APPEAL BY AKA CAPABILITY LLP

MOUNT CLARE CAMPUS, MINSTEAD GARDENS,

ROEHAMPTON GATE, SW15 4EE

PINS REF: APP/H5960/W/3381729

LPA REF: 2025/0074

LONDON BOROUGH OF WANDSWORTH'S CLOSING SUBMISSIONS

Introduction

1. This appeal is brought against the non-determination of an application for Full Planning Permission for the following proposed development at the Mount Clare Campus, Minstead Gardens, Roehampton Gate, London SW15 4EE (**"the Appeal Site"**):

   "*Use of buildings as hostel accommodation (Sui Generis) with associated landscaping and cycle parking*" (the **"Appeal Proposal**").

2. Had the London Borough of Wandsworth (**"the Council**") determined the application it would have refused it for the reasons set out in its Officer Report ("**OR**") [CD/D2] but in essence because the Appeal Proposal would conflict with a number of key policies contained in the Council's development plan, and that development plan read as a whole, and would not benefit from material considerations sufficient to outweigh this conflict.

3. As Mr Nik Smith (**"NS"**) has said in written evidence (and explained in oral evidence), the Appeal Proposal constitutes the wrong development in the wrong place, no matter the existing lawful use of the Appeal Site (if there is one).

Inspector's Main Issues

4. The Inspector has identified the following main issues, which the Council addresses in these Closing Submissions:

   (1) Whether the proposal would: preserve or enhance the character or appearance of the Alton Conservation Area; preserve or enhance the Grade II listed Alton West Registered Park and Garden; preserve or enhance a Grade I listed building known as Mount Clare House; and preserve a Grade II* listed building known as The Temple, along with the setting or features of special architectural or historic interest that each possesses;

   (2) Whether the proposal would result in high quality living accommodation; and

   (3) Whether the proposal would accord with local and national policies, having regard to whether the capacity of the Appeal Site has been optimized for housing delivery, dwelling type, needs, mixed and sustainable communities, suitability of the location for the use, and consideration of heritage assets.

Main Issue (1): Heritage Impact

5. As to the first of these main issues, the Council relies on the evidence of Mr Barry Sellers (**"BS"**). It is clear from that evidence and indeed clear on any view, indeed all heritage and planning witnesses for both parties agreed this, that the Appeal Site is one of exceptional heritage sensitivity and therefore one characterised by significant constraint. The relevant designated heritage assets comprise Mount Clare (a Grade I Listed Building and therefore a building of national architectural and historical importance), The Temple (a Grade II* Listed Building and therefore of national architectural and historical importance), Alton West Landscaping (a Grade II Registered Park and Garden, designated on 10 June 2020), the Alton Conservation

Area (designated in 2001 and whose significance is described in the Alton Conservation Area Appraisal of 2023), and the Roehampton Archaeological Priority Area.

Bike Stands and Play Grounds

6. Any consideration of heritage harm must be undertaken within this particular and particularly sensitive context. And when one does so it is apparent that the Appeal Proposal (principally due to the outdoor operational development it involves) would cause some degree of heritage harm.

7. BS assesses the level of this harm to be at the lower end of less than substantial, albeit and importantly, this is based on a best-case scenario, with some aspects of the nature and extent of operational development (such as that relating to nature and extent of playground areas) still remaining unclear, despite six days of inquiry. Given the persisting uncertainty as to this it may well be that the level of harm is greater than that assumed by BS but it will certainly be no less. The necessary clarification on relevant details for which hope was expressed by the Council in opening has, unfortunately, not been forthcoming and in the absence of this the Inspector is invited to assume that there will be a need for approximately 650 m^2 of play space of the type mandated and described by Local Plan policy LP19 (based on the child yield figure of 60-70 given (without challenge) by Mr Dave Worth (**"DW"**) and agreed by Ms Anna Cooley (**"AC"**) and Mr Mandip Sahota (**"MS"**)).

