in locations that are identified as suitable in development plans”.
10. We return later in these submissions to the consequences of these agreed elements of policy conflict, in particular as to whether there is compliance with D9 and/or LP4 or with the development plan as a whole.
11. As has been made clear in evidence (and is not in dispute) policy LP4 of the Local Plan 2023 and, through it, the identification of tall building zones, of mid-rise building zones and of the height parameters of each is derived from the assessment contained in the UDS 2021, prepared by Arup and which forms part of the evidence base for the adopted Local Plan. It is common ground that the UDS is a material consideration for the determination of this appeal.
12. There is no doubt that the UDS 2021 is a detailed and thorough assessment. Dr.Miele confirmed this in his written and oral evidence; in the BHTVIA (April 2024)

(CD 1.02), it is confirmed for the Appellant that the Local Plan 2023 “... was informed by comprehensive urban design and tall building studies, one of which is the 2021 UDS, by Arup ...” (para.3.12, p.21 (internal)). CM in xx confirmed that he agreed with this statement. In his proof of evidence, CM confirmed that the UDS 2021 is “robust” (CD 8.03 para.3.24). CM states also that he agrees with the “baseline characterisation” within the UDS 2021 (ibid. para.5.81). CM confirmed in xx that this remains his position. Indeed, it has formed no part of the Appellant’s case to this inquiry to challenge the thoroughness or robustness of the UDS 2021. Mr. Marginson (“JM”) did not criticise the UDS 2021 either.

13. Notably, the Inspectors who examined the soundness of the Local Plan 2023 confirmed that the UDS 2021 is a “proportionate and robust response to identifying tall building zones ...” (CD 6.11 para.112). This tends to accord with the common position of the Appellant and the LPA at this inquiry.

14. True it is that the UDS 2021 and the consideration of it as an evidence base document to the Local Plan 2023 did not address a specific proposal for development on the appeal site; that was not its role. However, the UDS 2021 was based on a thorough assessment of the site in its context and of the adjoining tall building zones and includes a clear and well-articulated assessment of character and appearance of the area and a strategy for its future growth. The assessment was firmly grounded in an understanding of the wide area in which development of the mid-rise building zone comprising the appeal site would be experienced, both north and south of the river Thames. As such, the UDS 2021 can be relied upon terms of its assessment that the appeal site is suitable for a mid-rise building (6 storeys (18 m)) but not a tall building. So too can the UDS 2021 be relied upon in establishing and justifying the maximum appropriate height for a tall building in the adjoining tall building zone, as between 7 and 12 storeys (36 metres).

15. Moreover, as we have just submitted, the Local Plan Inspectors accepted the UDS as a robust evidence base for LP4 and the zoning it introduced. Those same Inspectors were presented with representations from the Appellant that (a) the appeal site should be within a tall building zone and was suitable for a landmark building, (b) that the height parameters for tall buildings were too restrictive and (c) the height parameters for a tall building zone that includes the appeal site

should be greater than that prescribed for the adjoining zones (see CM App 7 (CD 8.09), Matter 13 Statement, paras.3.1, 3.3 and 3.9). It is not correct to assert (as the Appellant has sought to do in examination of witnesses) that the Appellant's point at the EiP was limited to the requirement for flexibility to be introduced into LP4 so as to be in general conformity with London Plan policy D9, as construed in *Master Brewer* (CD 13.07); that certainly formed part of the Appellant representation but was not the totality of it, as indeed both CM and JM accepted in xx. Notably the Inspectors did not consider that the LP was unsound (or required modification to be made sound) by reason of the appeal site being identified within a mid-rise zone or that the tall building height restrictions generally and as these apply to the appeal site were too confined; at para.117 of the Report on the examination of the Local Plan, the Inspectors confirm that "there is nothing persuasive before us to demonstrate that it is necessary to allow buildings to exceed the appropriate height range within tall building zones as stated in Criterion D of LP4". The Inspectors did not accept much of the Appellant's challenge to soundness and did not consider it necessary, for soundness, for policy LP4 as it applies to the appeal site to be modified (save in respect of parts C and G, to which we will return). The fact that the Inspectors were asked to include the appeal site within a tall building zone and for a taller building than that prescribed in the submitted draft plan but declined to do so, adds to the weight to the appeal site being zoned as it was and for buildings up to 6 storeys in the Local Plan.

16. In cross examination of Miss Chambers ("JC") and in examination in chief of JM, the Appellant sought to advance a point that in some way the UDS 2021 was out of date or at least attracted reduced weight by reason of the publication of the revised NPPF in December 2024 and in particular the introduction within it of para.125(c). JM confirmed that it formed no part of his evidence that neither the UDS 2021 nor policy LP4 of the Local Plan 2023 was other than up to date either generally or by reason of the publication of the NPPF 2024. It certainly formed no part of the written planning evidence submitted by the Appellant. CM did not take the point either. There was good reason for this – it is a thoroughly bad point. The UDS 2021 considered in detail and with care the character and appearance of the

area and heritage assets and assessed capacity for tall buildings in that context; the importance attached to respecting local and wider character and the importance of good design did not change with the publication of the revisions to the NPPF in December 2024. There is certainly no policy statement published by Government that, as a consequence of the introduction of para.125(c), all earlier capacity and character assessments and development plan policies which are based on such assessment are out of date. Nor is that the way in which other planning inspectors have approached the effect of para.125(c) (see CD 13.01 paras.8,9 and 31). There is no basis, nor would it accord with the Appellant's own evidence, to discount or reduce the weight to be given to LP4 and the UDS 2021 by reason of the changes to the NPPF in December 2024. The NPPF (2024) and para.125(c) is plainly a material consideration but it does not operate to reduce the weight to be given to policy LP4 or its evidence base.

