

## 100 West Cromwell Road

in the Royal Borough of Kensington and Chelsea

planning application no. PP/19/00781

### Planning application

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008 (“the Order”) and Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

### The proposal

Partial demolition and reconfiguration of existing structures and erection of eight buildings up to a maximum of 29 storeys (above podium) to provide 462 residential units (C3) including the provision of 186 affordable housing units, a public leisure centre including a gym and pool (D1/D2), commercial/retail space (B1, flexible B1/A1/A3 and B1/D1/D2), alongside hard and soft landscaping, car parking and cycle spaces, public realm improvements and all ancillary and associated works including servicing, storage, plant and equipment.

### The applicant

The applicant is **MB Kensington Limited** and the architect is **John McAslan & Partners**.

### Recommendation summary

The deputy Mayor Jules Pipe, acting under delegated authority, acting as Local Planning Authority for the purpose of determining this application,

- i. grants conditional planning permission in respect of application PP/19/00781 for the reasons set out in the reasons for approval section below, and subject to the prior completion of a section 106 legal agreement;
- ii. delegates authority to the Director, Built Environment - Planning and the Executive Director of Development, Enterprise and Environment to:
  - a. agree the final wording of the conditions and informatives as approved by the deputy Mayor; with any material changes being referred back to the Mayor;
  - b. negotiate and complete the section 106 legal agreement;
  - c. issue the planning permission.

- iii. delegates authority to the Director, Built Environment and the Executive Director of Development, Enterprise and Environment to agree any variations to the proposed heads of terms for the section 106 legal agreement;
- iv. delegates authority to the Director, Built Environment and Executive Director of Development, Enterprise and Environment to refer it back to the Mayor in order to refuse planning permission, if by 19<sup>th</sup> March 2020, the section 106 legal agreement has not been completed;
- v. notes that approval of details pursuant to conditions imposed on the planning permission would be submitted to, and determined by Royal Borough of Kensington and Chelsea;
- vi. notes that Royal Borough of Kensington and Chelsea Council would be responsible for the enforcement of the conditions attached to the planning permission.

## Drawing numbers

<b>Site and demolition plans (January 2019)</b>	
Existing Site Location Plan 1969-JMP-MP-00-DR-A-0001	Existing Plan Level 00 Demolition GIA 1969-JMP-MP-00-DR-A-1031 Rev 1
Existing Block Plan 1969-JMP-MP-00-DR-A-1002	Existing Plan Level 01 Demolition GIA 1969-JMP-MP-01-DR-A-1032 Rev 1
Existing Plan Level 0B Demolition GIA 1969-JMP-MP-0B-DR-A-1030 Rev 1	Existing Plan Level 02 Demolition GIA 1969-JMP-MP-02-DR-A-1033 Rev 1
<b>Proposed plans (November 2019 Addendum)</b>	
Level 0B 1969-JMP-MP-0B-DR-A-3003 Rev 7	Level 10 1969-JMP-MP-10-DR-A-3100 Rev 4
Level 0M 1969-JMP-MP-0M-DR-A-3004 Rev 7	Level 11 1969-JMP-MP-11-DR-A-3110 Rev 4
Level 00 1969-JMP-MP-00-DR-A-3005 Rev 9	Level 12 1969-JMP-MP-12-DR-A-3120 Rev 4
Level 01 1969-JMP-MP-01-DR-A-3010 Rev 8	Level 13 1969-JMP-MP-13-DR-A-3130 Rev 4
Level 1M 1969-JMP-MP-1M-DR-A-3015 Rev 3	Level 14 1969-JMP-MP-14-DR-A-3140 Rev 4
Level 02 1969-JMP-MP-02-DR-A-3020 Rev 5	Level 15 1969-JMP-MP-15-DR-A-3150 Rev 4
Level 03 1969-JMP-MP-03-DR-A-3030 Rev 5	Level 16-26 1969-JMP-MP-16-DR-A-3160 Rev 4
Level 04 1969-JMP-MP-04-DR-A-3040 Rev 5	Level 27 1969-JMP-MP-27-DR-A-3200 Rev 4
Level 05 1969-JMP-MP-05-DR-A-3050 Rev 5	Level 28 1969-JMP-MP-28-DR-A-3210 Rev 4
Level 06 1969-JMP-MP-06-DR-A-3060 Rev 5	Level 29 1969-JMP-MP-29-DR-A-3220 Rev 4
Level 07 1969-JMP-MP-07-DR-A-3070 Rev 5	Level 30 1969-JMP-MP-30-DR-A-3230 Rev 4
Level 08 1969-JMP-MP-08-DR-A-3080 Rev 5	Level 31 1969-JMP-MP-31-DR-A-3240 Rev 4
Level 09 1969-JMP-MP-09-DR-A-3090 Rev 4	
<b>Proposed Sections (November 2019 Addendum)</b>	
Section AA 1969-JMP-MP-AA-DR-A-5000 Rev 2	Section FF/GG 1969-JMP-MP-FG-DR-A-5050 Rev 2
Section BB 1969-JMP-MP-BB-DR-A-5010 Rev 2	Section HH 1969-JMP-MP-HH-DR-A-5060 Rev 2
Section CC 1969-JMP-MP-CC-DR-A-5020 Rev 2	Section JJ 1969-JMP-MP-JJ-DR-A-5061 Rev 2
Section DD 1969-JMP-MP-DD-DR-A-5030 Rev 2	Section KK/LL 1969-JMP-MP-KL-DR-A-5070 Rev 2
Section EE 1969-JMP-MP-EE-DR-A-5040 Rev 2	
<b>Proposed Elevations (November 2019 Addendum)</b>	

Elevation North East 1969-JMP-MP-NE-DR-A-4001 Rev 2	Elevation South West 1969-JMP-MP-SW-DR-A-4003 Rev 2
Elevation South East & North West 1969-JMP-MP-SE-DR-A-4002 Rev 2	
<b>Typical bay details</b>	
Building 01 1969-JMP-01-DE-DR-A-5100 Rev 0	Building 03 1969-JMP-04-DE-DR-A-5301 Rev 0
Building 02 1969-JMP-02-DE-DR-A-5200 Rev 0	Building 04 1969-JMP-04-DE-DR-A-5400 Rev 0
Building 02 1969-JMP-02-DE-DR-A-5201 Rev 0	Building 04 1969-JMP-04-DE-DR-A-5402 Rev 0
Building 03 1969-JMP-02-DE-DR-A-5201 Rev 0	Building 05 1969-JMP-05-DE-DR-A-5500 Rev 0
Building 03 1969-JMP-04-DE-DR-A-5301 Rev 0	Building 03 1969-JMP-04-DE-DR-A-5301 Rev 0
<b>Landscaping plans</b>	
Landscape colour plan 1969-JMP-xx-ST-DR-L-1001	Levels - Podium Garden Square 1969-JMP-xx-ST-DR-L-1007
Existing Site Conditions 1969-JMP-xx-ST-DR-L-1002	Podium Garden Promenade 1969-JMP-xx-ST-DR-L-1007
Landscape GA Plan - Streetscape 1969-JMP-xx-ST-DR-L-1003	Sections & Elevations – Streetscape 1969-JMP-xx-ST-DR-L-1202
Landscape GA Plan – Podium 1969-JMP-xx-ST-DR-L-1004	Elevation – Podium 1969-JMP-xx-ST-DR-L-1201
Landscape GA Plan - Roof Gardens 1969-JMP-xx-ST-DR-L-1005	Elevation - Plaza to Podium Link 1969-JMP-xx-ST-DR-L-1201
Levels – Streetscape 1969-JMP-xx-ST-DR-L-1006	

## Introduction

1 Having assumed authority to determine this planning application, this report sets out the matters that the Mayor must consider in forming a view over whether to grant or refuse planning permission at the upcoming representation hearing. This report includes a recommendation from GLA officers, as set out below.

## Officer recommendation - reasons for approval

2 The Mayor, acting as the local planning authority, has considered the particular circumstances of this application against national, strategic and local planning policy, relevant supplementary planning guidance and all material planning considerations. He has also had regard to the Royal Borough of Kensington and Chelsea's (RBKC) committee report dated 30 May 2019 (as updated by RBKC's pre-committee addendum), the draft decision notice setting out nine reasons for refusal and all consultation responses and representations made on the case both to RBKC and the GLA. He has also considered that the subsequent RBKC committee report dated 7 January 2020 with its recommendation that, having considered the range of issues in full, on balance the committee supports the application as amended. The below reasons set out why this application is acceptable in planning policy terms:

- i. The comprehensive redevelopment of this under-utilised brownfield site to provide a high density residential-led mixed use redevelopment, including the provision of a community leisure facility and complementary commercial uses, strongly accords with London Plan Policies 3.3, 2.9, 3.16, 3.19, Policies H1, GG2, S5, and S1 of the Mayor's intend to publish London Plan, and RBKC Local Plan Policies CA5 and CH1.
- ii. The scheme would provide 462 residential units, of which 186 would be affordable (40% by habitable room). This would include a policy compliant tenure split between London Affordable Rent and Discounted London Living Rent. The proposed affordable housing offer meets the requirements of the Mayor's Affordable Housing & Viability SPG and Mayor's intend to publish London Plan and is therefore eligible for the 'Fast Track Route'. An early implementation viability review mechanism would be triggered, should an agreed level of progress not be made within 2 years of planning permission being granted. The affordability levels comply with the London Plan and would be secured in perpetuity. The housing proposed is of an acceptable quality, and of an appropriate density and mix for the location, taking into account the characteristics of the site. The scheme would therefore make a significant contribution towards housing and affordable housing delivery targets and meeting local and strategic housing need, both for both market and affordable housing. On this basis, the application accords with London Plan Policies 3.3, 3.4, 3.5, 3.8, 3.9, 3.11 and 3.12; the Mayor's Housing SPG (2016) and the Mayor's Affordable Housing & Viability SPG (2017); Mayor's intend to publish London Plan Policies GG4, D4, D6, H1, H4, H5, H6 and RBKC Local Plan Policies CO6, CH1, CH2, CH3, CH4 and CK1.
- iii. The application proposes a number of tall buildings in an area which is identified in an area for a potential 'key landmark', the majority of which is in an area which is 'non-sensitive' to tall buildings in RBKC's Building Heights SPD. The scheme respects and enhances the local character of the area and is of an appropriate height given the local context. The development would substantially improve the permeability of the site and would significantly improve the skyline by adding visual interest through the varied scale. The scheme would have an acceptable impact on the surrounding area in terms of microclimate, wind, overshadowing, daylight sunlight and noise. The development would not adversely impact on any strategic views or local views. On this basis, the application accords with London Plan Policies 7.4 and

7.7, Mayor's intend to publish London Plan Policies D1, D3, D4, D9 and HC3, RBKC Local Plan Policies CL11 and CL12 and RBKC's Building Height SPD (2010).

- iv. The development, by virtue of the scale and height of the proposed buildings and therefore wider visibility of the development, would give rise to less than substantial harm at the lower end of the scale to the significance in respect of some designated heritage assets in the vicinity of the site, by reason of impact on setting. However, the proposals would also generate significant public benefits, which in combination would be sufficient to clearly outweigh the harm arising from the development. On this basis, the application accords with London Plan Policies 7.6, 7.8, 7.11, the Mayor's intend to publish London Plan Policies D1, D4, D9, HC1 and accords with RBKC Local Plan Policies CL3, CL4, and CL11.
- v. The application would achieve a high level of accessible and inclusive design and increase permeability across the site. The development would therefore comply with London Plan Policies 3.8, 6.13, 7.1, 7.2, 7.5 7.6, Mayor's intend to publish London Plan Policies GG1, D3, D5, T6.1, T6.5, the Accessible London SPG and RBKC Local Plan Policies CA5, CR3, CH3, and CH4 together with the Access Design Guide SPD (2010) and Transport and Streets SPD (2016).
- vi. The vast majority of residential properties in the vicinity would not experience any noticeable reductions to their daylight and sunlight and where there would be a reduction to the existing baseline levels. However, there are several units within Warren and Atwood House to the north of the site which would experience a major adverse impact on daylight and sunlight. Warren and Atwood House currently experience good levels of daylight/ sunlight due to the undeveloped nature of the application site, therefore development of this part of the site would inevitably lead to reductions. The worst affected units represent a very small proportion of the total number of units in this building and the amendments required to reduce the impact of the development on daylight and sunlight would require significant changes to the massing of building 7 necessitating the loss of a number of proposed affordable housing units and reducing the proportion of family sized affordable units which, would be unacceptable. Therefore, on balance, the daylight /sunlight impact is considered acceptable. Furthermore, the impact of the development in terms of privacy and overlooking is deemed to be acceptable. As such, the application complies with London Plan Policies 7.6, 7.7 and 7.15, the Mayor's intend to publish London Plan Policies D3 and D8 and RBKC Policy CL5.
- vii. The proposed acoustic design, sound insulation and noise mitigation measures are appropriate and the residual noise levels expected to be achieved within internal residential units and external private, communal and public open amenity spaces would comply with the relevant standards as set out in RBKC's Noise SPD and an acceptable overall noise environment would be achieved as part of the scheme. On this basis, and subject to these measures being secured by condition, the application complies with the requirements of London Plan Policy 7.15, Policy D14 of the Mayor's intend to publish London Plan, RBKC Local Plan Policy CE6 and Noise SPD (2009).
- viii. The proposed mitigation and control measures in relation to wind tunneling and turbulence are appropriate and, subject to these being secured by condition, would not adversely impact upon the usability of the podium level open space or communal terraces. The application therefore accords with the requirements of London Plan Policy 7.6, Policies D8 and D9 of the Mayor's intend to publish London Plan and RBKC Local Plan Policy CL5.
- ix. The proposed mitigation and control measures in relation to air quality are appropriate and, subject to these being secured by condition, the application would provide an acceptable standard of residential accommodation, in line with UK Air Quality Objective value limits. The cumulative impacts on local air quality would also be acceptable. The application therefore

accords with the requirements of London Plan Policy 7.14, Policy SI1 of the Mayor's intend to publish London Plan and RBKC Local Plan Policy CE5.