8. This amount and type of provision derives from LP19 [CD/I3 p346] which imposes on the Appellant requirements which seemed to dawn on it far too late in this application and appeal process. The Council made clear that this was an issue from its OR [CD/D2 p44] onwards (see also its Statement of Case [CD/D1] at para 5.51)[1]. The Council agrees (and has always agreed) that the issue of quantum, location and nature of playground areas is one which is capable of being addressed by condition and did not therefore determine that this should be a reason to refuse permission (hence no

[1] Questions asked of BS in xx on Day 1 on the basis that there was no mention of this policy in the Council's SoC were therefore posed on a false premise.

play space reason for refusal), but it has always expressed the concern that without a proper understanding of the child yield it would not be possible to calculate the necessary quantum, let alone the locations and nature of such play areas. It was an indeed odd feature of this Inquiry that when a figure for child yield eventually emerged it came not from the Appellant but from the Council's witness, DW. To suggest as MS did that LP19 did not apply because technically no 'dwellings' are proposed is to misinterpret both the letter and spirit of that policy.

9. LP 19 requires that (with emphasis added):

"**LP19 Play Space**

A. The Council will protect existing play and recreation facilities and support the development of new formal and informal play facilities or the enhancement of existing facilities.
B. Development proposals for schemes that are likely to be used by children and young people should satisfy all requirements set out in London Plan Policy S4. New major residential developments and mixed-use schemes with a residential component will be required to make on-site provision for 10 sq m of dedicated play space per child.
C. Where it has been clearly demonstrated that the provision of on-site play space would not be feasible or appropriate, the Council will require a financial contribution towards the provision of new facilities or the enhancement of existing facilities in the locality which have or are capable of having sufficient capacity to accommodate the needs of the proposed development.
D. New play spaces should:
    1. Be well located, away from sources of air and noise pollution, and easily accessible by pedestrian, cycling or bus routes;
    2. Be inclusive to all;
    3. Provide a range of different types of play facilities and experiences for children of different ages and abilities;
    4. Be of a sustainable construction, support placemaking principles, and be easy and cost effective to maintain; and
    5. Be designed to allow for use in differing weather conditions including the need for shelter and protection from lightning."

10. The first thing to note here is that neither LP19 nor London Plan Policy S4 (to which reference is made) mention "dwellings". They are both framed in terms of "residential development" and there is no dispute between the principal parties that the proposal falls into this category.

11. It is therefore beyond doubt that, as the Council has been intimating since the time of the Officer Report ("OR"), LP19 applies and results in the need for 600 m^2 to 700 m^2 of play space.

12. Secondly, to suggest further, as the Appellant now seeks to do (through MS), that there is sufficient space available to allow for this 600 m^2 to 700 m^2 of space and that no more space is required is to both misinterpret and misapply the terms of LP19. LP19 D3-5 make clear that such play space must consist of built form, or operational development which inevitably would have a negative impact on heritage assets (Mr Charles Rose (**"CR"**), the Appellant's heritage witness, acknowledged as much in xx on Day 2).

13. In case of any lingering doubt in relation to this new point raised by MS, it is worth considering also the terms of LP20 [CD/I3 p347] which <u>does</u> relate merely to open space for recreation and therefore sits in clear contradistinction to the more onerous demands of LP19, requiring as it does the construction and installation of playgrounds themselves.

14. The inescapable upshot of all of this is that the Appellant has failed to take its cue from the expressions of concern made by the Council ever since the OR. Playground areas did not constitute a reason for refusal because this is a matter which could have, if the Appellant had chosen such a course, formed the subject of a suitable condition. But there is no such condition proposed by the Appellant (i.e. with sufficient details of the nature, design, location and extent of play space) before this Inquiry and therefore on the Appellant's own case no basis on which to conclude that LP19 has been or could be made the subject of compliance. In effect either the Appellant has underprovided for the 60-70 children who would occupy the proposed temporary accommodation ("**TA**") and is therefore in breach of LP19 or the extent of heritage harm is greater than that assessed by BS (and certainly greater than that assessed by CR). In either event, the Appellant, on which the responsibility for devising and promoting a policy compliant and heritage-enhancing scheme lies, has failed to achieve one or other or both of these.