17. We return then to the elements of D9 and LP4.

18. It is common ground that, notwithstanding that the appeal proposal is located outside a tall building zone identified in the Local Plan 2023, it is nonetheless necessary to assess the appeal proposal against London Plan D9 part C and likewise against Local Plan policy LP4 part B paras.1-19. That this assessment is to be undertaken follows the *Master Brewer* decision given by the High Court.

19. The assessment against those parts of policy D9 and LP4 engage, in part at least, the impact of the proposal on the character and the appearance of the townscape in which the appeal proposal will be experienced.

20. The LPA's position and the case that it advances at this inquiry is that there will be harm, indeed, substantial harm caused by the proposals to the character and appearance of a local and indeed wider area over which this appeal proposal will be experienced. The Appellant says that there will be no harm at all, indeed, it appears that the Appellant goes so far as to say or at least suggest that there will be positive townscape benefits.

21. There is an element of common ground which provides at least something of a starting point. CM has stated in his written evidence and has confirmed his view that the proposals "would be a prominent addition to this part of London" (CD 8.03 para.7.17). CM states also that "the scale of development means that it has wide

impacts, including from sensitive land enjoyed by many” (ibid. para.7.18). These areas of sensitive land include Battersea Park and the Embankment on the north side of the river Thames, in RBKC, which, as CM has confirmed, “... are subject to heritage designations which increase their townscape sensitivity” (ibid.). Ben Eley (“BE”), the LPA’s townscape and heritage expert witness, agrees. In terms of more local impacts, CM confirms that the proposal will be “prominent across a wide expanse of this part of the river, Battersea Reach” which is “obviously a feature of great amenity value” (CD 8.03, CM summary proof para.x). Again, BE agrees. These observations on the part of CM are perhaps unsurprising, given the height and scale of the proposal, but they serve only to highlight the far reaching and extensive area over which the proposal and its effects will be experienced.

22. A number of consultees, including statutory consultees, have responded to the application and its amendment. These include Historic England (“HE”) and the Royal Borough of Kensington and Chelsea (“RBKC”). The Mayor of London too has considered and commented upon the proposal. The scheme, at pre-submission stage, was subject to review by the Wandsworth Design Review Panel and the response of the Panel have been provided. The response of these independent organisations is informative and instructive, we say. We refer here to some parts of those responses.

23. First, there is HE. CM has confirmed that the views of HE, as a statutory consultee, attract great weight. We agree. HE’s assessment of impact on heritage assets is a matter to which we will return when addressing main matter (b). However, HE, in its responses (CD 11.10 and 11.11) includes observations on impact on townscape. In particular, in its summary set out in its letter of 19 June 2024 (p.1), HE states:

“Historic England considers that this proposed tall building would be a harmful and incongruous addition to the London skyline, with wide-ranging impacts on the historic environment, including to designations of very high significance. If approved, the scheme could pave the way for other tall building development in the area and lead to further harm. We strongly recommend that the proposed building is significantly lowered in height to reduce its impact on the historic environment and to align with your Council’s local policies for development on this site.”

24. In the same letter (page 3 internal), when considering “impact”, HE states that:

“The BHTVIA indicates that the proposed development would be a very bold architectural statement especially in river views, starkly contrasting with its townscape context due to its enormous height”

25. In respect of Battersea Bridge, the proposal, in HE’s assessment, will have a “significant visual impact” (ibid.). In respect of Battersea Park, HE considers that the proposal will have “significant visual impact” and raises a particular concern about the view from the “diagonal tree-lined axis directly in front of the timber shelter”, shown in BHTVIA View 15. From that location, HE considers that “... the Victorian designed landscaping and the enclosed treelined character of Battersea Park can be better appreciated” (C D 11.10 p.4).

26. HE’s position is that it is “unable to support these plans and strongly recommend that the tall building is lowered significantly in height to reduce or remove entirely the harm to historic environment on both side of the Thames” (CD 11.10 p.7). Notwithstanding the Appellant’s attempt (CM re-examination) to diminish the significance of this statement, it is quite clear that HE considers the proposals to be seriously harmful, that it does not “support” the proposal and recommends “strongly” major revision. Strong words indeed from the Government’s statutory advisor on the historic environment.

27. For completeness, HE was reconsulted when the scheme was amended and HE confirmed (CD 11.11) that it continues to “rest on [its] advice set out in” the original response (i.e. in CD 11.10).

28. HE’s assessment, which addresses impact on both townscape and the historic environment, must be given great weight.

29. We turn then to RBKC. Its consultation response, at CD 11.13, considers principally, the impact on the Embankment on the north side of the Thames and the conservations areas that this area comprises. Paragraphs 4.5 to 4.15 within Appendix 1 to RBKC’s letter of 21 November 2024, in the context of the amended scheme, are of particular importance and weight, we say. We do not set out here

RBKC's concerns in full, but we observe that these concern scarcely be more forcibly expressed:

"4.6 ... The proposed height of 29 storeys would have a clear and distinct impact on the setting of these areas [*i.e. Embankment, Royal Hospital Gardens, Chelsea Embankment Gardens and Battersea Park*] and would dominate the immediate skyline and river environment".

4.7 The dominance and oppressive character that would be introduced by a development of 29 storeys would be further emphasised by the glazed fabric of the proposed building ...

4.8 ... the application site sits within the setting of the Royal Borough ... and its associated heritage assets and townscape. The application site's location to the southern embankment of the River Thames would place the proposed development directly in the well valued riverside setting of RBKC, on the northern bank of the Thames. Great weight is applied to the riverside views, vistas, architecture and special context."