- x. The proposed development has demonstrated that a high standard of sustainable design and construction would be achieved, minimising carbon dioxide emissions, using energy efficiently and including renewable energy, in accordance with the London Plan energy hierarchy. The development would deliver sustainable urban drainage, ecology and urban greening benefits over the existing situation at the site. As such the scheme complies with the policies contained with Chapter 5 and Policies 7.7, and 7.19 of the London Plan; Policies GG3, GG4, G6, SI1, SI2, SI3, SI4, SI5, SI7, SI8, SI12, SI13 of the Mayor's intend to publish London Plan, Sustainable Design and Construction SPG, and RBKC Local Plan Policies CE1, CE2, CE3 and CR6.
- xi. The proposed development would be car free with the exception of blue badge residential car parking, parking for car club vehicles and blue badge parking for the leisure use along with motorcycle parking. An appropriate package of transport mitigation measures is proposed in terms of contributions towards the West Cromwell Road/ Warwick Road healthy streets and junction improvements, contribution towards the loss of the existing coach parking facility, legible London contribution, traffic management plans together with travel plan incentives to encourage modal shift from the outset. Cycle parking provision complies with the standards in the Mayor's intend to publish London Plan. Highways impacts in terms of traffic congestion, safety, deliveries, servicing, construction and access are acceptable with details of which secured by conditions. Subject to the transport mitigation measures being delivered, the application accords with the transport policies in the London Plan Policies 6.1, 6.2, 6.3, 6.4, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13 and 6.14 Mayor's intend to publish London Plan Policies T1, T2, T3, T4, T5, T6, T6.1, T6.4, T7 and T9, and RBKC Local Plan Policies CT1, CR1 and RBKC's Transport and Streets SPD (2016).
- xii. The Environmental Statement (ES) and addendum provides an assessment of the likely significant effects of the proposal on the environment during the construction and operational phases. The ES, addendum and supporting documents comply with the relevant regulations in terms of their scope and methodology for assessment and reporting. The supporting documents in particular also appropriately respond to and address Development Plan policy, supplementary planning guidance and the representations made. As is usual for a major development of this nature there are potential environmental impacts and, where appropriate, mitigation has been identified to address adverse impacts. The general residual impact of the development with mitigation is considered to range from negligible to minor beneficial throughout most of the site. Given the context of the site, the environmental impact of the development is acceptable in view of the general compliance with relevant, London Plan and local policy standards and where applicable, the relevant British Standards.
- xiii. Appropriate, relevant, reasonable and necessary planning conditions and planning obligations are proposed to ensure that the development is acceptable in planning terms and the environmental, and socio-economic impacts are mitigated, in line with London Plan Policy 8.2, Mayor's intend to publish London Plan Policy DF1, T9 and Affordable Housing and Viability SPG (2017), RBKC Local Plan Policy C1 and Planning Contributions SPD (2019).
- xiv. Accordingly, the proposals are considered to accord with the development plan.

## Section 106 Legal agreement

3 The following heads of terms have been agreed as a basis for the planning obligations to be contained within the Section 106 legal agreement.

### Affordable housing

4 The following affordable housing obligations would be secured by legal agreement:

- ‘Baseline’ affordable housing provision of 186 affordable units (40% by both unit and habitable room), comprising: 109 Discounted London Living Rent (DLLR) units and 77 London Affordable Rent (LAR) units.

	<b>Discount LLR</b>	<b>London Affordable Rent</b>	<b>Total</b>
1 Bedroom	61	21	82
2 Bedroom	48	32	80
3 Bedroom	0	19	19
4 Bedroom	0	5	5
<b>Total</b>	<b>109</b>	<b>77</b>	<b>186</b>

- Affordable housing delivery linked to the % occupation of the market units;
- Early stage ‘non-implementation’ review mechanism.
- Definitions, eligibility and affordability for LAR and DLLR units and retention of these units in accordance with these requirements in perpetuity.
- management of LAR units by a Registered Provider, nominations agreement; and
- service charges for DLLR units to be included in the maximum rent levels.

### Transport

5 The following transport obligations would be secured by legal agreement:

- West Cromwell Road / Warwick Road TfL healthy streets scheme contribution within 12 months of commencement of the development<sup>1</sup>;
- West Cromwell Road / Warwick Road TfL healthy streets scheme feasibility study contribution to the GLA prior to the start of enabling works<sup>2</sup> for the development;
- Legible London contribution to the GLA six months prior to first occupation of the development;
- Coach Parking Facilities Contribution to the GLA six months prior to anticipated first occupation of the development.

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<sup>1</sup> The definition of commencement for the purposes of the s106 is in the process of being agreed but is likely to be triggered by construction works above the podium (i.e. excluding preparatory and enabling works)

<sup>2</sup> Enabling works is defined as strengthening works within the existing podium structure



- Travel Plan monitoring contribution to the Council prior to anticipated first occupation of the development;
- Demolition and Enabling Works Traffic Management Plan contribution(s) to the Council prior to the commencement of each phase of the demolition and enabling works;
- Construction Traffic Management Plan contribution to the Council prior to the commencement of any demolition or enabling works;
- Restrict residential occupiers from applying for parking permits;
- Use reasonable endeavours to secure necessary consents for the provision of a pedestrian and cycle link between the site and Earls Court via the Northern Access Route in the event the Northern Access Route is not required for construction access to Earls Court;
- and a one year free cycle hire membership to be provided to each dwelling on first occupation of each dwelling.

Other obligations:

- Carbon offset contribution to the Council prior to the implementation of the development;
- Construction phase skills and training contribution to the Council prior to the implementation of the development;
- End user employment and training contribution to the Council prior to the implementation of development [TBC];
- Library facilities contribution to the Council prior to implementation of the development [TBC];
- If payable, parks and open spaces contribution to the Council's prior to the implementation of the development [TBC];
- Air quality contribution to the Council prior to the implementation of the development;
- Public art to be provided within the development prior to the occupation of the development in accordance with a strategy approved by the Council six months prior to the anticipated occupation of the development;
- The provision of a Community Leisure Centre prior to occupation of 85% [TBC] of the dwellings and secure the operation and management of the Community Leisure Centre;
- Local procurement schedule in respect of the construction period to the Council prior to the start of enabling works;
- Training, employment and business strategy to be submitted to the Council prior to the commencement of the enabling works of the development and thereafter comply with the approved strategy;
- Securing public access across the podium;
- Section 106 monitoring fee, dispute resolution provisions and provisions for repayment of unspent financial contributions.

### Conditions to be secured<sup>3</sup>

6 The following list provides summary of the subject matter of the conditions and informatives to be attached to any planning permission which is to be granted:

1. Time limit for commencement
2. Approved plans and documents
3. Phasing plan
4. London Underground and Network Rail Infrastructure protection
5. Below ground utilities infrastructure
6. Submission of details – building 2
7. Submission of samples – building 2
8. Submission of details – buildings 3, 4 and 5
9. Submission of samples – buildings 3, 4 and 5
10. Submission of details – buildings 1 and 7
11. Submission of samples – buildings 1 and 7
12. Submission of details – building 6
13. Submission of samples – building 6
14. Submission of details – wind mitigation
15. Roof structures and appliances
16. Submission of details – podium access
17. Submission of details – trees and landscaping
18. Submission of details – protection of trees during construction
19. Planting and replanting
20. Horticultural management plan
21. Water supply capacity
22. Water consumption
23. Residential travel plan
24. Commercial travel plan
25. Leisure travel plan
26. Cycle parking details required
27. Car park management plan
28. Residential car parking
29. Demolition traffic management plan
30. Construction traffic management plan
31. Delivery and servicing management plan – residential
32. Delivery and servicing management plan – leisure
33. Delivery and servicing management plan – commercial
34. Refuse and recycling
35. Noise from building services plant and vents
36. Anti-vibration mounts for air-conditioning/ extraction equipment
37. Acoustic report
38. Façade insulation
39. Elastomeric bearings
40. Odours from extraction equipment
41. Odours from swimming pool ventilation/ filtration
42. Contamination – preliminary risk assessment
43. Contamination – site investigation scheme
44. Contamination – site investigation and quantitative risk assessment
45. Contamination – remediation method statement
46. Contamination – verification report

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<sup>3</sup> Draft conditions have been prepared and will be published as an appendix to this report; this list provides a summary of the draft notice condition headings

47. Contamination – unexpected
48. Contamination – long term monitoring
49. Low emission strategy
50. Demolition environmental management plan
51. Construction environmental management plan
52. Non-road mobile machinery
53. Professional management of engineering works
54. Considerate contractors scheme
55. Code of construction practice
56. BREEAM rating – new building non residential
57. Energy performance
58. Compliance with energy strategy
59. Photovoltaics
60. Accessible and adaptable dwellings
61. Flood risk and drainage
62. Thames water – waste and water capacity
63. Community Leisure Facility – use class restriction
64. Multi-use games area/ leisure management plan
65. Fire evacuation lifts
66. Building 6 – use class restriction
67. Thames Water Piling method statement
68. Network Rail/ LU safeguarding

### Informatives

1. S106 agreement
2. CIL
3. Thames Water
4. Engagement with network rail and London Underground
5. Deemed discharge
6. Pre-commencement conditions
7. Building control
8. Street naming and numbering

## **Publication protocol**

7 This report has been published seven clear days prior to the Representation Hearing, in accordance with the GLA procedure for Representation Hearings. Where necessary, an addendum to this report will be published on the day of the Representation Hearing. This report, any addendum, draft decision notices and the Mayor of London’s decision on this case will be made available on the GLA website:

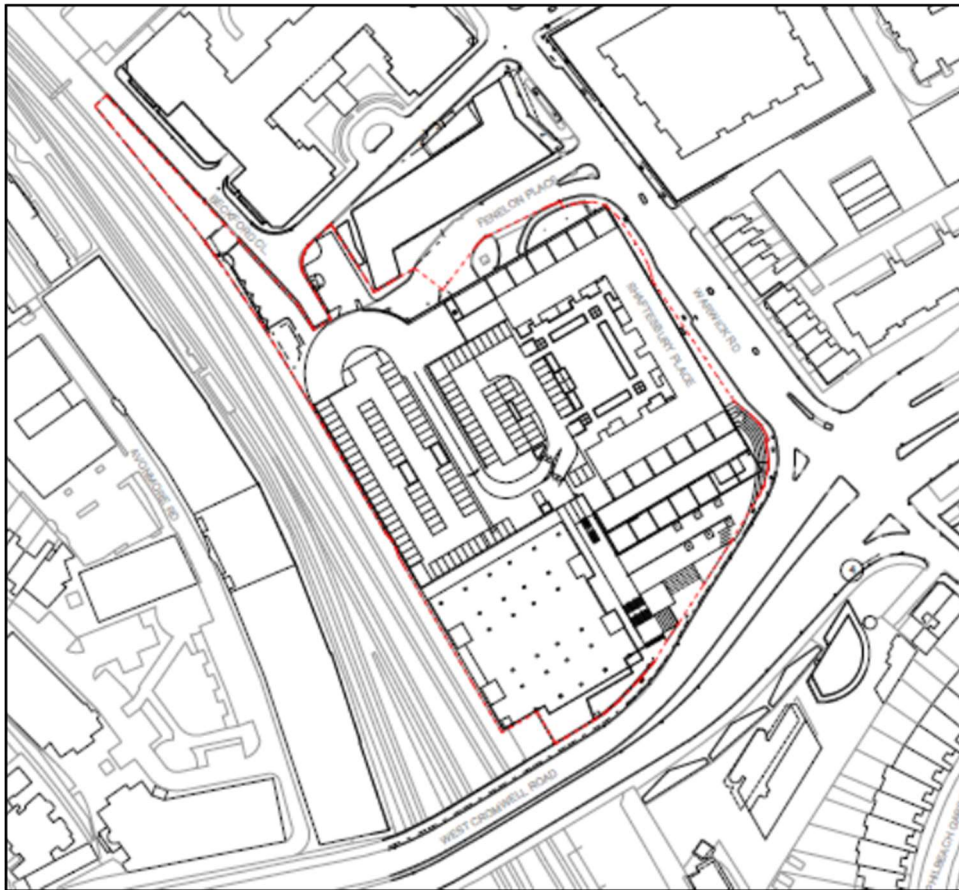
<https://www.london.gov.uk/what-we-do/planning/planning-applications-and-decisions/public-hearings/100-west-cromwell-road-public-hearing>

## **Site and surrounding area description**

8 The 100 West Cromwell Road site is located in West Kensington, to the north of West Cromwell Road at its junction with Warwick Road. It is bounded by railway tracks to the west, Fenelon Place and Beckford Close to the north, Warwick Road to the east and West Cromwell Road to the south (see figure 1 - application site boundary) and slopes up by 3 metres from the corner of Warwick Road and West Cromwell Road towards the railway track. The site measures 1.7 hectares

in size and is principally occupied by a multi-storey open sided car park structure, associated with the adjacent Tesco supermarket. Also included is an area of public realm to the south east corner of the site, directly in front of the Tesco supermarket's main entrance and to the northern end of the site a narrow strip of land between the railway track and Beckford Close, comprising hardstanding and a substation. Although the red line boundary includes the Tesco supermarket store and 75 affordable residential units above (managed by Notting Hill Genesis), no changes are proposed to these elements of the site apart from access and parking arrangements.

Figure 1: application site boundary



9 The existing car park structure provides three levels of car parking for Tesco which is accessed via a ramp from Fenelon Place to the rear and north of the site. To the south western corner of the site is 50 by 50 metre podium structure, 10 metres above grade that was constructed to provide a base for an office building which was never completed. Pedestrian access to the top of the car park podium and Notting Hill Genesis residential development is currently gained via steps to the south of the site adjacent to the main Tesco entrance on West Cromwell Road. At the lower ground floor level, beneath the car park is an area which was historically used for coach and lorry parking but has not been used as such since 2017. It is also where a permanent right of access exists between the former Earls Court Exhibition Centre site to the south, which runs beneath West Cromwell Road, through the application site and out via the ramp and onto Fenelon Place.

10 The site is within the administrative borough of RBKC, however, its boundary with Hammersmith and Fulham Council (LBH&F) lies immediately to the west of the application site, demarcated by the railway track. The application site is designated as a strategic site in Kensington and Chelsea's Consolidated Local Plan to provide a minimum of 450 residential units, provision of leisure, social and community uses, car parking and amenity space (Policy CA 6). The Earls Court and West Kensington Opportunity Area lies to the south.