Missed Opportunities

15. Whatever the actual level of harm, BS is clear that the proposal also represents a missed opportunity to achieve enhancement of the heritage interest of the Appeal Site through regeneration.

16. The requirement here is of course to conserve and enhance (see e.g. NPPF para 210 [CD/I1] and Local Plan Policy PM7 [CD/I3]) as both MS and CR accepted (in xx on Days 6 and 1 respectively), even if that requirement is more demanding than that made at ss. 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. And yet, once again this appeared to be a realisation which (rather like that relating to the provision of play space) the Appellant came to far too late in the day. Neither of these witnesses mentions heritage enhancements in their written evidence. Once the penny had dropped MS tried to conjure up examples of such enhancement but none feature in his list of heritage benefits contained in his Proof, whether in his Planning Benefits section or at all, and those which were mentioned, only orally and at the 11th hour (such as the clearing of brambles in the vicinity of the Doric Temple) were either trivial or activities which any landowner would be required to take whether or not permission was granted for the Appeal Proposal[2].

17. Recognising this problem, the Appellant relied on a theory of 'phased development' (see e.g. paras 6.50-6.56 of MS' Proof [CD/G1 p21], each of which seek to devise something which is not there from the wording of Local Plan Policy RO2 [CD/I2 p218) but in truth it is no more than that, a theory, with no detail before this Inquiry and no mechanism to ensure the delivery and future phases of the scheme which might bring with them heritage (or any other forms of) enhancement or benefit. No weight whatsoever should be attached to such speculative and vague hypotheses as to what the future may or may not bring.

Conclusion on Main Issue (1): Heritage Impact

[2] see NS evidence in chief and xx on Day 5

18. The Appeal Proposal would, at the very least, cause less than substantial harm to important heritage assets as described in the written and oral evidence of BS. But that assessment underplays the true impact. Even if the number and location of bike stands is to be taken to be that indicted on the landscape plan [CD/K23] rather than the plan in the Appellant's Transport Statement [CD/A10 p20], the indication of play space areas falls very far below what is actually required for a scheme with a child yield of 60-70. Accordingly, the provisions of ss. 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged, requiring the Secretary of State (through his Planning Inspector) to, respectively, have "special regard to the desirability of preserving …[a listed] building or its setting or any features of special architectural or historic interest which it possesses".

19. Moreover the policy requirement to enhance has not been met meaningfully or at all (as the Appellant proofs make clear by their failure to suggest otherwise) and no weight whatsoever should be attached to vague speculation as to future phases of the scheme (for which there is no policy support, contrary to MS's written evidence (see again paragraphs 6.50-6.56 of Proof of MS [CD/G1 p21]; see also xx of MS on Day 6)) and what those might bring.

20. Finally, the notion advanced by MS in xx on Day 6 that this scheme had been heritage-led, despite no involvement of heritage experts at its design stage and no attempt in written evidence to describe it as such, can be dismissed out of hand.

Main Issue (2): Quality of Accommodation Proposed

21. Too much time was spent on this topic at the Inquiry.

22. The Setting the Standard Temporary Accommodation Guidance Note (**"StS"**) [CD/I16] makes is clear that it does not apply to longer term stays or to accommodation which is not arranged and paid for on a nightly paid or rated basis (see page 3 of the StS). This Appeal Proposal envisages neither short terms stays nor occupation which is nightly rated.

23. MS bravely sought to draw a distinction without a difference, even in the face of plain English, common sense and the clear explanation given by DW as to how StS is actually used, in his answers to questions from the Inspector following his xx (Day 3). On no reasonable view can it be said that there is any difference between nightly rated and nightly paid. His own Proof [CD/G1] cites (on no fewer than 8 occasions, including in his list of Planning Benefits at para 6.117) that a key advantage of the proposal is that it would enable a shift away from the more expensive nightly paid accommodation (typically found, for example, in B&Bs and hotels).