30. The Appellant, as we have noted, accepts that the Embankment in Chelsea is of particular sensitivity in townscape and heritage terms (see CM CD 8.03 para.7.19.1 (p.69). As such, RBKC's concerns about townscape impact should be given particular weight and importance. The Appellant's attempts, again not a matter raised by its witnesses in written evidence, to diminish the weight to be given to RBKC's views on the basis that it did not calibrated expressly heritage harm nor undertake a heritage balance is unworthy. RBKC is not the decision maker and is not required to approach heritage impact in the way that a planning decision-maker is required to do. In any event, it is RBKC's assessment of townscape impact that concerns main matter (a) rather than its consideration of heritage matters, although the latter plainly is of important.

31. The application was referable to the Mayor of London. The Mayor did not make himself decision maker for this application; indeed, he declined to call in the application. However, the observations made by GLA officers about the scale and townscape impact of the scheme are revealing. In the Stage 1 report, GLA officers describe the proposal as representing "a stark new urban typology in its immediate setting" (CD 11.08 para.38) and raise a particular concern about views from within Battersea Park (view 15), where the proposal will be "the only building obviously visible above the tree line" (*ibid.*) and, from views 10 and 11, from which it will be of "dominant scale" (*ibid.*). The GLA, consistent with its pre-application

advice, recognise that a “landmark” could be an appropriate design principle to apply to the redevelopment of the site but that “this does not mean that a building of significant height is considered appropriate on that basis” (CD 11.08 para.37).

32. Then there is the DRP, whose advice the NPPF and the London Plan requires consideration to be given to. We will return briefly and later in these submissions to the extent to which the Appellant responded properly to the DRP’s advice and requests. However, at this stage, we observe that the DRP has a “fundamental issue” with the height proposed (CD 12.01 p.2/8). The DRP was “not convinced on the need for height in this location” and “do not think that the narrative presented is clear and robust enough” (ibid. p.3/8). The DRP state that, in its view, “there is no need to cause this level of harm and fail to understand why the numbers of storeys proposed for both blocks are required” (p.4.8). The DRP conclusion in terms of “moving forward” is that it:

“... strongly question[s] whether a building of such scale, height and mass is appropriate in this location as we fail to see an adequate justification for it. ... the scheme should seek to reduce its harm by a more careful study of the visual impact of different heights of buildings, from not being visible to being visible, to understand more fully the impact on the significance of the setting of sensitive heritage locations like the Royal Hospital Chelsea for example.

...

We note the tight timescale for submission, but in light of our comments above and the need to address the issues raised the team should be given sufficient time to develop and finesse the proposals. We would wish to have the opportunity to comment on this proposal again.” (p.7/8).

33. The DRP’s response of 6 March 2024 (CD 12.02) was largely the same.

34. As we have said, we will return to the DRP process shortly. At this stage, however, we make the perhaps obvious point that the DRP expressed and expressed again its grave misgivings about the height of the building proposed on the appeal site and the absence of any justification for it. Those concerns remain unresolved.

35. We have spent a little time in drawing together the assessments and observations of certain informed, reliable and objective consultees and commentators since there is a consistency amongst them. Although expressed in their own ways, the common theme is that the Appellant is proposing a building that is too high and of excessive scale and that this gives rise to serious townscape and heritage harm.

Their assessments and observations accord with those of the LPA and as such add substantially to the weight to be given to the LPAs case.

36. In terms of the elements of harm to the character and appearance of the area, the Inspector has heard the evidence of BE. His evidence was careful, considered and measured. We commend it to you. We do not restate that evidence here. We make a few observations about it and the points in issue.
37. First, in terms of approach, there was a discussion about how existing tall buildings should be accounted for in the townscape impact assessment. BE considers that in a number of respects existing tall buildings, particularly those to the west/upstream of the appeal site, cause harm now to townscape character and appearance and to heritage assets (including the Montevetro Building in LBW, Chelsea Waterfront/Lots Road in RBKC and LBHF and the World's End Estate in RBKC). BE considers that a cumulative assessment is required when considering impact of the appeal proposal on townscape. BE's approach is a straightforward one but is no less compelling for that. If existing buildings cause harm to townscape by reason of the effect of their siting, form, height and scale, then logically it must be necessary to consider cumulatively the added effect of a further tall building. CM said that he accepted that it would not be correct to use existing harm to justify further harm. That is what BE's approach achieves; CM's approach, which essentially resets the baseline to neutral when a new building is introduced notwithstanding the harm it may cause, is as dangerous as it is illogical; it does precisely what CM says should be avoided, namely using existing harm to justify more and risk the destruction of a valued and sensitive townscape by a thousand cuts. As was discussed, HE, in its well-established setting guidance, endorses a cumulative approach (CD 4.13 pages 2 and 4), and it is common ground that this reflects best practice (CD 7.02; para 7). It is difficult to see why a different approach is demanded when considering townscape impact (with the result in a case such as this that inconsistent approaches are used when considering heritage and townscape impacts of the same development). Moreover, that existing tall buildings cause townscape and other harm now is well documented – see RBKC Building Height SPD CD 5.25 para.2.14. In this respect, the RBKC Character Study (CD 5.24) at p.62 (pdf) is illuminating

‘New development to the south on the Thames is often poorly integrated, creating discordant juxtapositions between old and new development. Tall buildings dominate views and appear incongruous in terms of massing and materials. The tower at 1 Waterfront Drive<sup>2</sup> in the adjacent LB Hammersmith and Fulham which fronts onto the Thames is a significant departure in terms of height, grain and design to that found in the area (with the exception of the World's End Estate) and will alter the skyline in this part of the borough’.