11 There are no listed or locally listed buildings on site and the site is not within a Conservation Area. However, there are a number of listed buildings in the vicinity as well as a number of Conservation Areas, these are shown on Figures 10 and 11 in this report. The Grade I listed Church of St Cuthbert lies to the south of the site within the Philbeach Gardens Conservation Area. Olympia and Avonmore Conservation Area lies to the west of the site, beyond the railway track, Philbeach Conservation Area lies to the south, and Edwards Square/Scarsdale & Abingdon Conservation Area lies to the north, beyond Warwick Road. There are a number of other conservation areas in the wider locality, these are discussed in more detail in the heritage section of this report.

12 Warwick Road is a major signal controlled junction forming part of the Transport for London Road Network (TLRN). West Kensington and Earl's Court London Underground stations are 550 metres and 700 metres from the site respectively, served by the District and District and Piccadilly Lines respectively. Kensington Olympia is 900 metres to the north and provides access to District line and Overground services.

13 Nine high frequency bus routes stop adjacent to the site, including night / 24 hour services. The site has a public transport access level (PTAL) of 6a, excellent, on a scale of 0 to 6b, where 6 is highest. Cycle hire docking stations are located at West Kensington station and 200 metres away on West Cromwell Road. The proposed vehicular access remains via Fenelon Place as per the existing situation. Pedestrian and cyclist access is via Fenelon Place, Beckford Close and West Cromwell Road.

14 The site has a challenging environmental context in terms of noise, wind, air quality and site access caused by the proximity to the A4 and Warwick Road, railway, the level changes and exposed nature of the car park and podium structures, and leasehold interests/ rights of way over the site. The site fronts onto West Cromwell Road (A4) which comprises a three lane dual carriageway along this section and is directly adjacent to an extremely busy junction with Warwick Way with a poor safety record. The West London Rail line also directly abuts the site to the west. It is understood that the land itself is subject to complex legal leasehold/right of way issues, limits the scope of change achievable. These features create severance issues in terms of pedestrian, cycle movement and access to public transport services.

### **Site specific designations and allocation**

15 The site forms part of the wider Warwick Road Sites allocation set out under Policy CA5 of RBKC's Local Plan. Four individual sites are allocated as part of this designation. Of these four sites, the former TA site and Homebase site have both been redeveloped. The site is specifically identified to provide a minimum of 450 residential units and leisure, social and community uses (Class D1), provision of car parking and open amenity space. In addition to this, infrastructure and planning contributions are required including affordable housing on all sites, social and community uses; community sports hall and swimming pool; health facilities; creche and education facilities; landscape improvements to the West Cromwell Road and Warwick Road; pedestrian and cycle improvements; floorspace for a safer neighbourhoods unit if required; a contribution to investigate and implement measures to return Earl's Court on-way system to two-way working; and other contributions in accordance with the CIL regulations, the Council's Regulation 123 list and other relevant Local Plan policies and SPDs.

Figure 2: Warwick Road Sites Local Plan Policy CA5



16 The site does not lie within any strategic views as identified within the Mayor’s London View Management Framework SPG. Furthermore, the site does not lie within an archaeological priority area.

### Details of the proposal

17 The application seeks full (detailed) permission for the partial demolition and reconfiguration of the existing car park structure and erection of eight buildings to provide 462 residential units (48,614 sq.m.), 1,549 sq.m. of office (Class B1) floorspace, a community leisure centre and swimming pool (1,496 sq.m.), 439 sq.m. of flexible commercial floorspace (Classes B1/A1/A3) and 297 sq.m. of flexible commercial floorspace (B1/D1/D2). The development also proposes public realm improvements, the provision of car parking and cycle parking and associated works including the provision of servicing, storage, plant and equipment.

18 The proposed buildings would range in height between 31 storeys (29 storeys above podium level) down to 2 storeys above ground. Figures 3 and 4 below show the proposed massing and layout for the scheme. Table 1 provides details of the various building heights across the site.



Figure 3 – Proposed site massing and layout

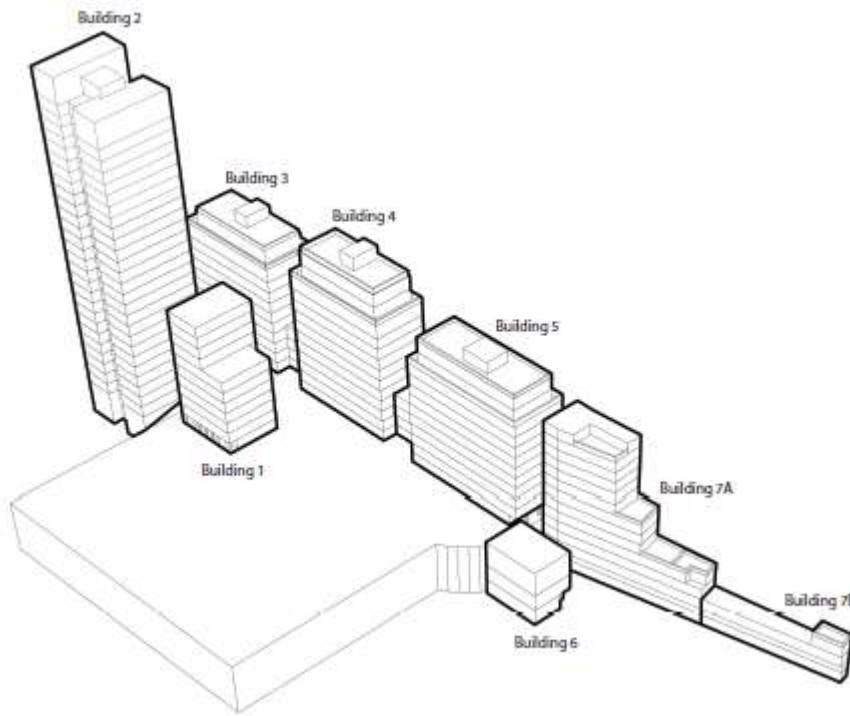


Figure 4 – Proposed eastern elevation

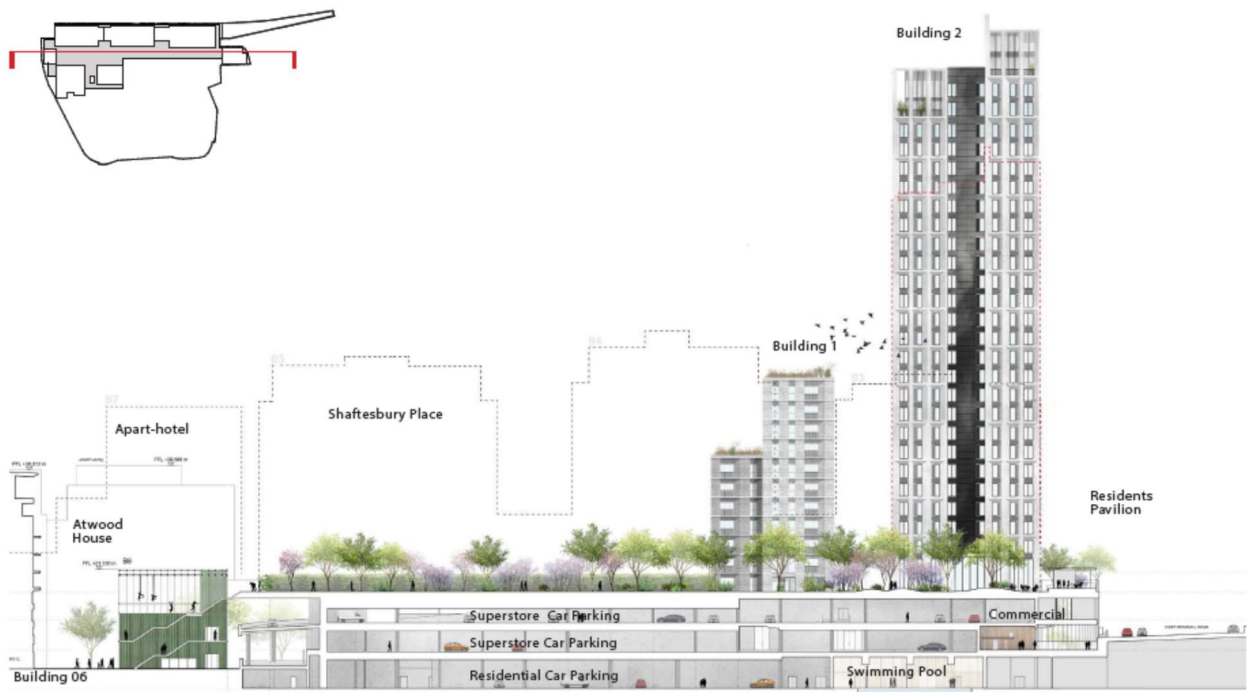


Figure 5: Proposed western elevation

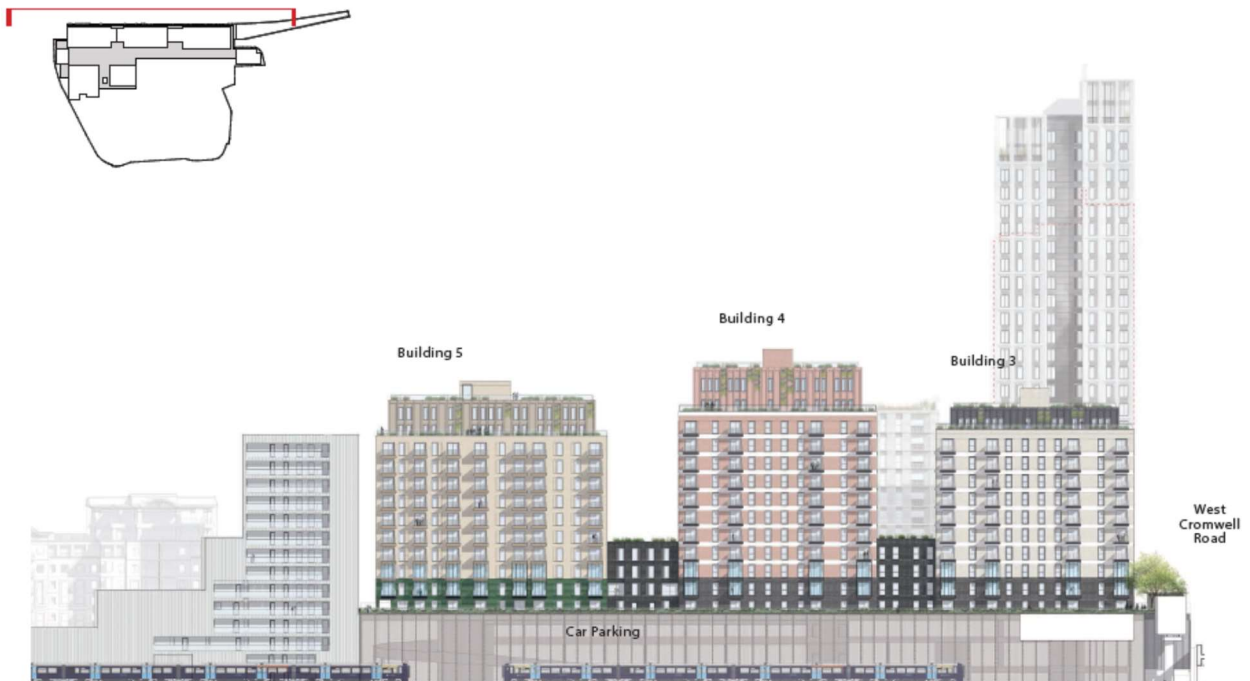




Table 1 – proposed building heights

<b>Building</b>	<b>Levels</b>	<b>Building height (AOD)</b>	<b>Change since original submission</b>
1	11 storeys (above podium level)	56 metres (38 metres above podium)	-
2	29 storeys above podium level (31 storeys from ground)	116 metres (99 metres above podium)	+7 storeys (+23 metres AOD)
South Pavilion	1 storey (above podium)	3 metres above podium	-
3	11 storeys (above podium)	59 metres (42 metres above podium)	-
4	13 storeys (above podium)	66 metres (59 metres above podium)	-
5	12 storeys (above podium)	60 metres (43 metres above podium)	-
6	2 storeys (from ground)	21 metres	-
7	14 storeys (from ground)	51 metres	-

19 The building heights vary across the site with the tallest building (building 2) located at the southern end of the site adjacent to the Tesco plaza on West Cromwell Road. The building ranges between 29 and 31 storeys from ground with 29 storeys above the podium level. The taller element fronts onto west Cromwell Road. The height of the remaining buildings on site range from 1 to 14 storeys and these buildings are arranged around the raised landscaped podium. All buildings would be constructed above the car/ park podium structure with the exception of buildings 6 and 7A/B to the north of the site which would be constructed from grade. Building 2 is the only building above the podium that has additional storeys below to ground floor. Building 1, which sits directly behind building 2 is part 11 and part 7 storeys, stepping down away from building 2.

20 Buildings 3, 4 and 5 are arranged along the western boundary of the site and all sit atop the podium. These buildings form a continuous built edge along the railway track. Building 3 is 11 storeys, including a single storey set back at roof level. Building 4 directly north is 13 storeys including a two storey set back at roof level and building 5 is 12 storeys, again has a two storey set back. Between each building are four storey blocks which are proposed to house maisonettes. Between building 2 and building 3 is a single storey pavilion building which is intended to be for resident's use. Building 6 is located to the north of the site just beyond the car park structure and is 2 storeys above ground. A sports court and climbing wall is provided at roof level. Building 7 is also built from grade, is a linear building which continues along the boundary of the railway track. The building ranges in height between 14 storeys at the southern end and steps down to 2 storeys toward the northern end. A three storey element at the northernmost end terminates the building.

21 The development would now provide a community leisure centre (1,496 sq.m.) at the base of building 2 including the provision of a public pool and gym. As originally submitted the proposal provided a privately run commercial facilities within Building 6 and this is a significant change to the current scheme since the Mayoral call in of the planning application. The leisure centre would have a dedicated ground floor entrance from the plaza and be provided over 3 floors. The previously

proposed sports hall within building 6 would now instead provide 297 sq.m. of flexible office/leisure (B1/D1/D2) but the sports court and climbing wall facility directly above would be retained and managed by the applicant as part of the public realm for the use of residents of the development.