24. The shift away from expensive nightly rated accommodation is consistent with the evidence DW gave in answers to questions from the Inspector but contrary to the distinction MS sought to draw. Through those answers the Inquiry learned that the Council discharges its TA obligations through a mixture of first, its own stock, second, properties leased for 3-5 years (which is the sort of accommodation envisaged here, should the Council agree to take it on), and third, nightly lets (including B&Bs), where (and only where) the StS applies (which currently comprises about 46% of the Council's TA stock). In Re-X, DW went on to elaborate on how the Council views nightly rated accommodation considering it as a solution of last resort for short stays only:

> " It's the type of TA that we least like using; generalising, it has poorer quality and higher costs; these standards (StS) are enforced by London environmental health officers who go around and inspect these and give them a grading; there is a central database; the purpose of this is that if a provider that we've never used and haven't seen we can check that database to see when it was last inspected, the grade it got; most of that is around fire safety and that kind of stuff. Nightly paid, we always try and minimise the use of, and move into leased accommodation where we have seen it for ourselves and we are happy with the standards, or into our own stock. Nightly rated is generally the worst but it certainly the most expensive."

25. Not only is the proposed accommodation wholly inadequate for those who would be accommodated for periods of 3-4 years (the top end of this range is derived from the Notes of the Meeting of 8 July 2024 which appears at Appendix 5 of the Proof of MS [CD/G2]) it would, based on Mr Daniel Curtin's (**"DC"**) own plans, contained in his Proof ([CD/G4]) either fail to meet the minimum standards applicable even for short stay accommodation paid on a nightly rate or else barely meet those minimum

standards (which is what DC said in xx on Day 3). Given concerns expressed by the Council about the adequacy of room sizes, it is hard to interpret those plans included within the written evidence of DC (to whom other witnesses deferred), which showed a breach of the minimum standards of the StS as anything other than a depiction of exactly that. DC explained that he had rounded down to reach 10 m^2 (and acknowledged, unlike MS, that, in accordance with Table 2 of Annex 1 of StS, bathroom areas were not included in the calculation) but if ever there was on occasion not to round down, it was here where the debate centred (for far too long) around a few square centimetres here or there, and one is inescapably left with the impression that the minimum standards would simply not be met. The impression only increases when one considers the effort the Council made to seek clarification and the opportunities the Appellant was given but did not take to reflect on and, if necessary, explain these sub-standard dimensions in advance of the start of the Inquiry (see correspondence at CD/K47).

26. Perhaps most tellingly of all, and despite the concerns being expressed by the Council about the inadequacy of room sizes, DC, who had never designed a TA scheme before and seemed surprised to learn of that occupants would reside there for such long periods of time[3], was very candid about the design brief he was given by the Appellant. It was not to design a scheme which would provide high quality accommodation for its future occupants, suitably adapted to their particular needs (as required by Local and London Plan Policies LP31 [CD/I3 p366] and D3 respectively and as claimed by MS in his written and oral evidence), but it was instead to fit as many units into the residential blocks as possible (xx Day 3[4]). DC even considered in his oral evidence whether and how he might have been able to cram an extra unit or two on the Appeal Site, concluding eventually that it wouldn't have been possible to

[3] Q; If you were to stay in one of the rooms that you designed for over 900 days, it would be longer than you anticipated? A: I didn't really anticipate how long people would be staying in here, but it does seem like a long period. (DC xx Day 3)

[4] Q: Was the brief to provide a certain minimum number of units? A: No, the brief was to fit as many units within the scope of the existing buildings without exceeding the external walls, without changing the external appearance/adding mass. Q: And your design achieved that objective of fitting in as many as possible? A: Yes, fitting in as many as possible given the structural, mechanical position and constraints of the existing building.

design for any more without sacrificing space in the proposed communal areas, such as they are.