38. The LBW UDS 2021 too recognises the harm cause by existing tall buildings – see CD 5.16 pg.62 (internal) Character Area B2 (Battersea Riverside), Negative Qualities, bullet points 1, 6 and 8.
39. It would be illogical to ignore these recognised impacts of existing tall buildings when assessing the appeal proposal. BE’s approach should be preferred as is his evidence, using this approach; this was of particular importance in the views upstream from Chelsea Bridge.
40. Secondly, in terms of points in issue, there is the landmark building point. The Appellant seeks to justify the proposal, in particular its height, as realising an opportunity to deliver a landmark building on the appeal site. Some measure of agreement has been reached on this point. It is agreed that there is no policy requirement nor any express policy support within the development plan for a landmark building on the appeal site (see BE EiC and PB xx). In particular, there is nothing in policy (or otherwise) that supports a “Metropolitan” scale marker on the appeal site, which is what PB considers is required and which he considers the proposal will deliver (CB 8.02, para.4.1.1-4.1.6 (p.27, internal). BE accepted however that a building with landmark qualities may be an appropriate response within a redevelopment of the appeal site, but he was firm that such qualities do not require a tall building (BE EiC and xx). In this regard, BE’s position reflects the advice of the DRP (CD 12.01 p.3/8 and CD 12.02 p.2/8), of the GLA (CD11.08, para.37) and of HE (HE Tall Building Advice Note CD 4.14 para.4.5, bullet 3). PB also has accepted candidly that this is the case (proof (CD 8.02, para.2.5.7.9 (and quotation at 2.5.2.3). In his oral evidence (xx day 2), PB confirmed that a

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<sup>2</sup> Tower West, within Chelsea Harbourside (LBHF).

bridgehead in London did not require a landmark in the form of a tall building and there were, he said, numerous examples that did not.

41. Thirdly, it was said for the Appellant that the UDS 2021, which advises that height should be stepped down either side of Battersea Bridge Road on the approach to the Bridge, was concerned only with heritage considerations and, given that the LPA does not advance a heritage objection here, this advice falls away. As a proposition this is a false one. It is perfectly clear from the UDS 2021 (CD 5.16) that the advice within it that height should step down on the approach to Battersea Bridge was related to townscape and character as much as to heritage. This is clear enough from the detailed advice within the UDS in particular at p.237. It is also clear from policy LP4 of the Local Plan 2023 which, at part D, states that:

“The height of tall buildings will be required to step down towards the edges of the zone as indicated on the relevant tall buildings map unless it can be clearly demonstrated that this would not result in **any adverse effects on the character and appearance of the local area.**” (emphasis added) (see also Local Plan 2023 para.14.32).

42. It is abundantly clear that the clear advice about stepping down on the approach to Battersea Bridge is grounded in townscape considerations and the mid-rise zoning of the appeal site was justified on this basis, as indeed was the stepping down required in the adjoining tall building zones (as emphasised in the colouration gradations within the tall building plans for zones TB.B2.03 and 04 in App.2 to the Local Plan 2023 (CD 5.02 p.456); the proposal of course is flatly contrary to this advice.

43. Fourthly, in terms of assessment of impact, there are a number of points of context.

44. Before considering some of the particular townscape impacts, we make two points.

45. First, it is of significance that the Appellant itself accepts that the appeal site is a sensitive one in townscape terms. The Appellant has over time reduced the height of its proposals from ground plus 38 floors (DRP 1) to ground plus 33 floors (DRP2 and when submitting its application for planning permission) to ground plus 28 floors (when sought to amend its planning application in October 2024). PB, when asked in xx about the reasons for the successive reduction in height of the

proposals, he confirmed that the successive reductions in height of the proposal from 38 storeys to 33 storeys and then to 28 storeys was in recognition of the extent of visibility of the proposal when experienced from the surrounding area and that this was “an important and sensitive matter” (PB xx day 2). PB added that this was a matter that had been recognised “since day one” (ibid.).

46. Secondly, the UDS 2021 (CD 5.16) provides clear, well-reasoned and fully justified guidance as how the townscape comprising the appeal site, as a mid-rise building zone, and the two adjacent tall building zones should evolve through redevelopment. The UDS 2021 at p.182 (internal) provides, in respect of tall building zones TB.B2.03 and TB.B2.04, that:

*A riverside area dominated by two modern buildings rising to 12 and 18 storeys respectively<sup>3</sup>. Existing buildings across the rest of the area are more modest in scale but could receive additional height provided the cumulative impact on the River Thames is fully considered, and the setting of key heritage assets such as Battersea Park Registered Park and Garden and the listed Battersea Bridge are protected. The 18 storey building in the west of zone TB-B2-03 detracts from the setting of the grade I listed St Mary's church, and it is not considered that this height could be replicated anywhere else within this area. Apart from the recent Lots Road Power Station Development and the mid 20th century Worlds End Estate, the north bank of the river is relatively small scale and green in character. Development will need to respond positively to this. Development within zone TB-B2-04 should be planned carefully in relation to the small scale Ransomes Dock feature. Buildings should step down towards the approaches to the listed Battersea Bridge and Albert Bridge. Buildings in zone TB-B2-03 should also have regard to the small-scale character of the adjacent Westbridge Road Conservation Area. (emphasis added).*

47. More detailed guidance is given at Appendix A to the UDS 2021, at p.236-237, in respect of TB-B2-03 and at pp.238-239, in respect of TB-B2-04. In TB-B2-04, the UDS 2021 confirms that “The heights of buildings generally along the riverfront here are considered to be at capacity” (CD 5.16 p.239).
48. This guidance is well considered and explained. The appeal proposal is in direct conflict with this. Indeed, the appeal proposals in terms of the townscape impact that it generates, has achieved precisely what the careful and nuanced guidance

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<sup>3</sup> These are references to Albion Riverside and Montevetro respectively.

in the UDS 2021 sought to avoid. The conflict with the UDS 2021 should weigh (heavily, we say) against the proposal.