22 In terms of the remaining proposed commercial floorspace, the proposals involve the provision of 1,549 sq.m. of office floorspace at the ground floor of the development fronting West Cromwell Road, and 439 sq.m. flexible office/retail (B1/A1/A3) unit at podium level and at the base of building 2.

23 A single storey 'pavilion' building is also proposed at the southern end of the podium for use by residents for amenity purposes including a resident's lounge, and gallery/banqueting space.

24 A total of 39 residential car parking spaces are proposed including 31 blue badge spaces and 8 car club spaces are proposed together with 872 residential cycle parking spaces and 92 non-residential cycle parking spaces which would be provided at basement and mezzanine level beneath the podium, within the plaza and at ground floor of building 7, accessed directly from the street. Vehicular access to the proposed parking area would be from Fenelon Place via the existing ramped road.

25 The car parking spaces associated with the Tesco Superstore are proposed to be reduced by 15 spaces to 299. The Tesco customer parking would instead be consolidated and provided over two levels (00 and 01) rather than over three levels as existing. The Tesco store would continue to operate during the development's construction.

26 The landscaped podium would provide a new fully publicly accessible north-south route over the podium connecting the Beckford Close to the north to West Cromwell Road to the south. The podium would be accessed via a set of steps at either end as well as publicly accessible lifts. All of the buildings, with the exception of buildings 7 and 6 would be accessed from podium level. Building 2 would also benefit from direct access from the plaza at ground level. The podium would provide areas of formal and informal playspace for residents as well as tree planting.

27 The public plaza at ground floor in front of the main entrance to the Tesco Superstore would be redesigned and provide more soft landscaping.

28 The amendments to the current scheme since the Mayoral call in are stated at paragraph 52 below.

## **Relevant planning history**

29 The site has a substantial case history which is summarised below.

30 In 1996 planning permission (LPA Ref. TP/93/0434) was granted for the development of the application site for a phased development involving the provision of a retail store, 75 affordable units, a car park, coach and lorry parking and leisure use. The second and third phases involved the development of offices over the podium structure and further residential development. Approval of details were granted in connection with phase 1 but applications for approval of details for Phases 2 and 3 were not received within the specified time period. Various minor amendments to the details of Phase 1 were subsequently approved over the years, including the deferral of the provision of the 778 sq.m of leisure facility to Phase 2 of the development. The Tesco store and residential above were constructed in accordance with phase 1 of this permission.

31 A planning application (LPA Ref. PP/00/01540) was refused in November 2001 for the erection of a 24 storey residential tower on the existing podium deck in the south west corner of

the site. The proposal by Persimmon Homes comprised 296 flats including 48 affordable units, 593 sq.m. of leisure provision, 200 sq.m. of community facilities and 249 parking spaces. The reasons for refusal related to the height of the building and its effect on surrounding townscape, the architectural quality together with the level of affordable housing provided in the scheme.

32 In July 2007 a planning application (LPA Ref. PP/05/02073) was refused for the erection of a 27 storey building to provide 433 residential units alongside leisure and community facilities. Although recommended for approval by Officers, the scheme was refused at Committee. The reasons for refusal related to the height and architectural quality of the building together with the quality and amenity of the accommodation being provided. Further planning applications (LPA Ref. PP/08/00676 & 00677) were submitted for a 24 storey building on the site but were not determined and subsequently withdrawn.

33 More recently a planning application was granted (GLA Ref. PDU/2713, LPA Ref. PP/11/00107) in July 2012 for the erection of 5 buildings up to a maximum of 13 storeys to provide a maximum of 278 residential units, an extension to the Tesco superstore of 1,722 sq.m. (NIA), community and leisure facilities (3,880 sq.m.), creche facility and café. The scheme was subsequently implemented. A s.73 application was submitted in May 2015 to vary the planning permission (GLA Ref. PDU/2713a, LPA Ref. PP/15/03067) to remove the proposed building above the Shaftsbury Place car park. As a result, the number of residential units was reduced from 278 to 254; the scale of the East Terrace and the area of the linear public open space was reduced. A reduction in residential car parking from 152 to 83 spaces; and a reduced external extension to retail store from 2,333 sq.m. to 1,633 sq.m. The application was refused by RBKC but an appeal was submitted and subsequently allows in April 2017. The s.73 scheme has yet to be implemented, although all of the pre-commencement conditions have been discharged.

#### Relevant planning history – surrounding sites

34 In December 1998 planning permission was granted for the redevelopment of phase 3 to provide a large residential block comprising 272 flats with basement parking (LPA Ref. PP/00/0093). This was later varied to provide 296 flats with 60 affordable housing units and has now been constructed and occupied (Warren House and Atwood House).

35 In respect of the three remaining allocated sites making up the Warwick Road sites allocation Policy CA5 in RBKC's Local Plan (see Figure 2 for further details), planning permission for the redevelopment of all three sites have been granted and work is currently underway on the former Homebase and has been substantially completed at the former TA site. It is understood that construction is yet to commence at the telephone exchange site.

36 Planning permission was originally granted in March 2012 for the former Homebase (195 Warwick Road) site (LPA Ref: 10/02817, GLA Ref: PDU/2156/02), for the demolition and redevelopment of the site to provide up to 32,192 sq.m. of use class C3 (Up to 243 units); Up to 12,700 sq.m. of use class C2 (Up to 89 units); up to 430 sq.m. of flexible commercial / community use (Use classes A1/A2/A3/A4/D1/B1, hard and soft landscaping works; highway and infrastructure works; engineering works including basement and lower basement excavation works; plant and equipment and all necessary associated ancillary works (Major Development). The application has subsequently been amended on a number of occasions.

37 In respect of the former telephone exchange site, planning permission was originally granted in December 2008 (LPA Ref. 08/01214, GLA Ref. PDU/2144) for the redevelopment of the site to provide 99 market residential units and 59 affordable housing units, 542 sq.m. of Class A1, A2, A3 or D1 use within four buildings of 7 - 17 storeys in height together with the provision of public and private open space, new access road, basement car parking and associated hard and soft

landscaping. Again, this planning permission has been subject to several minor amendments since planning permission was originally granted.

38 In terms of the former TA site, outline planning permission was originally granted in April 2010 (LPA Ref. 08/01178, GLA Ref. PDU/2107/02) for a school of up to 4,800 sq.m. with reserved matters on appearance, landscaping, layout and scale. Full planning permission for the erection of seven new buildings of up to 12/14 storeys in height. The buildings would accommodate up to 1,010 sq.m. of flexible uses within class A1 (retail), A2 (financial), A3 (cafe), and A4 (drinking establishment). In addition, up to 89,100 sq.m. of C3 (residential), approximately 519 units, with hard and soft landscaping works, including basement and lower basement accommodation for plant and vehicle parking. As above, this application has since been subject to further reserved matters applications and amendments.

39 Two planning applications were granted in November 2013 for the for the redevelopment of Earls Court, which comprises the Exhibition Centre and immediate surroundings within RBKC and a large area of adjacent land in LBH&F which makes up much of the designated Earls Court and West Kensington Opportunity Area (GLA Refs. PDU/2780/02 and PDU/2781/02).

40 Application 1 (RBKC) (PP/11/01937) proposed the demolition and alteration of existing buildings and structures and the redevelopment of the Site including new open space, vehicular and pedestrian accesses and routes and a mixed use development comprising buildings to accommodate offices, retail, hotel and serviced apartments, leisure uses, community and culture uses, below ground ancillary space, and residential uses. Application 1 also includes works to create direct access to Earl's Court Station, vehicle parking and associated highways alterations, structures for decking over existing rail lines and tunnels, waste and utilities, enabling works and other works incidental to the development.

41 Application 2 (LBHF) (2011/02001/OUT) proposes the demolition and alteration of existing buildings and structures and the redevelopment of the Site including new open space, vehicular and pedestrian accesses and routes and a mixed use development comprising buildings to accommodate offices, retail, hotel and serviced apartments, leisure uses, private hospital, education, health, community and culture uses, below ground ancillary space, and residential uses. Application 2 also includes replacement of the existing London Underground depot structure and stabling, vehicle parking and associated highways alterations, structures for decking over existing rail lines and tunnels, waste and utilities, enabling works and other works incidental to the development.

42 The first phase of reserved matters was approved in April 2014. The sites have recently been acquired by APG and Delancey.

### **Current application**

43 The application was originally submitted to RBKC on 11 February 2018 (GLA Ref. GLA/4810, LPA Ref. PP/19/00781) for the partial demolition and reconfiguration of existing structures and erection of eight buildings up to a maximum of 22 storeys (above podium) to provide 427 residential units (C3), community and leisure facilities (D1/D2), commercial/retail space (B1 and flexible B1/A1/A3), alongside hard and soft landscaping, car parking and cycle spaces, public realm improvements and all ancillary and associated works including servicing, storage, plant and equipment.

44 Stage 1: On 20 February 2019, the Mayor of London received documents from RBKC notifying him of a planning application of potential strategic importance to develop the above site for the above uses. The application was referred under Category 1A, 1B and 1C of the Schedule to the Order 2008:

- *Category 1A: Development which comprises or includes the provision of more than 150 houses, flats, or houses and flats.*
- *Category 1B: Development (other than development which only comprises the provision of houses, flats or houses and flats) which comprises or includes the erection of a building outside of Central London and with a total floorspace of more than 15,000 square metres.*
- *Category 1C: Development which comprises or includes the erection of a building more than 30 metres high and is outside the City of London.*

45 On 15 April 2019, the Mayor considered planning report GLA/4810/01. This report advised RBKC that, whilst the residential-led redevelopment of the site was supported in principle, the application did not comply with the London Plan or the Mayor's intend to publish London Plan and the issues raised relating to the community sports facilities, housing affordability, design, pedestrian and cycle access, public transport, energy, and flood risk/drainage should be addressed.

46 Specifically, in relation to the community sports facilities, further evidence was requested to demonstrate that the facilities would be fully publicly accessible and available at affordable rates.

47 In relation to housing, the Mayor's initial Stage 1 representation stated that the application did not, at that stage, qualify for the 'Fast Track Route' criteria as the affordability of the proposed intermediate rent levels would be in excess of the Mayor's affordability caps, and therefore would not qualify as genuinely affordable housing.

48 In relation to urban design, transport and the environment the Mayor's initial Stage 1 representation required the applicant to: improve access to and permeability through the site and reduce car parking significantly; improve the quality of and landscaping attributed to the affordable housing blocks; mitigation of wind, daylight/sunlight and noise impacts through design; and address energy and water/drainage matters raised.

49 On 30 May 2019, RBKC officers recommended the refusal of the application, which was endorsed by Members of the Planning Committee. The draft decision notice cited the following reasons for refusal:

1. *"Building 2, due to its excessive height, scale and poor visual relationship when seen in the background of views of the Grade I listed St Cuthbert's Church and from the Grade II\* listed Brompton Cemetery arcade, of Grade I Registered Brompton Cemetery, would harm the setting of these heritage assets and therefore fail to preserve or enhance their special architectural or historic interest, contrary to policies of the development plan, in particular policy 7.8 of the London Plan and policy CL4 of the Consolidated Local Plan"*
2. *"Because of their excessive height and massing, buildings 1, 2, 3, 4, 5, and 7 would fail to relate to the prevailing townscape height, appear out of keeping in the local built context and appear and disrupt key local views. Further, due to the layout of the development there would be poor permeability, connectivity, and integration with areas around the site. The development therefore fails to:*
  - a. *Respond to the local context, integrate with the surrounding townscape or street network;*
  - b. *Have a wholly positive impact on the character and quality of the townscape;*
  - c. *Create a coherent and legible urban form, resulting in compromised design quality;*

- d. *Provide high quality outdoor space;*
- e. *Provide suitable pedestrian and cycle links through the development; or*
- f. *Preserve or enhance the character and appearance of the Philbeach and Edwards Square/Scarsdale and Abingdon conservation areas within the Royal Borough and the Olympia and Avonmore Conservation Area within the London Borough of Hammersmith and Fulham.*

*The proposals are therefore contrary to policies of the London Plan, in particular 7.4, 7.6, and 7.7 and 7.8, and Consolidated Local Plan policies CL1, CL2, CL3, CL5, CL11, CL12, CR5, and CT1 and the Council's Building Height SPD."*

3. *"The proposed development would provide insufficient public open space which would be a very poor quality due to it being undersized, having poor quality landscaping, the adverse wind microclimate, sense of enclosure, overshadowing, and a lack of accessibility, integration or activation resulting from the layout of buildings, in particular the presence of building 1, and the excessive height, depth and massing of buildings 2, 3, 4 and 5 and the gating of the development at certain hours. The proposals would therefore fail to give the development a focus or create a sense of place, fail to enhance the quality of the local area or provide high quality outdoor spaces, fail to be inclusive in their design, and fail to provide good living conditions for occupants of the development. The development is therefore contrary to policies of the development plan, in particular 3.5 and 7.5 of the London Plan, and policies CA6, CR5, CR6, CL1, CL2, and CL5 of the Consolidated Local Plan."*
4. *"Because of the lack of a suitable quantity and quality of appropriate external play space based on the expected child occupancy of the development, the proposals would be contrary to policies of the development plan, in particular policy 3.6 of the London Plan and policy CR5 of the Consolidated Local Plan, as well as the Mayor of London's Play and Informal Recreation Supplementary Planning Guidance."*
5. *"Because of a lack of information, the applicant has failed to demonstrate that the development meets relevant climate change targets including required reductions in carbon dioxide emissions and would be contrary to policies of the development plan, in particular policies 5.2, 5.3, and 5.7 of the London Plan, and policy CE1 of the Consolidated Local Plan."*
6. *"Because the proposals fail to provide 50% of all residential floorspace above 800sqm (GEA) as affordable housing floorspace on-site, fail to demonstrate through the submitted viability assessment that the maximum reasonable amount of affordable housing is being provided, and fail to demonstrate the intermediate housing would be genuinely affordable, they would be contrary to policies of the development plan, in particular policies 3.12 of the London Plan, and policy CH2 of the Consolidated Local Plan."*
7. *"Because of the height and massing of the proposed buildings and their relationship with existing neighbouring development, the proposals would materially worsen the daylight and sunlight conditions to neighbouring occupants to such substandard levels that the development would fail to ensure good living conditions for occupants of existing neighbouring buildings. The development would therefore be contrary to policies of the London Plan, in particular policy 7.6, and policies of the Consolidated Local Plan, in particular Policy CL5."*
8. *"Because of its layout and design, and a failure to provide certainty regarding key accesses, the development would lead to a lack of pedestrian and cycle routes through and beyond the site, fail to optimise the sites connectivity, accessibility, legibility, or permeability, and would introduce new and fail to remove existing barriers for pedestrians and cyclists. The*

*development would therefore be contrary to policies of the London Plan, in particular policies 6.9 and 6.10, and policies of the Consolidated Local Plan, in particular policies CT1(g) and (h), CR1(c), and CA6(n)."*

9. *"In the absence of agreed Section 106 obligations, and provisions under section 16 of the General Powers Act, which would secure the necessary mitigation measures and infrastructure which are necessary to make the development acceptable, the proposal would be contrary to policies of the development plan, in particular policies 3.12 and 3.16 of the London Plan, and policies C1, CT1 and CH2 of the Consolidated Local Plan."*

50 Stage 2: On 1 July 2019, the Mayor considered a planning report reference GLA/4810/02. The report concluded that having regard to the details of the application, the development was of such a nature and scale that it would have a significant impact on the implementation of the London Plan policies on housing and affordable housing, and consequently there were sound planning reasons for the Mayor to intervene in this case and issue a direction under Article 7 of the Order that he would act as the Local Planning Authority for the purpose of determining the application. The Mayor agreed with this recommendation.