27. Faced with the problem of optics and design realities of such a scheme, the Appellant sought to derive some form of support from comparisons with a scheme not before this Inquiry and of limited if any comparative value, even if, which plainly did not happen here, comparisons were drawn on a fair and transparent basis[5]). Instead, points about certain units at the Tooting hotel scheme were put to DW without reference to plans. The next day (after DW's evidence had been completed) the Appellant sought to introduce plans relating to different units at the Tooting site with a series of measurements calculated on various spurious bases. There was no proper justification for removing from the dimensions of a room areas of usable space and no credible justification for an area which was quite clearly devoted to a cupboard or alcove (despite stalwart resistance offered by DC in xx on Day 3).

28. Ultimately the Tooting comparison (with a scheme which was not the subject of any appeal or even officer report for TA use) led nowhere at all, and as MS had to acknowledge (in xx on Day 6) limited value can be derived from seeking to draw comparisons between different schemes each turning on their own very particular sets of facts and circumstances.

29. Flowing from these problems of density, room size and poor design comes that of effective management of a population which would disproportionately include vulnerable individuals and those with complex or particular needs[6].

30. And then there are the locational problems which would arise from such a proposal sited here. With such large numbers in occupation a significant proportion of occupants would lack a local connection and need to travel to gain support from friends and family. On any view the PTAL rating of this site is lower than that (i.e. 4 or higher) mandated by LP31 [CD/I3 p368] (a policy MS agreed unequivocally in xx

[5] DW, who knows the Tooting scheme well describes it and this proposal as being like chalk and cheese – See his ReX on Day 3

[6] DW (in EiC on Day 1) went as far as to say that the management challenges the proposal would bring would scare him, even if not all residents were vulnerable or had complex needs.

to be applicable, and in relation to which no questions should have been posed in ReX[7]). Moreover the nearby shops are not a cost effective way to obtain groceries for a low or no income population (considered further below).

31. Whilst there is a need for TA, DW was very clear in xx that there is no unmet need within the borough because of the work he and his colleagues have done in finding suitable TA for those who require it. But in any event it is not appropriate or acceptable to use an argument about TA need as a means to introduce unsuitable accommodation into the borough's TA stock.

Conclusion on Main Issue (2): Quality of Accommodation

32. The answer therefore to the second of the Inspector's main issues, whether the Appeal Proposal would result in high quality living accommodation, is a resounding 'no'. So clear in fact is this that DW, with all of his experience in the sector, feels unable to taken on the scheme for TA should consent be granted.

33. For all of these reasons the Council itself does not consider that the proposal would offer additional TA in the borough which would be of a sufficient quality.

Main Issue (3): Policy Conformity

34. The Inspector's third main issue is as NS puts it, a 'composite one', encompassing the following matters, all to be weighed in the planning balance (as he has done in his written and oral evidence):

(i) Heritage impact.
(ii) Affordable housing requirements.
(iii) Optimisation of the capacity of the site and site allocation policy.
(iv) Quality of the living accommodation.
(v) Suitability of the location for the proposed development.

[7] Q: You give LP31 some weight? A: Yes, just in terms of the general thrust of hostel accommodation; there are no specific policies that draw out TA specifically; this is the closest you get. Q: It must apply for you to give it weight? A: Yes

(vi) Whether the proposal would result in a mixed and sustainable community.

(vii) Need for temporary accommodation.

(viii) Planning balance.

(i) Heritage Impact

35. The position of the Council in relation to heritage harm, following the hearing and testing of evidence at the Inquiry, is as stated above. There is no reason to depart from NS' conclusion, in relation to the first of these sub-issues, that the Appeal Proposal would conflict with policies PM7, RO2, HC1 and LP3 of the Local Plan and conflict also with the requirements of London Plan Policy D3. These conflicts arise for the following reasons.

PM7 Roehampton and Alton Estate Regeneration Area (Strategic Policy)

36. As explained above, PM7 is breached because the Appeal Proposal would fail to enhance existing heritage assets and their settings, contrary to PM7 A1 [CD/I3 p211], and it is telling indeed that none of the Appellant's written evidence or Statement of Case suggests otherwise.