49. We turn then to particular impacts and some elements of context which should inform the assessment of those impacts.

50. In terms of views across the river from the Embankment in RBKC, we make the following points:

- a. these are sensitive views in townscape as well as heritage terms, as CM has accepted (Proof CD 8.03 paras.7.17-7.18).
- b. views over the river and views of the south bank of the Thames in LBW from the north side are recognised as of importance to the townscape character of the Embankment in RBKC and to the appreciation and enjoyment of it – see the Thames CA Appraisal (CD 5.19) Fig 4.1 (p.42 (internal)); Cheyne CA Appraisal (CD 5.21) Fig 4.1 (p.90 (internal)). At para.4.14 of the Cheyne CA Appraisal, it is stated that “the River Thames has an important relationship with the area, offering views across it on both sides as well as from and to the bridges”. The appeal proposal, it is agreed, will be prominent in these views;
- c. views from open space on the RBKC side of the Thames are of particular importance, including from Cremorne Gardens, and its jetty; the Thames CA Appraisal identifies the importance of these Gardens (CD 5.19 para.2.12). There is no AVR from within the Gardens but the development, BE has confirmed, will be prominent in views looking east. Also of importance are views from Chelsea Embankment Gardens and from Ropers Garden, broadly opposite the appeal site;
- d. that existing tall buildings, in particular on the southside of the Thames, harm the value of the townscape on the RBKC side is well recognised and documented – see RBKC Character Study CD 5.24 p.62 (see above). The Thames CA Appraisal (CD 5.19) at para.5.11 makes the point well:

“The conservation area’s general openness and the key importance of views in and out of it mean that surrounding development can have a negative impact on its character and setting. Recent developments of the new tall buildings at Lots Road Power Station are adversely affecting the panoramas of the Thames by protruding visually in the centre spans of

Albert and Battersea Bridges. The view of the bridges in the downstream direction is adversely affected by the recently built cylindrical Vauxhall Tower, again protruding in their centre spans. This detracts from their design and river dominance. *Development on the south bank of the Thames can also affect the conservation area and the large block of sinuous glass riverside flats adjacent to Albert Bridge is not representative of the finer grain scale of the conservation area opposite and the delicacy of the structure of the bridge.*” (emphasis added)

- e. The same point is made in the UDS 2021 at pp.63 and 182. At p.239, in respect of tall building zone TB.B2.04, the UDS 2021 advises as follows:
- “Evidence gathered through site visits and the character area profile indicate that the height of Albion Riverside sits positively along the riverside, with the scale of the building responding to the adjacent uses and the width of the River Thames. It is also largely set back to create a more generous feeling of space along the river frontage. *The heights of buildings generally along the riverfront here are considered to be at capacity. Increases in height would risk adversely affecting the character of the River Thames including the north bank which is designated as a conservation area by the Royal Borough of Kensington and Chelsea.* Taller development would also sit uncomfortably between the two listed bridges (Battersea, grade II and Albert, grade II\*) and would affect views from within Battersea Park Registered Park and Garden.” (emphasis added)
- f. BE has given his evidence about impact of the proposed development when viewed from the north and on the character and townscape to the north, in RBKC. He considers that the proposal, by reason of its height and scale will be stark, out of character and highly intrusive, compounding the harm caused by existing tall buildings. Others, including RBKC, agree. BE gave his evidence by reference in particular to views 12 (Chelsea Bridge), 4 (Albert Bridge), 11 (Battersea Bridge) and 10 (Cremorne Road). When considering view 4, BE explained how much greater the impact of the proposed development will be when seen as a backdrop to the delicate structure of Albert Bridge, exacerbating the harm caused by current tall buildings. Albert Bridge, it is agreed, forms an important focal point and landmark in the spatial hierarchy of the townscape and is important component in establishing its character. This is a point that HE commented on specifically (CD11.10, p.3 effect of proposal “diminishing is overall architectural significance” of Albert Bridge); the GLA expressed concern

about this impact too (CD11.08 para.53). BE explained how it is the height and scale of the development that generates the impact and that CM's emphasis on materials and detailed architectural treatment fails to address the fundamentals. BE emphasises the kinetic experience of the proposed development from the Embankment on the north side and that to focus on individual views, although useful, does not reveal the full impact.

51. With regard to Battersea Park:

- a. Like the Embankment, this is agreed to be sensitive in both townscape and heritage terms (CM Proof CD 8.03 paras.7.17-7.18);
- b. The character of and experience of Battersea Park is one of *rus in urbe* (CM proof (CD 8.03 para.10.183; see also GLA Stage 1 report (CD11.08 para.56 re: impact from view 15 "... this is harmful since it urbanises the periphery of the park, detracting from its peaceful and *rus in urbe* character).
- c. The development will be seen extending above the treeline in the location of view 15, where there is little by way of tall buildings interrupting the treeline now looking upstream to the west. It was the impact of the development in views from this general location that the GLA identified as harmful (CD 11.08, para.56 – "... this is harmful since it urbanises the periphery of the park, detracting from its peaceful and *rus in urbe* character").
- d. HE also expressed concern about impact from this general location on views westwards from within the Park – CD 11.10 p.4.
- e. As BE explained the area of the Park including and around view 15 is well used; the treelined avenues to the north-west of the shelter are a "Instagram" location, especially now. CM's attempt to diminish the effect of the development in these views is not valid, as BE explained and as the Inspector will have seen from visiting this part of the Park. The intrusion of Chelsea Waterfront Tower West above the treeline now, as BE set out in evidence, may assist the Inspector's understanding of the impact of the appeal scheme of a similar height but at in a location which is much more proximate to the viewpoints in the Park.