51 The GLA's Stage 2 report identified that there were outstanding matters that needed to be resolved, including details relating to the community sports facilities, affordable housing, urban design, transport, noise, and climate change. Since the Mayor issued this direction, GLA officers have worked with the applicant to resolve the outstanding issues by securing revisions to the scheme.

52 Following the Mayor's decision to call in the application, the applicant has made a number of amendments to the scheme in response to comments raised by GLA officers, RBKC and other consultees during the course of the application. The revisions were formally submitted to the GLA on 15<sup>th</sup> November 2019 and comprise the following changes:

- an increase in the number of residential units from 427 to 462 to provide an additional 35 units;
- increasing the number of affordable housing units by 41 resulting in the provision of 40% affordable housing by habitable room and 35% by unit (increased from 35% by habitable room and 40% by unit);
- changes to the tenure of affordable units to provide: 77 London Affordable Rent units and 109 intermediate rent units from 70 social rent units and 75 RBKC intermediate rent units as previously proposed;
- the provision of a community leisure centre (1,496 sq.m.) at the base of building 2 which includes the provision of a public pool and gym which were both previously proposed as private facilities;
- an increase in the height of building 2 by 7 storeys (+23 metres);
- building 6 would provide flexible leisure/ office (D1/D2/B1) use rather than a community sports hall but the roof top sports area and bouldering wall would be retained for use by residents of the development;
- a reduction in the quantum of commercial (B1, A1, A3, D1 and D2) floorspace proposed from 3,290 sq.m. to 2,285 sq.m. representing a reduction of 1,005 sq.m;
- an overall reduction in the number of car parking spaces from 80 spaces to 42 spaces (-38 spaces);

- an increase in cycle parking spaces from 766 residential spaces to 872 spaces (+106 spaces) and the provision of 92 non-residential cycle parking spaces;
- the removal of the gated access to the podium so that it would be publicly accessible 24 hours per day;
- improvements to the entrance to the affordable lift access to the podium from the plaza and the introduction of lift access from affordable housing residents from Beckford Close;
- the provision of winter gardens to residential units at levels 3 and 4 facing onto the railway track within buildings 3-5;
- refinements to the steps up to the public plaza from West Cromwell Road; and
- an increase in the Urban Greening Factor for the site from 0.22 to 0.27.

53 Public consultation: has been undertaken on the proposals outlined above, in line with statutory requirements and is summarised in more detail below.

54 Site visit: The Mayor has undertaken an accompanied site visit with GLA and TfL officers, representatives from the Council and the applicant team.

55 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been taken into account in the consideration of this case. The Mayor's decision on this case, and the reasons for it, will be made available on the GLA's website [www.london.gov.uk](http://www.london.gov.uk).

## **Relevant legislation, policies and guidance**

56 This application for planning permission must be determined by the Mayor in accordance with the requirement of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004. In particular the Mayor is required to determine the application in accordance with the development plan unless material considerations indicate otherwise. For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area consists of the RBKC Local Plan (September 2019) and the 2016 London Plan (Consolidated with Alterations since 2011). The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the tests for dealing with heritage assets in planning decisions. In relation to listed buildings, all planning decisions should: *"have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

57 The Mayor is also required to have regard to national planning policy and guidance, as well as supplementary planning documents and, depending on their state of advancement, emerging elements of the development plan and other planning policies.

58 The relevant planning policies and guidance at the national, regional and local levels are noted in the following paragraphs.

### **National planning policy and guidance**

59 The National Planning Policy Framework (NPPF) provides the Government's overarching planning policy framework. First published in 2012, the Government published a revised NPPF in July 2018 and further revised in February 2019 and again in June 2019. The NPPF defines three



dimensions to sustainable development: an economic role – contributing to building a strong, responsive and competitive economy; a social role – supporting strong, vibrant and healthy communities; and, an environmental role – contributing to protecting and enhancing the natural, built and historic environment. The sections of the NPPF which are of particular relevance to this application are:

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 6. Building a strong, competitive economy
- 7. Ensuring the vitality of town centres
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 16. Conserving and enhancing the historic environment

60 A key component of the NPPF is the presumption in favour of sustainable development. In terms of decision making, this means approving applications that accord with the development plan without delay; or, where there are no relevant development plan policies, or where such policies are out-of-date, granting permission unless either: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or where NPPF policies that protect areas or assets of particular importance provide a clear reason for refusing a proposed development.

61 The National Planning Practice Guidance is also a material consideration.

### **Spatial Development Plan and guidance**

62 The London Plan 2016 is the Spatial Development Strategy for Greater London. The relevant policies within the London Plan are:

- Policy 1.1 Delivering the strategic vision and objectives for London;
- Policy 2.9 Inner London;
- Policy 2.18 Green infrastructure;
- Policy 3.1 Ensuring equal life chances for all;
- Policy 3.2 Improving health and addressing health inequalities;
- Policy 3.3 Increasing housing supply;
- Policy 3.4 Optimising housing potential;
- Policy 3.5 Quality and design of housing developments;
- Policy 3.6 Children and young people’s play and informal recreation facilities;
- Policy 3.7 Large residential developments;
- Policy 3.8 Housing choice;
- Policy 3.9 Mixed and balanced communities;
- Policy 3.10 Definition of affordable housing;
- Policy 3.11 Affordable housing targets;
- Policy 3.12 Negotiating affordable housing;
- Policy 3.13 Affordable housing thresholds;
- Policy 3.16 Protection and enhancement of social infrastructure;

- Policy 3.19 Sports facilities
- Policy 4.1 Developing London's economy;
- Policy 4.2 Offices;
- Policy 4.7 Retail and town centre development;
- Policy 4.12 Improving opportunities for all;
- Policy 5.1 Climate change mitigation;
- Policy 5.2 Minimising carbon dioxide emissions;
- Policy 5.3 Sustainable design and construction;
- Policy 5.4A Electricity and gas supply;
- Policy 5.5 Decentralised energy networks;
- Policy 5.6 Decentralised energy in development proposals;
- Policy 5.7 Renewable energy;
- Policy 5.9 Overheating and cooling;
- Policy 5.10 Urban greening;
- Policy 5.11 Green roofs and development site environs;
- Policy 5.12 Flood risk management;
- Policy 5.13 Sustainable drainage;
- Policy 5.14 Water quality and wastewater infrastructure;
- Policy 5.15 Water use and supplies;
- Policy 5.17 Waste capacity;
- Policy 5.18 Construction, excavation and demolition waste;
- Policy 6.1 Strategic approach;
- Policy 6.2 Providing public transport capacity and safeguarding land for transport;
- Policy 6.3 Assessing the effects of development on transport capacity;
- Policy 6.5 Funding Crossrail and other strategically important transport infrastructure;
- Policy 6.7 Better streets and surface transport;
- Policy 6.9 Cycling;
- Policy 6.10 Walking;
- Policy 6.12 Road network capacity;
- Policy 6.13 Parking;
- Policy 7.1 Lifetime neighbourhoods;
- Policy 7.2 An inclusive environment;
- Policy 7.3 Designing out crime;
- Policy 7.4 Local character;
- Policy 7.5 Public realm;
- Policy 7.6 Architecture;
- Policy 7.7 Location and design of tall and large buildings;
- Policy 7.8 Heritage assets and archaeology;
- Policy 7.9 Heritage led regeneration;
- Policy 7.13 Safety, security and resilience to emergency;
- Policy 7.14 Improving air quality;
- Policy 7.15 Reducing noise and enhancing soundscapes;
- Policy 7.18 Protecting open space and addressing deficiency;
- Policy 7.19 Biodiversity and access to nature;
- Policy 7.21 Trees and woodlands;
- Policy 8.2 Planning obligations; and
- Policy 8.3 Community Infrastructure Levy.

63 On 1 December 2017, the Mayor published his draft London Plan for public consultation. Consultation on the plan closed on 2 March 2018. On 13 August 2018, the Mayor published a version of the draft Plan that includes his minor suggested changes. The draft London Plan was subject to an Examination in Public (EiP), which was undertaken between 15 January and 22 May 2019. On 16 July 2019, the Mayor published the Draft London Plan – Consolidated Suggested Changes Version (July 2019), which incorporates the suggested changes put forwards by the Mayor before, during and after the EiP sessions. The Panel of Inspectors appointed by the Secretary of State issued their report and recommendations to the Mayor on 8th October 2019. The Mayor has considered the Inspectors’ recommendations and, on the 9th December 2019, issued to the Secretary of State his intention to publish the London Plan along with a clean and tracked version of the intend to publish London Plan, a statement of reasons for any of the Inspectors’ recommendations that the Mayor does not wish to accept and a note that sets out a range of interventions that will help achieve the housing delivery set out in the Plan. In line with paragraph 48 of the NPPF, the weight attached to the Mayor’s intend to publish London Plan should reflect the stage of its preparation. As it is now in the final stage before adoption, significant weight should be applied to the latest draft policies where the Inspector has not recommended changes.

64 As set out above, policies in the Mayor’s intend to publish London Plan (December 2019) must be taken into account in the determination of the application, but the weight attached to these should be reflective of the criteria set out in paragraph 48 of the NPPF, which is highlighted above. The following policies in the draft London Plan are considered to be relevant:

- Policy GG1 Building strong and inclusive communities;
- Policy GG2 Making best use of land;
- Policy GG3 Creating a healthy city;
- Policy GG4 Delivering the homes Londoners need;
- Policy GG5 Growing a good economy;
- Policy GG6 Increasing efficiency and resilience;
- Policy SD7 Town Centres: development principles
- Policy SD10 Strategic and local regeneration;
- Policy D1 London’s form, character and capacity for growth
- Policy D2 Infrastructure requirements for sustainable densities
- Policy D3 Optimising site capacity through the design-led approach
- Policy D4 Delivering good design
- Policy D5 Inclusive design
- Policy D6 Housing quality and standards
- Policy D7 Accessible housing
- Policy D8 Public realm
- Policy D9 Tall buildings
- Policy D11 Safety, security and resilience to emergency
- Policy D12 Fire safety
- Policy D13 Agent of Change
- Policy D14 Noise
- Policy H1 Increasing housing supply;
- Policy H4 Delivering affordable housing
- Policy H5 Threshold approach to applications
- Policy H6 Affordable housing tenure;
- Policy H7 Monitoring of affordable housing;
- Policy H10 Housing size mix;
- Policy S1 Developing London’s social infrastructure;

- Policy S3 Education and childcare facilities;
- Policy S4 Play and informal recreation;
- Policy S5 Sports and recreation facilities;
- Policy E1 Offices;
- Policy E2 Providing suitable business space;
- Policy E3 Affordable workspace;
- Policy E9 Retail, markets and hot food takeaways;
- Policy E11 Skills and opportunities for all;
- Policy HC1 Heritage conservation and growth;
- Policy HC3 Strategic and local views;
- Policy G4 Open space
- Policy G5 Urban greening;
- Policy G7 Trees and woodland;
- Policy G8 Biodiversity and access to nature;
- Policy SI1 Improving air quality;
- Policy SI2 Minimising greenhouse gas emissions;
- Policy SI3 Energy infrastructure;
- Policy SI4 Managing heat risk;
- Policy SI5 Water infrastructure;
- Policy SI7 Reducing waste and promoting a circular economy;
- Policy SI12 Flood Risk Management;
- Policy SI13 Sustainable drainage;
- Policy T1 Strategic approach to transport;
- Policy T2 Healthy streets;
- Policy T3 Transport capacity, connectivity and safeguarding;
- Policy T4 Assessing and mitigating transport impacts;
- Policy T5 Cycling;
- Policy T6 Car parking;
- Policy T6.1 Residential parking;
- Policy T6.2 Office parking;
- Policy T6.5 Non-residential disabled persons parking;
- Policy T7 Freight and servicing;
- Policy T9 Funding transport through planning; and
- Policy DF1 Delivery of the plan and planning obligations.

65 The following published supplementary planning guidance (SPG), strategies and other documents are also relevant:

- Affordable Housing and Viability SPG (August 2017);
- Housing SPG (March 2016);
- Social Infrastructure SPG (May 2015);
- Accessible London: achieving an inclusive environment SPG (October 2014);
- The control of dust and emissions during construction and demolition SPG (July 2014);
- Shaping Neighbourhoods: character and context SPG (June 2014);
- Sustainable Design and Construction SPG (April 2014);
- Shaping Neighbourhoods: play and informal recreation SPG (September 2012);
- Planning for Equality and Diversity in London (October 2007);
- Mayor's Environment Strategy (May 2018);
- Mayor's Housing Strategy (May 2018); and

- Mayor’s Transport Strategy (March 2018).