London Plan Policy HC1 - Heritage conservation and growth

37. In common with NPPF 210 and LP31, HC1 requires at B 3) [CD/I2 p279] "… the effective integration of London's heritage in regenerative change by: ... 3) integrating the conservation and enhancement of heritage assets and their settings with innovative and creative contextual architectural responses that contribute to their significance and sense of place."

38. For the reasons given above in relation to the Main Issue (1) and detailed in the Proofs of BS and NS, the proposal would fail to achieve this requirement and therefore breach Policy HC1.

Local Plan Policy LP3 - Historic Environment (Strategic Policy)

39. This policy provides that "Development proposals will be supported where they sustain, preserve and, wherever possible, enhance the significance, appearance, character, function and setting of any heritage asset (both designated and non-designated),and the historic environment. The more important the asset the greater the weight that will be given to its conservation."

40. For the reasons given above and detailed in the evidence of BS, this policy would be breached.

London Plan Policy D3 - Optimising site capacity through the design-led approach

41. The proposal would breach Policy D3 because first it is plainly not design-led (as the frank and candid evidence of its designer made clear), second it fails to optimise the capacity of the Appeal Site, including its site allocation, third because it would not deliver the residential and mixed use for which that allocation calls, fourth it is too dense to be properly supported by available infrastructure, and fifth is not of the high quality which this policy demands (for the reasons given above).

42. Moreover it would cause less than substantial heritage harm not outweighed by public benefit, so paragraph 215 of the NPPF would also be breached.

(ii) Affordable Housing Requirements

43. The Council considers that the Appeal Proposal would bring an obligation to contribute to affordable housing provision within the borough. NS explained his position on this at section 8 of his Proof [CD/H1 p18] and elaborated further in oral evidence.

44. The Appellant's resistance to making any contribution to affordable housing provision is based on an overly technical and artificial reading of London Plan Policy H4, Local Plan Policies LP29 and LP31, and the turning of a Nelsonian blind eye to the very clear terms of paragraph 2.51 of the Mayor's Affordable Housing and Viability SPG (2017) [CD/H2 p40].

45. And yet MS agreed in xx that plan policies should be read together and to the extent necessary may inform the meaning of the provisions within those policies (xx Day 6). In this context the policies cited above at paragraph 43 fall to be read together. When one does so their clear interpretation and the inescapable conclusion in the context of this appeal is that an affordable housing obligation arises here as set out at section 8 of the Proof of NS. Paragraph 8.4 of that Proof states as follows:

> "London Plan Policy H4 (Delivering affordable housing) requires that 'major developments' which trigger affordable housing requirements provide AH in line with the requirements of Policy H5. Footnote 50 says that 'all major development of 10 or more units triggers an affordable housing requirements'. The appeal scheme is a 'major development' comprising '10 or more units'."

46. Major developments are defined within the NPPF as [CD/I1 p75]:

> "Major development: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more".

47. The Appeal Proposal would therefore meet the definition of major development within the NPPF and the London Plan. As explained in NS' Proof, the Local Plan and London Plan policies would clearly be relevant in regard to affordable housing.

48. The Appellant relies on a highly technical point that TA is not directly referenced within the Local Plan or London Plan (overlooking it seems that the SPG does refer directly to hostels). However, a similar point was made and dismissed by Holgate J (as he then was) in *Rectory Homes Ltd v SSHCLG* [2020] EWHC 2098 (Admin), a case in which use classes were considered in relation to the application of affordable housing policy. Holgate J held (at [42]) that:

> "The Secretary of State submits that Policy CSH3 does not use language referable to that Order or to the C3 Use Class. The word dwelling in Policy CSH3 is an ordinary English word which should be given its natural meaning. It is not a technical expression or term of art."