- f. The kinetic experience proceeding east to west along the riverside walk in BP is also sensitive. It is the LPA's evidence that the development will be prominent and intrusive in this experience.
52. From the grounds of the Royal Hospital, the AVRs (views 1 and 2) show how the development will rise above the roofline of the assemblage of historic buildings, both when seen from the north and the south of the main Hospital building. It is the LPA's evidence (and that of HE, RBKC and the GLA) that this will be harmful in both townscape and heritage terms.
53. From the landside in LBW, when viewed from the south, in particular along Battersea Bridge Road (e.g. view 21) and from the north, along Beaufort Street from Kings Road (view 7), the development will certainly be "striking", as CM says. BE goes further and considers the proposal will be strident and dominant, and harmfully so. BE candidly accepted that contrast can be exciting but here the contrast introduced by the appeal proposals is too extreme thereby generating harm.
54. BE's evidence is detailed and nuanced; we can and have provided just a summary in these submissions. Taken overall, the harm to character and appearance, we say, is substantial. And there is no legitimacy at all to an objection in principle (or practice) to an approach which considers townscape impact of a proposal overall and in the round, as BE has done. There is no policy or legal basis to contend that substantial harm, for the purposes of NPPF para.125(c) or generally, is required to be demonstrated in respect of individual townscape views or other receptors.
55. We add at this point that although no objection is taken to matters of detailed design and materials, BE was firm (as is the LPA) that these do not mitigate the harm through height and scale. When asked about CM's assessment of views from the north and CM's reliance on points about how the detailed design will be experienced in those views, BE confirmed that CM was ignoring the fundamental problem, namely height and scale and that matters of detail do not mitigate this. Notably, the DRP and HE adopt the same approach as does BE to matters of detailed design.
56. As a result, and as BE has shown, the proposed development when assessed against the criteria within policy D9 (C) and LP4 (B) (1-11) fails in a number of

respects (see BE proof ; Joanna Chambers (“JC”) proof (CD 9.03) Apps A and B). We return to this later.

57. We make at this stage two further points.

58. First, there is a substantial and unresolved inconsistency in the Appellant’s case.

The Appellant says that the proposed development will not give rise to any harm to the character and appearance of the area (indeed, the Appellant seems to suggest some benefit). The Appellant concedes now and at a late stage only a low level of less than substantial harm to one heritage asset, namely Albert Bridge. All other assets are unaffected, or, in the case of Battersea Bridge, its significance is said to be enhanced. Yet, at the same time it offers a much-increased level of affordable housing, well above policy requirements and did so, in October 2024, at the same time that it reduced the height of the proposals from ground plus 33 to ground plus 28 storeys. JC fairly posed the question as to why, if there was no material harm, the Appellant felt compelled to offer such an enhanced level of affordable housing. No explanation has been forthcoming from the Appellant; in particular JM offered no such explanation in his oral (or written) evidence, the point having been fairly raised by JC, who was the preceding witness. It is difficult to conclude other than that the Appellant does in fact recognise material harm, and it has felt compelled to offer mitigation in the form of an increased affordable housing offer in response. No other explanation is plausible.

59. Secondly, it is abundantly clear that the Appellant has not made any meaningful attempt, indeed no attempt at all, to address the Local Plan identification of the appeal site within a mid-rise building zone but in fact resolved at the very earliest stage that a tall building should be constructed on the appeal site. Nowhere in the DAS, as originally submitted or as revised in October 2024, did the Appellant test a form of redevelopment of the site that conformed to the parameters for development in the mid-rise zone which comprises the appeal site nor did it test a tall building of a height which accords to the parameters of the adjoining tall building zone (TB-B2-04). When asked about this omission, the best that PB could do was to refer to page 30 of the DAS. The exercise undertaken there was a retrofit of the existing building which, he concluded, did not optimise the site. That is neither reflective of redevelopment of the site nor is it testing of the local plan

derived parameters. A decision as to optimisation is a nuanced one and requires consideration of the pros and cons of forms of development, including its townscape and heritage effects, having regard to policies and other guidance. It is not just a numbers game, as PB seems to think. Indeed, all of the wide range of concept drawings within the DAS and within PB's proof shows only variations of tall or very tall buildings. This is a fundamental and serious omission by the Appellant. If, as it is seeking to do, the Appellant is promoting a response to the appeal site which departs significantly from the Local Plan policy expectations for the site, it behoves it to test that option against alternatives in a thorough and objective way. This is all the more so given that the DRP advised that the Appellant does precisely that; the DRP, in CD 12.01, when advising on "moving forward", said that "... the scheme should seek to reduce its harm by a more careful study of the visual impact of different height buildings, from not being visible to being visible, to understand more fully the impact on the significance of the setting of sensitive heritage locations like the Royal Hospital Chelsea for example". The Appellant has singularly failed to respond to this advice or to undertake the exercise that the DRP has requested. Rather the Appellant has persevered undaunted with its aspiration for a tall building on the site. This failure, which is inconsistent with the whole basis and rationale for a DRP process, weighs heavily against the proposals. Moreover, it was quite clear from the pre-application advice given by others, including by HE, the GLA and Council officers that height and scale was a concern and thus lower height options should have been considered properly and objectively by the Appellant. As with the advice of the DRP, the pre-application (and indeed post application) advice of others was ignored too .

60. We return then to policy. As was submitted at the start of our submissions concerning main matter one, the appeal site is not within any identified tall building zone provided for by the Local Plan 2023. As such, plainly, a conflict with policy LP4 B and, for the same reasons, with policy PM9 A(4) arises. A conflict with D9(B)(3) of the London Plan 2021 is generated too.