## Local planning policy and guidance

66 RBKC’s Consolidated Local Plan (July 2015) has recently been subject to a partial review. The Local Plan incorporating all the Main Modifications as recommended by the Local Plan Partial Review (LPPR) Planning Inspector as well as the Council’s Minor and Additional modifications as adopted as well as all the extant policies and their supporting text from the Consolidated Local Plan 2015 was published in September 2019. The relevant policies are:

### RBKC Local Plan

- Policy CV1 Vision for the Royal Borough
- Policy CA5 Warwick Road – allocation for the Warwick Road sites
- Policy C1 Infrastructure delivery and planning obligations
- Policy C01 Strategic objective for keeping life local
- Policy CK1 Social and community uses
- Policy CK2 Local shopping and other facilities which keep life local
- Policy CK3 Walkable neighbourhoods and neighbourhood facilities
- Policy C02 Strategic objective for fostering vitality
- Policy CF1 Location of new shop uses
- Policy CF5 Location of business uses
- Policy C03 Strategic objective for better travel choices
- Policy CT1 Improving alternatives to car use
- Policy C04 Strategic objective for an engaging public realm
- Policy CR1 Street network
- Policy CR3 Street and outdoor life
- Policy CR4 Streetscape
- Policy CR5 Parks, gardens, open spaces and waterways
- Policy CR6 Trees landscape
- Policy CR7 Servicing
- Policy C05 Strategic objective for renewing the legacy
- Policy CL1 Context and character
- Policy CL2 Design quality
- Policy CL3 Heritage assets – conservation areas and historic spaces
- Policy CL4 Heritage assets – listed buildings, and archaeology
- Policy CL5 Living conditions
- Policy CL11 Views
- Policy CL12 Building heights
- Policy C06 Strategic objective for diversity of housing
- Policy CH1 Housing targets
- Policy CH2 Housing diversity
- Policy C07 Strategic objective for respecting environmental limits
- Policy CE1 Climate change
- Policy CE2 Flooding
- Policy CE3 Waste
- Policy CE5 Air quality
- Policy CE6 Noise and vibration

## Local Supplementary Planning Documents (SPDs)

67 The following adopted SPDs are also relevant to the proposal:

- The Streetscape Guide (2012)
- Access Design Guide SPD (2010)
- Air Quality SPD (2009)
- Building Heights SPD (2010)
- Designing out Crime SPD (2008)
- Noise SPD (2009)
- Planning Contributions SPD (2019)
- Transport and Streets SPD (2016)
- Trees and Development SPD (2010)

## Other relevant documents

68 The following conservation area character appraisals are also relevant to the application.

- Edwardes Square, Scarsdale and Abingdon Conservation Area Proposals Statement;
- Nevern Square Conservation Area Appraisal;
- Draft Brompton Cemetery Conservation Area Appraisal;
- Philbeach Conservation Area Appraisal;
- Olympia and Avonmore Character and Profile (LBH&F); and
- Barons Court Conservation Area Profile (LBH&F).

## Community Infrastructure Levy

69 Local planning authorities in London are able to introduce Community Infrastructure Levy (CIL) charges which are payable in addition to the Mayor's CIL. RBKC's CIL came into effect on 6 April 2015 and is charged at a rate of £190 per sq.m. to residential, with a nil charge on other land uses applicable to the development. Following the adoption of a new charging schedule, MCIL 2 rates now apply to planning permissions granted from 1 April 2019. Accordingly, a rate of £80 per sq.m. would apply to the residential and commercial floorspace proposed. CIL liability would be subject to relief for affordable housing.

## **Response to notification**

70 All responses received in response to RBKC's local notification process, and any other representations received by RBKC and/or the Mayor of London in respect of this application at the time of writing this report, are summarised below, and have been taken into account in this report. The Mayor has been briefed on the amount and content of all consultation responses, including the comments, objections and issues raised.

## **Initial notification (January 2018)**

71 RBKC undertook notification on the initial application in January 2019 by sending 1,310 letters of notification to neighbouring residents. RBKC also consulted relevant statutory bodies, neighbouring boroughs and amenity groups as well as issuing site and a press notice in the Gazette on February 2019. The following statutory and non-statutory consultation responses were submitted to RBKC.

## **Statutory consultee responses to RBKC**

### Greater London Authority (including Transport for London)

72 The Mayor's initial consultation Stage 1 consultation response is summarised above (GLA report ref: GLA/4810/01).

#### Transport for London:

73 Commented as part of the Mayor's Stage 1 response, and also provided a separate direct response to RBKC, setting out issues relating to improving the safety of the Warwick Road/ West Cromwell Road junction and requesting an adequate financial contribution towards physical improvements; securing access between the Earls Court site and application site; and strongly objecting to the level of residential and retail car parking proposed.

### London Borough of Hammersmith and Fulham

74 Objections were raised in relation to the impact of the height of the development on views from the Olympia and Avonmore Conservation Area. Further, with regards to views from the Gunter Estate Conservation Area, there is insufficient views tested to full assess the impact. A number of conditions were also recommended relating to contamination should planning permission be granted.

### London Underground

75 No objection.

### Historic England

76 Objection – Made the following objections and recommend that the height of the tallest building is reduced to the maximum height of the consented scheme:

- The proposed tower would interject between the St Cuthberts church spire and pinnacles, rising higher than the spire. The development would overwhelm the church and decrease the ability to appreciate it as a landmark in the street. The open spaces within the Philbeach Conservation Area would also be impacted upon.
- The proposed development would juxtapose a new tall building with the Brompton Cemetary bell tower slightly off-set from the main axis, competing with it. This interjection would be intrusive, and seriously detract from the important, relatively intact views north from the very heart of the cemetery;
- The development would project considerably over the unbroken terrace line of Nevern Square when seen from view 6 which is shielded to a degree by trees but is still an overbearing presence above a consistent historic roofline;
- The development will cause some harm by intruding on a designated view within the Baron's Court Conservation Area in an unsympathetic way;
- The development would compete with the historic landscape within Olympia and Avonmore Conservation Area, particularly in view 19; and

- The development would change the setting of the Gunter Estate Conservation Area being predominantly composed of terraced housing with some mansion blocks of up to six storeys.

#### Lead Local Flood Authority

77 No objections, subject to conditions.

#### Thames Water

78 No objections, subject to conditions.

#### Environment Agency

79 No response received.

### **Individual neighbourhood responses**

80 RBKC received 2 letters of support and 57 letters of objection which are summarised as follows:

#### Support

- Local benefit from community and leisure facilities proposed;
- Need for affordable homes;
- Retail use would allow for community focused living spaces;
- Landscaped public spaces and routes would provide community social space and alternative walking routes; and
- The design is attractive and would make good use of the site.

#### Objections

- The scale of the development is excessive;
- The height of the development is out of keeping with the character of the area and harms the setting of nearby listed assets;
- Lack of community benefits;
- Poor quality open space;
- Impact on transport infrastructure and increase in traffic;
- Adverse impact in respect of daylight/ sunlight and overshadowing to neighbouring properties and proposed development;
- Adverse impact on infrastructure services;
- Cumulative impact of nearby developments;
- Air quality worsened due to increased traffic;
- Wind tunnelling;
- Overdevelopment;
- The scheme would conflict with LBH&F density policy;
- That development does not provide 50% affordable housing;



- The height of the towers would create a sense of enclosure;
- The units would be sold to foreign investors and remain empty;
- The development would affect views across the conservation areas;
- The level of detail provided on sustainability is poor;
- Lack of open space and playspace;
- The construction route would not be able to cope with the additional traffic and impact on resident's health;
- The development lacks a sense of place; and
- The development does not secure adequate leisure facilities as per the extant consent.

### **Representations made to the Mayor of London**

81 No representations were made the Mayor of London prior to stage 2 or following the stage 2 decision being issued.

### **Re-notification exercise (November - December 2019)**

82 On 13 November 2019, the applicant submitted revisions to the application which are summarised above in paragraph 52. These amendments were subject to a re-consultation exercise which was undertaken between 15 November 2019 and 20 December 2019 (35 days in total). A total of 1,310 letters of notification were distributed to the occupants of neighbouring properties and those who had previously commented on the application thus far. Site notices were also erected on 15 November 2019 and a press notice was published on 20 November 2019.

83 All the representations received in respect of this application have been made available to the Mayor in printed form; however, in the interests of conciseness, and for ease of reference, the issues raised have been summarised in this report as detailed above.

84 Responses: A total of 37 responses were received by the Mayor and/or the GLA during the notification period, of which 35 responses objected to the application, 1 respondent raised no objection and 1 of support. These responses have been made available to the Mayor and have been taken into account in this report.

### **Summary**

85 In summary, the issues raised in objection to the revised scheme can be broadly categorised as follows:

- over-development of the site;
- excessive height, scale, massing and density and out of keeping with the surrounding context;
- harmful impact on local heritage assets including conservation areas and listed buildings including St Cuthbert's Church and locally listed buildings;
- harmful impact on local townscape;
- Architecture is ugly, dated, lacks detailing and out-of-keeping with the character of the local area;
- the application conflicts with RBKC's policies on density, building heights, design and Building Heights SPD;
- The buildings would create a wind tunnelling effect;

- The building would result in overshadowing and increase the sense of enclosure;
- The development would result in overlooking and privacy issues to existing residential;
- Impact of the development on daylight/ sunlight to surrounding properties would be significant;
- Would exacerbate issues of air pollution and noise during the construction period and no screening proposed;
- The development would not create a thriving community;
- There is already a shortage of doctors, school places, and this will exacerbate the issue;
- The development would result in increased pressure on public transport which is already at capacity and no proposals currently in place to improve capacity;
- The development would increase traffic and congestion locally and therefore air pollution
- Lack of car parking and disabled blue badge spaces would lead to increased pressure on on-street parking. Should be permit free;
- Lack of educational floorspace proposed;
- Nothing for school age children to do on site;
- Podium open space is too small and unattractive – no reason to use it as a thoroughfare;
- The open nature of the playspace area is unsafe for children;
- The development would adversely affect the quality of life of local residents;
- The lack of social housing proposed;
- The quality of the affordable housing block is not of the same standard as the market accommodation
- The affordable housing assessment is not robust and should be tested independently
- Insufficient green infrastructure provision and open space
- Replacement of the rifle club is enforceable
- Sports facilities are insufficient in size (pool is too small), would not be affordable for local residents to use and is likely to close down
- Retail would compete with existing shops and services in the area and cause them to close down
- Consultation of neighbouring properties to LBH&F has not been carried out
- The development is unsafe over the existing car parking structure
- Affordable homes should be built in Earls Court
- Development would be an eyesore
- No educational floorspace proposed despite lack of schools

86 Thames Water: No objection subject to a number of conditions being applied relating to waste water flows; further details of piling; and water demand. With regards to foul water Thames Water require a connection point and confirmation of whether the connection will be pumped or gravity, Thames Water will not allow a new connection to the trunk sewer and sludge sewers are not for domestic use. With regards to surface water Thames Water require a point of connection to the Thames Water network, as Policy 5.13 of the London plan states greenfield rates should be met and as stated in the drainage report this is 3.31l/s and therefore Thames Water expects this discharge rate to be met and therefore greater attenuation than that proposed is required.

87 London Borough of Hammersmith and Fulham: The same objection is maintained on grounds of the adverse impact of the development on conservation areas within the borough.

88 Historic England: Make the following objections and recommend that the development is either refused or the height of the tallest building reduced to the maximum height of the consented scheme:

- The proposed tower would interject overwhelmingly between the St Cuthberts church spire and pinnacles, rising higher than the spire. This would dwarf the church and decrease the ability to appreciate it as a landmark in the street. The scheme is considered to cause a high level of harm to the Philbeach Conservation Area and St Cuthbert's Church through development in their setting. The open spaces within the Philbeach Conservation Area would also be impacted upon. The harm to these assets is considered to be at the upper end of the less than substantial range;
- The proposed development would juxtapose a new tall building with the Brompton Cemetary bell tower slightly off-set from the main axis, competing with it. This interjection would be intrusive. The scheme would thereby cause harm to this park and garden of exceptional significance and to the grade II\* structures at its heart, due to the impact on its setting. The harm would not be substantial but would be considerable;
- The development would project considerably over the unbroken terrace line of Nevern Square when seen from view 6 which is shielded to a degree by trees but is still an overbearing presence above a consistent historic roofline;
- View 25 of the TVIA indicates that the tower would break the regular tree and roofline of the unpoilt Edwardes Square and garden and having a harmful effect both on the square and the wider conservation area.
- The development will cause some harm by intruding on a designated view within the Baron's Court Conservation Area in an unsympathetic way;
- The development would compete with the historic landscape within Olympia and Avonmore Conservation Area, particularly in view 19; and
- The development would change the setting of the Gunter Estate Conservation Area being predominantly composed of terraced housing with some mansion blocks of up to six storeys.

89 Kempsford Gardens Residents Association: Objected on the grounds of overdevelopment of the site. The tower blocks are too tall in an area of mainly low-lying properties. The proposed buildings are dated. Would have an adverse impact on daylight/ sunlight to homes nearby. The development would be incongruous and blight the whole area.

90 The Edwardes Square, Scarsdale and Abingdon Association

- Does not object to the increase in density of the development but does object to the increase in height, which is not fully justified. It is considered that the increase in height would have an unacceptable impact on heritage assets nearby. The original comments made in this regard still stand.
- Welcome the increase in affordable housing including the provision of 77 affordable rent units. The provision of a public leisure centre is welcomed and should be robustly secured.
- Additional small scale retail may be necessary to serve the additional residential units. Concerns that the additional cycle parking may cause congestion.