49. In this case, where the parties are agreed that the average stay of an occupant of the proposed TA would range from 3 to 4 years, it is clear that these polices do indeed apply to the circumstances of this case and that the Appellant's excessively limited

reading of "units" (in Policy H4) to mean "homes" and "residential accommodation with shared facilities" (in Policy LP23) to mean "housing with shared facilities" unduly narrows the scope of policies clearly intended for wider application.

50. Para 4.4.5 of Policy H4, for example, does not limit the policy (as the Appellant attempts to do) to housing as distinct from TA. It is clear, where it states that "it is crucial that residential and mixed-use development contributes directly towards the provision of affordable housing" that the ambit of the policy is wider than housing (if, which is not accepted, such a distinction was of relevance for these purposes) and applies directly to the Appeal Proposal.

51. Even if there is merit in the Appellant's technical and semantic argument, NS has addressed the point at his Proof paras 8.9 and 8.13, where he states that "Whilst the appeal scheme is not 'purpose-built' in that it is not new built-development, it would otherwise meet the general description of 'large scale purpose built shared living accommodation' and so it would be appropriate to apply these policies to this development." and "It is clear to me from the above that the appeal scheme generates a requirement to make an affordable housing contribution. That is irrespective of whether it is defined as being most closely aligned with large scale purpose build shared accommodation, or specialist housing, or both."

52. Against this excessively technical and erroneous argument it is worth recalling by way of context the commercial reality of this scheme as revealed by the Meeting Note at Appendix 5 of MS' Proof and confirmed by him in xx on Day 6. If the £3.45M annual rent and 10 year lease sought by the Appellant were to be accepted by a local authority the rental income over this period would reach £34.5M. A very small contribution to this would be made by the modest housing allowances of individual residents and the shortfall would be met from public funds. It is hard to see as a matter principle why, given such circumstances, some form of AH contribution should not be payable.

53. But in any event there is no avoiding the very clear and clearly applicable guidance contained within the London Mayor's Affordable Housing and Viability SPG (2017) which put beyond any doubt that affordable housing contributions apply to 'non-self-

contained accommodation and hostels' (of which there can be no counter-argument that this is an example). And of course it worth reminding ourselves here of the purpose of the SPG, namely to assist in the interpretation and application of London Plan policies. So if there is any meaningful dispute as to whether H4 for example applies to the appeal scheme (the Council maintains that there isn't), one simply looks to the SPG for guidance. And to the extent if any that such guidance is needed, it is crystal clear.

54. The suggestion made that NS' position on AH was "frankly bizarre" is not only baseless but ironic. For it is indeed frankly bizarre for the Appellant to resist the clear wording of the SPG read together with relevant planning policies including LP31 which the Appellant accepts applies, and likewise could not be clearer (at its B.4) as to the requirement for an AH contribution to be made.

55. Finally, so far as affordable housing is concerned, the Appellant relied on correspondence with the GLA which it is said supports the view that no affordable housing requirement arises. But when the Council contacted the GLA itself it received the clear message that the GLA was not in possession of the full context so that they were unable to comment and its officers (Katherine Wood and Gareth Reeves) confirmed that the application would not be referable and that therefore the matter of any AH obligation was to be determined by the Council as local planning authority (see [K45]).

(iii) Optimisation of the capacity of the site and site allocation policy

56. Due to the location of the Appeal Site within the Alton Estate Regeneration Area site, allocation policies PM7 and RO2 apply but, as explained in section 9 of NS' proof [CD/H1 p21], the proposal "sits at odds with the objectives of the vision for the estate regeneration and the requirements of the site allocation policy."

RO2

57. Most strikingly there is a very clear breach of Policy RO2 because this residential only scheme fails to provide the mixed-use development with residential uses which

the policy demands (see para 9.29 on p218 of the Local Plan). It is frankly absurd to suggest as MS in xx that the fact that the Appeal Site includes buildings which are not currently proposed for residential development, and which are not currently proposed for anything at all, renders the scheme a mixed use one. And equally absurd to suggest (as MS also did in xx) that future phases will provide the missing mix or, as was put to NS in xx, that RO2 did not require the development of *all* of the allocation site. In fact, this was a point which perished quickly on impact with reality. As MS stated in his Proof (CD/G1 para 5.5.9) and repeated in xx the allocation site boundary and application site boundary are in fact one and the same so there was no scope, even in theory, for a mixed use coming forward on unused parts of the allocation site in due course, and there was no master plan which envisaged such phasing.