61. As is recognised, applying the *Master Brewer* decision, it then become necessary to consider the impact of the proposed tall building against LP4 B (1-15) and D9 C. The LPA has done that, and the evidence of BE and JC is that there are conflicts

with multiple elements of those parts of the policy (see in particular JC Apps A and B) and this leads to a conflict with the development plan as a whole.

62. We diverge at this stage to address the debate about whether in a situation where there is found to be a conflict with policy D9 B(3) but not with D9C (or with LP4 B but not with the criteria at B (1)-(19)) a conclusion can reasonably be reached that there is nonetheless compliance with D9 and LP4. Interesting though this debate may be, it does not arise on the LPA's case, which is that there are conflicts with D9 and LP4 on multiple levels. However, and for completeness, the Appellant's approach is plainly wrong. Logically and linguistically, there cannot be full compliance with D9 or LP4 in circumstances where there is non-compliance with those parts of the policies which direct tall building to locations identified in the development plan. The Appellant's approach is not consistent with the approach taken by the Mayor in the *Master Brewer* case itself (CD 13.07, paras.29, 31 and 57). As an approach it also in substance renders redundant the requirement within D9 for local plans to identify locations where tall buildings may be an appropriate form of development (D9 B(1)). It is notable that the inclusion within policy D9 of a requirement for locations that may be appropriate for tall buildings to be identified in local plans was derived (as JM confirmed) from a Government intervention at plan preparation stage. As such, it may reasonably be concluded that the locational element within D9 B is of some importance. That this is the case is reinforced by the acknowledgement by the LBW Local Plan Inspectors, when requiring the modification of parts C and G of LP4, that opportunities for tall buildings outside identified tall buildings zones are likely to be "extraordinary" (CD 6.11 para.116). There is no evidence before the inquiry, and it is not accepted, that the Appellant's suggested approach has been adopted elsewhere, let alone in "countless other decisions", as asserted by JM (JM EiC). The approach is also not consistent with JM's evidence, given in xx, in which he accepted that if, on his case, there is compliance with D9 C but not with D9 B(3) such there is compliance with D9 as a whole, the fact that a proposal is for a tall building on a site outside a tall building zone is nonetheless still a material consideration; as a proposition, that makes no sense. On the Appellant's case, non-compliance with D9 B (3) would be extinguished by a conclusion of compliance with D9 a whole; as such, it is quite

impossible to see how the same point, namely non-compliance with D9 B(3), then comes back into play as a self-standing material consideration. The Appellant has got itself into a terrible muddle with its case on D9 and that case makes absolutely no sense at all. However, as we have submitted, it is not an issue which arises on the LPA's case and, if the Inspector accepts that case, it does not need to be resolved.

63. We should make clear at this stage that the LPA does not accept that there is anything "extraordinary" or "very unusual" (as CM put it) about the appeal site or the opportunity for redevelopment it presents. The proposed development may be thought of as extraordinary, but far from in a good way.

64. We turn then to the NPPF. The importance attached within the NPPF to good design and to ensuring that development respects its context remains undiminished. The LPA's case is that there is a clear conflict with NPPF paras. 131 and 139 and in particular with para. 135(b), (c), (d) and (e). The development will involve the use of a brownfield site and will deliver housing, however, the harm cause to the character and appearance of the built environment in which its effects will be experienced is such that it gives rise to clear and substantial harm. The presumption introduced by NPPF 125(c) does not support the grant of planning permission. In any event, as the PPG guidance clarifies (and as JM accepted) para. 125(c) should not be considered in isolation but with and in the context of other policies within the NPPF. We return to this matter as part of submissions on the planning balance when addressing main issue 4.

65. By way of conclusion on main issue (a), the LPA's case is that the development causes substantial harm to the character and appearance of a wide area by reason of the height and the scale of the proposal. This harm generates a clear conflict with the development plan, in particular policies D9 of the London Plan 2023 and strategic policies LP4 and PM9 of the Local Plan, and with the NPPF 2024. A clear basis for dismissal of the appeal by reason of this impact arises, and we return to this when addressing the planning balance shortly.

Main Issue (b) - the effect of the proposal on the significance of heritage assets

66. The LPA has considered the effect of the proposed development on the significance of heritage assets. The conclusion is that a range of assets within LBW and beyond would be harmed, including assets of particularly high status, including the Royal Hospital, Chelsea Old Church, Chelsea and Albert Bridges and Battersea Park. In all cases the harm to significance is less than substantial.
67. The Appellant says that there will be no harm to any designated asset save for Albert Bridge. The significance of Battersea Bridge will be enhanced.
68. The LPA disagrees with the Appellant's assessment, as indeed does HE and other commentators. However, the LPA has undertaken the balance required by policy and concluded that public benefits outweigh the less than substantial harm to heritage assets.
69. The LPA does not seek the dismissal of the appeal by reason of impact on the significance of any designated nor any non-designated heritage asset.
70. Ultimately, given the relevant statutory and policy duties, the matter of heritage impact is ultimately one for the judgement of the Inspector.

Main Matter (c) - whether the proposal would make appropriate provision for infrastructure

71. A draft planning obligation has been agreed between the Appellant and the LPA.
72. The LPA is satisfied that the infrastructure and other requirements which are necessary to be secured, should planning permission be granted, are addressed in the planning obligation and the agreed draft planning conditions.

Main Matter (d) the overall planning balance, having regard to the development plan and any proposed benefits.

73. We have addressed the strategic tall building policies of the development plan and set out the basis on which the LPA considers, on the evidence, that the proposed development leads to a breach of those policies.
74. The LPA considers that the conflict with those policies leads to a conflict with the development plan as a whole. The statutory presumption against the grant of planning permission is thereby engaged.
75. We turn then to other material considerations.