91 Cllr Linda Wade, Earls Court Ward Councillor and Chair of Nevern Conservation RA

- The issues resulting from the original submission have not been resolved. The scheme does not meet the density policies in the Mayor's intend to publish London Plan.
- Urban greening factor has not been taken into account, should be a flagship environmentally sustainable project.
- Developer led design that does not deal with the sites unique set of problems. London Affordable Rent less affordable than social rent. The scheme provides 40% affordable housing rather than 50% as required by policy.
- Residential accommodation in building 7 may not be suitable for families and no storage provided. No provision for purpose built accommodation for independent living for older residents.
- Traffic flows have been underestimated, air quality assessments and accident record of the junction. Earls Court Station is already at capacity. The development should provide enhancements to the local transport system to help mitigate its impact.
- Exposure of the podium to air pollution including the play area is of concern. The play area should be shielded further from pollution. Unclear what provisions have been put in place to protect residents of the towers from air pollution. Unclear what has been done to protect residents against noise and vibration from the railway and road.
- Unclear whether water pressures issues in the area may be exacerbated by the development.
- Development does not sufficiently cater for older children and should make a financial contribution towards the provision of new school spaces. GP provision is also overstretched and should be strengthened.
- Scheme does not deal with fire strategy provisions as set out in the draft London Plan, particular concerns raised with regards to the fire safety of the tower.
- Construction impact, particular mitigation of dust must be properly managed and traffic flows and volumes are not creditable.
- Sunlight/ daylight impact on Warren and Atwood House and residents of Longridge Road is of particular concern.
- The impact of the increased height on the Philbeach and Nevern Square Conservation Areas would be significant and the significance of St Cuthberts Church substantially diminished.

92 Cllr Malcolm Spalding: The proposed tower is far too high for this site. It is extremely rare to find anything over 12 storeys in the whole of this borough. High-rise buildings are resisted in the CLP and the High-rise Buildings SPD. The tower will harm the appearance of the surrounding conservations areas and the setting of the Grade 1 listed St Cuthbert's Church. The tower is vast overdevelopment of the site compared to its surroundings. There will be overshadowing of developments to the north. It will create overlooking into Shaftesbury Place and Chesterton Square. The tower block is disproportionately massive and too high, creating aesthetic mismatch. The architecture is brutalist, ugly, simplistic, cheap. The building is not conducive to creating a human-scale gateway into the Royal Borough. The tower is not harmoniously and gradually integrated into the surrounding heights and levels - it creates a sudden and abrupt change of skyline.

93 St Cuthbert's Church

- Concerns raised of the adverse impact of the development on the setting of St Cuthbert's Church buildings. The development would not make a positive contribution to the setting of the Conservation Area and is out of character with the surroundings.
- Height of the building fail to make a positive contribution to the existing townscape.
- Concerns around the true affordability of the affordable housing, although the increase from 35% to 40% is welcomed.

94 Kensington Society: Objections to the resubmission relate to the increase in height, scale and massing of the proposed buildings, the site being unsuitable for a very tall building; restricted access over the podium, harmful impact of the redevelopment on the setting of heritage assets and townscape of the surrounding areas; the unacceptably small size of the community leisure centre and pool; parking without restrictions and no designation for blue badge users. Additional issues are raised in respect of the lack of a fire safety strategy and concerns relating to child safety in relation to the inappropriate location and size of the playspace.

95 Sport England: Although the application proposes a new sports facilities it is not clear that the rationale for the development is based on a clear, robust and up-to-date strategic need that these specific facilities are required in this location within the borough, thus being sustainable in the long-term. In consequence, Sport England are unclear on the need it is unable to form a substantive view on the application at this stage. It recommends that the proposed sports facilities are designed and constructed in accordance with Sport England's design guidance which could be found via the Sport England website.

## **RBKC**

96 RBKC officer report to committee on revised scheme: The Council reported the scheme amendments to committee on 7 January 2019. The officers report to committee recommended that:

- The committee raise no objection to the granting of planning permission for the redevelopment of 100 West Cromwell Road as set out in the revised proposals, as the wider public benefits of the proposals would outweigh the harm arising from the development, subject to the Council being involved in discussions regarding securing the necessary infrastructure improvements and mitigation and key planning obligations through a s106 agreement;
- The committee asks the Mayor of London to consider further how the applicant might address the impacts to the daylight and sunlight and therefore the living conditions of residents within Warren and Atwood House.

97 The officers report to committee concludes that the revised scheme now provides significant and material public benefits which are of such substance that they would outweigh the less than substantial harm to the identified designated heritage assets subject to securing necessary mitigation and infrastructure improvements as part of the development as well as ensuring that the community leisure facility and affordable housing provisions of any s106 agreement secure the significant benefits associated with these elements of the proposals, resolving the first reason for refusal. The report also notes the lack of amendments to the bulk, scale and massing of B7 to improve the daylight / sunlight impact to Atwood House. As such, it is considered that the scheme would fail to comply with Local Plan Policy CL5. It is recommended that the Mayor further

investigate how the daylight / sunlight impacts could be further reduced in line with the consented scheme, while also retaining the level of affordable housing provision included in the current proposals. However, on balance it is considered that the proposals would accord with the policies of the development plan and the NPPF subject to the Council being involved in the drafting of the s106 agreement would raise no objections to the proposed development.

98 The RBKC committee report appendices sets out the reasons for refusal as identified in the original report to committee in May 2019 and how the current submission resolves them. The document sets out how the revised submission resolves part of reason 2 and the entirety of reasons 3, 4, 5, 6, 8 and 9 (the exceptions being the daylight/ sunlight impact on Atwood House and overshadowing and enclosure to the podium).

99 RBKC formal consultation response on revised submission: Following the January 2020 committee meeting RBKC issued a formal response to the Mayor dated 8 January 2020 confirming that having considered the range of issues in full and in balancing the benefits and dis-benefits, the committee supports the scheme as amended. The letter confirms that the public benefits of the scheme would outweigh the harm to the identified heritage assets. It also notes that the Mayor should satisfy himself that the development meets the highest standards of fire safety and in full compliance with Policy D12 of the Mayor's intend to publish London Plan. Finally, it is noted that the Council's support of the scheme is based on the understanding that RBKC officers are involved in detailed discussions regarding the s106 agreement, and that the Council would be a party to the final agreement.

### **Representations summary**

100 All the representations received in respect of this application have been made available to the Mayor however; in the interests of conciseness, and for ease of reference, the issues raised have been summarised in this report as detailed above. The key issues raised by the consultation responses, and the various other representations received, are addressed under the relevant topic headers within this report, and, where appropriate, through the proposed planning conditions, planning obligations and/or informatives outlined in the recommendation section of this report.

### **Environmental Impact Assessment**

101 Planning applications for development that are covered by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 are termed "EIA applications". The requirement for an EIA is based on the likelihood of environmental effects arising from the development. The proposed development is considered to comprise Schedule 2 development likely to have significant effects on the environment by virtue of factors such as nature, size or location. Consequently, the application is considered to form an application for EIA and it has been necessary that an Environmental Statement (ES) be prepared in accordance with EIA Regulations.

102 Prior to the submission of the application, the applicant submitted an EIA Scoping Report to RBKC outlining the proposed scope of the ES. Following consultation with the relevant consultation bodies, RBKC issued a Scoping Opinion on in July 2018. This confirmed that the scheme constituted EIA development and set out advice and instructions in relation to the methodology and scope of the assessment, including the topics that should be assessed during the EIA process, as well as, those topics which could be 'scoped out' of the EIA, because the development was considered to either have no influence on these environmental aspects, or is unlikely to give rise to significant effects. The initial scope of the ES supporting the application is summarised in the table below:

Table 2 – EIA Scope, July 2018

<b>Matters scoped in</b>	<b>Matters scoped out</b>
<ul style="list-style-type: none"> <li>• Demolition and Construction</li> <li>• Socio-Economics</li> <li>• Transport and Access</li> <li>• Heritage, Townscape and Visual Assessment</li> <li>• Air Quality</li> <li>• Noise and Vibration</li> <li>• Wind Microclimate</li> <li>• Daylight, Sunlight and Overshadowing, Solar Glare and Light Pollution</li> <li>• Effect Interactions</li> <li>• Mitigation Measures and Significant Residual Effects</li> </ul>	<ul style="list-style-type: none"> <li>• Health</li> <li>• Water, drainage and flood risk</li> <li>• Geo-Environmental</li> <li>• Archaeology</li> <li>• Ecology</li> <li>• Electronic Interference</li> </ul>

103 The scope of the ES supporting the revised application remains as listed above. The submitted updated ES (2019) identifies the likely significant effects that the revised development may have on the environment both during construction and once it is complete and outlines how these effects can be avoided or reduced. The impacts of the planning application are assessed individually and cumulatively with other consented applications in the vicinity of the application site. Under the various subject headings, this report refers to the content and analyses contained within the ES and comments upon its findings and conclusions.

**Principal planning issues**

104 Having regard to the site and the details of the proposed development, relevant planning policy at the local, regional and national levels; and, the consultation responses and representations received, the principal planning issues raised by the application that the Mayor must consider are:

- Land use principles (including mixed use development, community sports facilities, employment, leisure, retail and residential uses);
- Housing (including delivery of affordable housing, tenure, mix, density, quality);
- Design (including urban design, public realm, play space, views);
- Heritage (Including the setting of listed buildings and conservation areas);
- Inclusive design;
- Residential amenity (including daylight and sunlight, overshadowing, privacy/overlooking; noise/disturbance);
- Sustainable development (including climate change mitigation and adaption, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage);
- Other environmental issues (including noise, air quality and wind);
- Transport, including parking provision;
- Socio-economic issues; and
- Mitigating the impact of development through planning obligations and conditions.

105 These issues are considered within the following sections of the report.

## Land use principles

106 The site is allocated in RBKC's Local Plan Policy CA5 for a minimum of 450 residential units (revised from 350 homes in the Consolidated Local Plan) the delivery of leisure, social and community uses, car parking and open amenity space. Additionally, the allocation requires improvements to landscape, streetscape and the cycle/ pedestrian environment. To date, 75 residential units have already been provided within the allocation under phase 1 of the 1996 planning permission for the site.

107 The redevelopment of this underutilised brownfield site in a highly accessible location for a residential led mixed use redevelopment is strongly supported in principle in the context of the NPPF, London Plan Policies 1.1, 2.9, 3.4, Mayor's intend to publish London Plan Policies GG2 and GG4, H1 and SD7, and RBKC Local Plan Policies CA5, CL1 and CH1.

## Housing

108 The NPPF sets out the Government's priority to deliver a sufficient supply of new homes to meet housing requirements and states that planning policies and decisions should seek to make effective use of land and support the redevelopment of under-utilised land and buildings. In line with paragraph 118 of the NPPF, substantial weight should be given to the value of developing brownfield land in meeting housing need.

109 London Plan Policy 3.3 seeks to increase the supply of housing in the capital and sets RBKC a 10 year housing target of 7,330 net additional homes between 2015 and 2025. This equates to an annualised monitoring target of 733 homes per year. The Mayor's intend to publish London Plan proposes to reduce RBKC's housing target to 4,480 homes for the period 2019/20 to 2028/29.

110 To meet housing targets, London Plan Policy 3.3 emphasises the particular importance of mixed use redevelopment of surplus commercial capacity, particularly those with good transport accessibility. Policy H1 of the Mayor's intend to publish London Plan requires boroughs to optimise housing delivery on all suitable and available brownfield sites and specifically encourages the residential-led mixed use redevelopment of low density supermarkets and car parks. Draft Policy SD7 also seeks to focus housing intensification on such sites. This approach stems from the Mayor's overarching objective to meet London's housing need by making the best use of potential capacity on brownfield land within the capital, whilst safeguarding the Green Belt and other designated open spaces, as set out in London Plan Policy 1.1 and Policy GG2 of the Mayor's intend to publish London Plan.

111 RBKC has identified this site for a minimum of 350 homes in the Local Plan, a figure which had recently been increased to a minimum of 450 in the revised RBKC Local Plan to account for the 75 units already delivered on site above the Tesco superstore.

112 In line with this policy, the proposed scheme would provide 462 homes (of which 40% would be affordable by habitable room), which, once completed, would equate to 63% of RBKC's annualised housing monitoring target in the current London Plan and 103% of the Mayor's intend to publish London Plan target, on an annualised basis. The below table 3 identifies the recent housing and affordable housing completions against London Plan targets.



Table 3: Historic net housing and affordable housing completions in RBKC

<b>Net completions</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
London Plan Benchmark – total homes target	584	733	733	733	733
RBKC total completions	808	341	194	335	115
Performance against target	138%	46%	26%	48%	16%
RBKC affordable completions	54	67	23	73	1
Performance against affordable homes targets	27%	23%	8%	26%	0.3%

Source: London Development Database

113 As shown above, RBKC has performed poorly in recent years in respect of housing and particularly affordable housing delivery against London Plan targets. GLA officers consider that the site would make a significant contribution towards the achievement of the Council’s housing targets and in meeting local and strategic pan-London need for overall and affordable housing.

### **Non residential uses**

114 The application seeks planning permission for a total of 3,781 sq.m. of non-residential use, which would comprise a mix of Class A1 retail, Class A3 restaurant/cafe use, Class B1 office use, Class D1 non residential institution / community use, and Class D2 assembly and leisure. The proposals specifically involve the provision of workspace, a public leisure centre, and flexible commercial uses. The existing and proposed non-residential floorspace is set out in Table 4.

Table 4 - Existing and proposed floorspace (GIA) in sq.m.

	<b>Original submitted scheme (January 2019)</b>	<b>Proposed</b>	<b>Net change</b>
Offices (Class B1)	1,675	1,549	-126
Flexible office/retail uses (Class B1/A1/A3)	372	439	+67
Flexible office/ non-residential institution/ leisure uses (Class B1/D1/D2)	-	297	+297
Swimming pool and gym (Class D1/D2)	1,243	0	-1,243
Public leisure centre (Class D1/D2)	309	1,496	+1,187
<b>Total</b>	<b>3,599</b>	<b>3,781</b>	<b>+182</b>

GIA = Gross Internal Area

### Offices

115 The proposals involve the provision of 1,549 sq.m. of offices located at the base of building 2 and the potential for flexible office use in building 6 and at podium level. London Plan Policy 2.15 seeks to direct new commercial development towards town centres beyond the Central Activities Zone (CAZ). RBKC is identified as an 'inner London' borough as defined by the London Plan, where the availability of appropriate workspaces for the area's changing economy would need to be ensured in accordance with Policy 2.9. Increases in current office stock would also need to be supported where there is evidence of sustained demand for office based activities in line with Policy 4.2.