(iv) Quality of the living accommodation

58. This has been sufficiently addressed above and is not repeated here. In essence it is clear that the accommodation proposed is of a poor standard even if measured against StS. But equally clear is that the standards contained there do not apply to this scheme and that in any event the scheme fails to meet the high quality of design demanded by Local Plan Policy LP31.

(v) Suitability of the location for the proposed development

59. NS addresses this issue at section 11 of his Proof [CD/H1 p28]. DW explained in his oral evidence why a more modest scale of scheme for TA would not raise locational issues to the extent that this proposal would. And NS, in response to a question from the Inspector on why the site is allocated if transport links are poor explained that the particular needs of the proposed resident cohort increases the importance of good transport links.

60. With such large numbers of occupants there would inevitably be a significant proportion of residents without local connections and these would need to travel to visit friends and family and to get to places of work and education. Mr David Lewis's (**"DL"**) analysis that the site suffers from a PTAL rating below that mandated by LP31 remained even on his artificial basis of "increasing" the level by assessing trips

from the nearest rather than the furthest point between an on-site location and a bus stop on Roehampton Lane[8].

(vi) Whether the proposal would result in a mixed and sustainable community

61. The Appeal Proposal would also fail to provide for or promote a mixed and sustainable community. On the contrary it would cater predominately for single occupation, low income and vulnerable individuals and would thereby conflict with those policies (including RO2 and LP24 of the Local Plan, GG4 of the London Plan and paragraph 96 of the NPPF) which seek to encourage mixed and sustainable communities. It would not provide suitable accommodation or arrangements for that significant minority of residents with complex needs and significant proportion who would be vulnerable for one reason or another (as described by DW in Chief and xx on Days 2 and 3, and agreed by AC in xx on Day 4).

62. The low-income nature of proposed occupants would raise real issues in relation to the affordability of groceries in nearby shops. Convenience stores and limited storage capacity in the proposed units would make it difficult or even impossible for residents to benefit from low-cost supermarkets where they might go for a weekly shop.

(vii) Need for TA

63. Any need for TA is currently being met (as DW, who would know about this better than anyone else, explained in xx on Day 3). And in any event, as NS has explained (in section 13 of his proof), any benefits of the provision of such accommodation are 'significantly eroded' by the problems of this particular scheme.

64. Given the conflicts the Appeal Proposal would cause with the development plan overall, it is necessary in this appeal to consider whether material considerations

[8] NS checked over the weekend because he wasn't familiar with DL's approach and, as he explained in Chief on Day 5, determined that the relevant policy here must have been at London Plan paragraph 10.6.4 [CD/I2] but that this relates to general car parking and was therefore an inappropriate method of maximising the PTAL rating. He was not challenged on this in xx

might indicate that a decision should be reached other than in accordance with that plan and in favour of a grant of permission.

(viii) Planning Balance

65. NS does so and rightly attaches weight to the scheme's provision of additional TA stock. However, the shortcomings of this proposal mean that it cannot properly be considered to represent sustainable development within the meaning of that phrase as used in the NPPF.

66. MS accepted that several of his identified planning benefits were duplicative. In fact, the first three items on the list he gives at para 6.117 of his Proof amount to no more than one and the very substantial weight he suggests be attached the first two of these should be discounted accordingly.

67. Overall NS offered a more balanced view of the pros and cons of the proposal and it is submitted that the planning balance and overall conclusions he reaches should be preferred.

Overall Conclusion

68. For all of the above reasons the appeal should be dismissed and the Inspector is respectfully invited to do so.

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