76. First, in terms of then NPPF, as submitted above, a conflict with those policies of the Framework which require good design and that development is sympathetic to local character, including built environment arises. These include the policies at NPPF paras.131, 135 and 139, which in substance provide that developed that is not well designed should be refused. Substantial harm is caused to the character and appearance of the area and, as such, policy 125(c) does not support the grant of planning permission. The development will deliver new homes but as is agreed, there is no housing land supply or delivery deficit in the LBW. The tilted balance is not engaged. Take as a whole, as it must be, the NPPF is not a material consideration which supports the grant of planning permission, nor does it rebut the statutory presumption in favour of refusal of planning permission which arises here.
77. The proposal is for redevelopment of previously developed land in Wandsworth (as indeed would most if not all realistic development proposals in the Borough). It will deliver new homes and give rise to public realm improvements. These and other benefits are recognised and have been included in the planning balance undertaken by JC. The weight to be given to individual benefits has been calibrated and explained by JC in her evidence.
78. In terms of housing supply generally, JC attaches moderate weight to this as a benefit. JC has explained why. LBW is meeting its housing requirement, derived from the London Plan 2021. That housing delivery is constrained in London as a whole is well documented and acknowledged, as is the need for more homes generally. This is being addressed by the Mayor through the revisions underway to the London Plan 2021. London is a single housing market area and to reflect this it has long been established that the housing requirements for the London Boroughs will be derived strategically from the London Plan, which itself will identify the housing requirements for each London Borough on a capacity basis. Thus, it is the Mayor and his revisions to the London Plan that are the correct vehicle to address housing need and delivery and not individual planning application. In the interim, yesterday the Mayor and the Government published the emergency measures to accelerate delivery of new homes in London. In the interim, these are the measures which are intended to respond to delivery and

supply constraints. It forms no part of the Mayor or the Government's interim measures to set aside or to reduce the weight to be given to national, strategic or to local planning policy as it applies to individual planning decisions; had that been the intention, it could easily have been included in the interim measures. As such, it is not the place of an individual decision maker to respond to strategic housing delivery constraints. It is the role of the decision maker to determine an application or appeal in the usual way having regard to policy. The benefit, and it is a benefit, arising from 110 new homes on the site is not to be inflated by strategic matters which are being responded to by other means.

79. In terms of affordable housing, the Appellant is offering well in excess of the quantum and tenure required by policy. We have already made the submission that the rationale for this, given the Appellant's wider case, is unexplained. That said, affordable housing is a benefit in particular in the form of social rented tenure. However, the weight to be given to this benefit is sensitive to assurance of delivery. The Appellant's proposal is inconsistent with the prevailing trend of development and developers struggling to deliver policy compliant affordable housing packages or anything like it. JC has given her experience of these matters. The Appellant has not provided any meaningful assurance of viability to demonstrate deliverability of the affordable housing offered and the fact that grant funding is being explored "to improve viability" (see JM App.A and G) is telling, albeit vague. JM confirmed that no grant funding had been approved. The LPA and JC were quite right to be and remain sceptical about the realism of the affordable housing offer made and to attach significant (but not substantial) weight to this as a benefit.

80. It is no answer to the point that any adjustment to the affordable housing offer would require a s.73 application (or a further full application). That may well be correct but the task of the Inspector, in the here and now, is to consider the weight to be given to the affordable housing offer in the determination of this appeal and the evidence of delivery is central to the matter of weight. In any event, it is naïve to consider the outcome of this appeal, if favourable to the Appellant, will not be material to any future s.73 application which seeks to deliver the same tall building but with a reduced affordable housing offer.

81. In terms of the removal of the existing building and whether that is a townscape or heritage benefit, BE's evidence is nuanced, and the LPAs case is that the existing building is neutral in terms of its effects on character and the historic environment. The LPA does not oppose the principle of redevelopment, but it is not right to look at the removal of the existing building in isolation and separately from the acceptability of its replacement. We commend this approach to the Inspector.

82. In terms of heritage benefits, there are none. The proposal would introduce improved public realm on the approach to Battersea Bridge and at the riverside, to its east. These are urban design related public benefits but do not and could not enhance the significance of Battersea Bridge as an asset<sup>4</sup>. Indeed, the LPA's case is that the significance of Battersea Bridge as a heritage asset would be harmed by the height and scale of what is proposed.

83. The benefits of the scheme, taken at their highest, and other material considerations do not outweigh the harm to the character and appearance of the area and to the development plan conflict that thereby arises.

### Conclusion

84. For the reasons given, the proposal causes substantial harm to the character and appearance of the area and conflicts with the development plan, taken as a whole. The conflict is not outweighed by other matters. Planning permission should be refused.

DOUGLAS EDWARDS KC

26 March 2026.

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<sup>4</sup> The South Kensington decision, referred to by CM in his rebuttal evidence (CD 8.11 paras.4.4-4.5 and App.2), is very different. The development at South Kensington Station improved access to the Museums and, as places of public resort, those Museums derived their significance in part from member of the public visiting and using them as institutions. It is readily understandable why improved access and accessibility to the Museums was a heritage benefit in that case. The same considerations do not arise here.

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**Appearances for the London Borough of Wandsworth**

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Counsel for the LPA: Douglas Edwards KC instructed by Duncan Moors of Ashfords LLP

Witnesses: Miss Joanna Chambers, BA, BTP, MRTPI, Director of Changing Cities (planning witness)

Ben Eley, BA (Hons), MSc (Hist Con), MRTPI, RSA - Senior Conservation and Urban Design Officer LB Wandsworth (townscape and heritage witness)

Assisting with Roundtable discussions: Nigel Granger, East Area Team Manager, LB Wandsworth

David Tidley, Head of Transport Strategy, LB Wandsworth

Duncan Moors, Ashfords LLP (106 session)