116 Like the London Plan, the Mayor's intend to publish London Plan Policy E1 and RBKC Local Plan Policy CF5 seek to focus office development in town centres. Policy E1 specifically states that proposals for office development in inner London should be supported by improvements to walking, cycling, public transport connectivity and capacity. RBKC Local Plan Policy CF5 requires office development of over 1,000 sq.m. to be located in higher order centres and other accessible areas. The Local Plan identifies the need for 47,100 sq.m. of office floorspace between 2016 and 2028 (this includes floorspace that has been lost to other uses since 2016).

117 The site is approximately 500 metres to the west of the nearest town centre (Earls Court Road District Centre) and is also located between two major town centres, High Street Kensington and Fulham, which are both approximately 1 kilometre away from the site. Whilst not within a town centre or identified office cluster, the site is in close proximity to a number of town centres and benefits from excellent public transport connections. The proposals also involve improvements to pedestrian permeability, cycle parking provision contributions toward enhancing public transport capacity. The proposed office element makes up a very small proportion of the overall scheme and, whilst not envisaged by the site allocation, would contribute positively to the diversity of uses across the site and would help to meet RBKC's need for office floorspace.

### Retail

118 A small flexible retail/ restaurant/office unit is proposed at podium level. As described above, London Plan Policies 2.15 and 4.7 take a town centre first approach with regards to the development of new town centre uses such as retail. Retail development outside of town centres would be subject to an assessment of impact. This approach is echoed in Mayor's intend to publish London Plan Policy SD7. RBKC Local Plan Policy CF1 requires all new shop uses of 400 sq.m. or more to be located within existing and proposed town centre or immediately adjoining. However, RBKC Local Plan Policy CK2 seeks to ensure that opportunities exist for convenience shopping and other facilities which make life local throughout the borough.

119 The proposed retail/ office element constitutes a very small element of the overall scheme. They are intended to provide further activation to the plaza and podium levels. They are of an appropriate scale, taking into account the density of the scheme and the site's location in relation to surrounding town centres and amenities. The provision of these uses and their overall scale is consistent with the aspiration for mixed use development as set out in the allocation and are, in principle, acceptable.

### Leisure and community uses

120 The original scheme involved the provision of a swimming pool and gym, which were to be operated on a commercial basis and managed by the workspace tenant identified by the applicant

to take the adjacent offices. A small (309 sq.m.) community sports hall was also proposed at the opposite end of the site. The revised application now proposes to provide a public leisure centre including the pool and gym (1,496 sq.m.) with a dedicated entrance from the plaza. Use of the leisure centre would be provided at affordable rates and fitted out by the applicant and fully managed by a leisure operator to be agreed with the Council and secured within the s106 agreement.

121 The site allocation states that leisure, social and community uses (Class D1) uses should be provided on the 100/110A West Cromwell Road site. The allocation also refers to the need for the Warwick Road sites to deliver a community sports hall and public swimming pool. A public leisure facility has not been provided on any of the other sites making up the wider allocation and a leisure centre had been envisioned for this site by virtue of the extant 2017 planning permission which secured a 2,399 sq.m. public leisure centre.

122 Both the GLA and RBKC raised objections to the commercial nature and the split location of the proposed sports facilities, particularly given the 2012 consented scheme (and subsequent s.73 amendment) secured a fully public leisure facility with pool and gym occupying the same building. Furthermore, Sport England queried whether the provision of a leisure centre was justified based upon an up-to-date needs study.

123 The submitted revisions have secured a fully public leisure centre which is to be provided and fitted out by the applicant the details of which are to be secured within the s106 agreement charged at affordable rates with prices similar to other local authority run facilities in the area. Whilst the leisure centre is smaller than that approved under the consented scheme, the offer represents a significant improvement over the original submitted scheme and would now provide a genuine social and community leisure use including the provision of a public gym and pool in line with the provisions of the site allocation. The co-location of these leisure facilities into one centre with a dedicated entrance as secured under the consented proposed also represents a marked improvement over the original scheme proposals in terms of management and accessibility. RBKC's January committee report places great weight on the provision of a genuine public leisure centre, delivering a key aspiration of the site allocation and meeting and identified need, providing substantial benefits to borough residents. As such, the provision of the facility is afforded substantial weight in the balancing exercise and consideration into this application.

124 In terms of need for the leisure centre, RBKC's Community Sport and Physical Activity Strategy 2018-2023 identifies the need for indoor leisure provision, particularly in the south of the borough, an area which the leisure centre would serve.

125 Furthermore, the sports court and climbing wall originally proposed at roof level of building 6 would be retained. The applicant has indicated that the sports court and climbing wall would be managed as part of the wider public realm and free to use by residents of the development, the precise details of which would be secured under the provisions of a management plan to be submitted for approval via planning condition. As such, this facility would also contribute significantly to the overall community sports package generated by the development. The proposals would therefore fully accord with London Plan Policies 3.16, 3.19, Mayor's intend to publish London Plan Policies S1 and S5 and RBKC Local Plan Policies CA5, CK1, and CO1.

126 Instead of a sports hall and community building, building 6 is proposed to provide flexible office/non-residential institution/ assembly and leisure (Class B1/D1/D2) uses to be run on a commercial basis. Whilst the development of Class B1 offices in this location would be acceptable, certain uses falling into Class D1 and D2 use classes would not, given the predominantly residential nature of the surroundings. Therefore, in order to protect residential amenity, the GLA would seek to restrict the use of this building to health centre/ doctor's surgery/ gym or fitness/ educational purposes or B1 offices. This would need to be secured by condition.

## **Principle of development conclusion**

127 Comprehensive redevelopment of this allocated, under-utilised out of town retail site to provide a high density residential-led mixed use redevelopment, including appropriate levels of commercial, leisure and community uses, accords with the land use principles set out in the LPPR site allocation Policy CA5 and the planning policy and housing delivery objectives for such sites as set out in London Plan Policy 3.3, 2.9, 2.15, 4.2, 4.7, 3.16 and 3.19 and Policies H1, E1, SD7, S1, and S5 of the Mayor's intend to publish London Plan, RBKC Local Plan Policies CA5, CH1, CO1, CK1 and CK2. As such, the principle of the development proposed accords with the Development Plan subject to an assessment of all other material considerations discussed further below.

## **Housing and affordable housing**

### **Affordable housing and financial viability**

128 London Plan Policy 3.11 states that the Mayor will, and boroughs should, seek to maximise affordable housing provision and ensure an average of at least 17,000 more affordable homes per year in London up to 2031, of which 60% should be social/affordable rent and 40% intermediate. LPPR Policy CH2 requires developments to provide 35% of all residential floorspace as affordable housing on sites that provide 650 sq.m. or more gross residential floorspace and states that the Council will seek a tenure split of 50% to be affordable housing for rent and 50% to be intermediate including intermediate rent and affordable home ownership products.

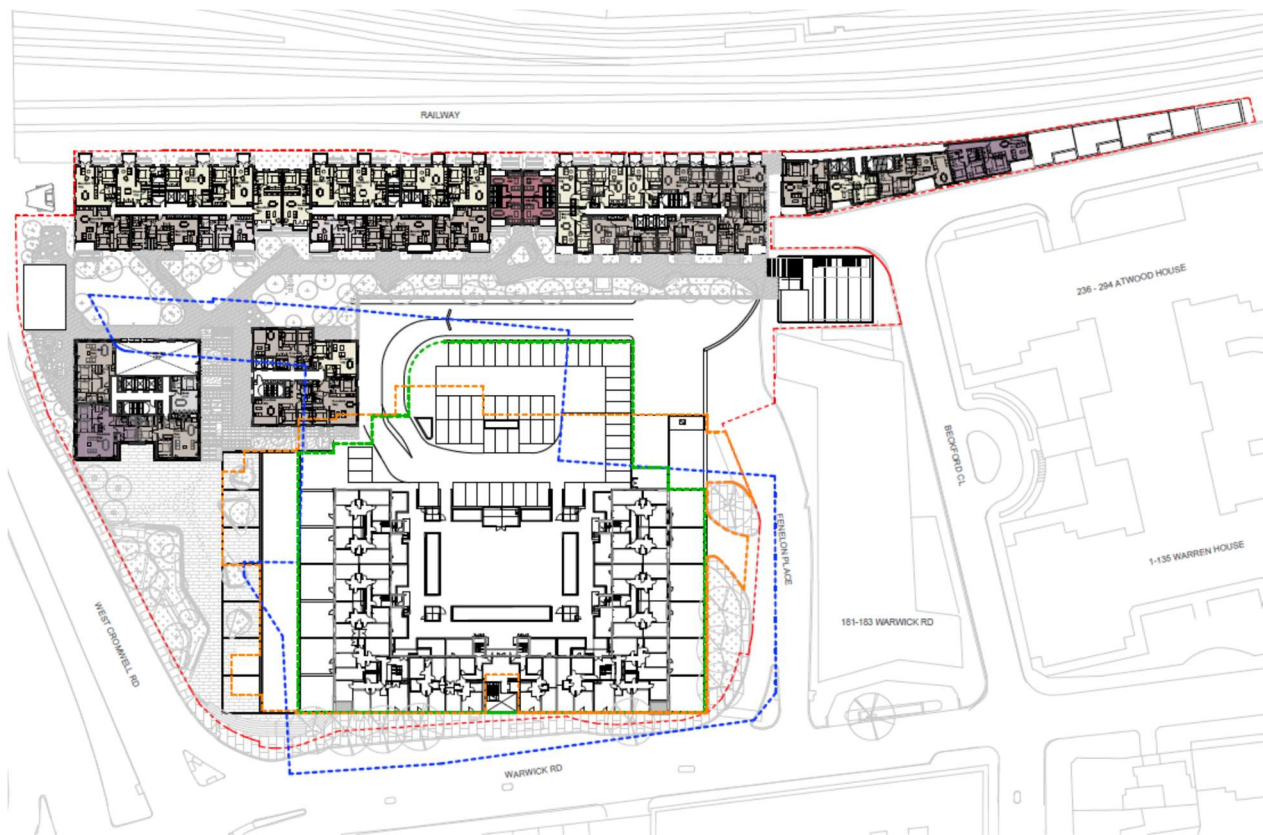
129 London Plan Policy 3.12 requires that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed-use schemes, taking into account a range of factors including: the requirement for affordable housing; affordable housing targets; the need to promote mixed and balanced communities; specific site circumstances; development viability; public subsidy and the resources available to fund affordable housing; and the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements.

130 In August 2017 the Mayor published his Affordable Housing and Viability Supplementary Planning Guidance (SPG) which sets out his preferred approach to maximising the delivery of affordable housing and introduced the 'Fast Track Route' for applications that meet or exceed the Mayor's threshold for affordable housing (by habitable room). The SPG confirms that a scheme's eligibility for the 'Fast Track Route' is subject to the affordable housing being provided on site (as opposed to off-site), without public subsidy and with an appropriate tenure mix provided. In addition, to qualify for the 'Fast Track Route', an applicant must have explored the potential to increase the level of affordable housing using grant funding and an Early Stage Review Mechanism must be secured, which seeks to incentivise the early implementation of any planning permission. Applications which are considered eligible for the 'Fast Track Approach' are not required to submit a financial viability assessment or be subject to a late stage viability review mechanism (as is required for applications which follow the 'Viability Tested Route').

131 The threshold approach to affordable housing is also set out in Policies H6 and H7 of the Mayor's intend to publish London Plan. Policy H4 of the Mayor's intend to publish London Plan seeks to maximise the delivery of affordable housing and sets a strategic target for 50% of all new homes to be affordable. Policy H5 of the Mayor's intend to publish London Plan identifies a minimum threshold of 35% affordable housing (by habitable room), with a threshold of 50% applied to public sector owned sites and industrial land (where development results in a net loss of industrial capacity).

132 In this regard, the site is currently in retail and residential use but RBKC currently own the freehold on a section of the site which is shown edged in blue on figure 5 below:

Figure 5: Ownership plan



133 RBKC's freehold ownership is subject to a long lease to Tesco Stores which expires in 2147. In this regard, the GLA's Threshold Approach to Affordable Housing on Public Land Practice Note (July 2018) acknowledges that where the freehold land interest is in public ownership but a private landowner hold a long leasehold interest, the control of the land is therefore deemed to be primarily in private hands (although the freeholder's consent may be needed in some instances including redevelopment). In such instances, the 35% threshold would apply in relation to the Fast Track Route.

134 Policy H7 of the Mayor's intend to publish London Plan confirms the Mayor's priority to deliver genuinely affordable housing and sets out minimum expectations in relation to tenure split. This requires at least 30% of affordable housing to comprise low cost rented units (either social rent or London Affordable Rent); 30% intermediate housing; with the remaining 40% determined by the borough. As set out above, RBKC Local Plan Policy CH2 requires a tenure split of 50% to be affordable housing for rent and 50% to be intermediate including intermediate rent and affordable home ownership products.

135 The following section provides an assessment of the evolution of the affordable housing offer since the original application was made and considers the scheme's eligibility for the 'Fast Track Route' and the proposed affordability levels.

## Evolution of the affordable housing offer

136 When the Mayor considered the application at Stage 1, the scheme proposed 427 residential units comprising 70 social rent units and 75 intermediate rent units which would deliver 35% affordable housing by habitable room and 34% by unit. The tenure mix of affordable units complied with the provisions of Mayor's draft London Plan Policy H7 and the mix was supported by RBKC as it broadly aligned with the provisions of the then draft Local Plan Partial Review Policy CH2 or 50% social rent and 50% intermediate products.

137 The intermediate rent units were proposed to be provided at rates in line with RBKC's intermediate rent caps which for 1 and 2 bed units would be affordable to those on an income of up to £71,000 gross. However, in order to qualify as a genuinely affordable housing product in accordance with Mayor's intend to publish London Plan Policy H6 and the 2018 AMR, intermediate rent products need to be affordable on incomes of £60,000 gross or under. As such, it was requested that the intermediate rent caps be reduced to £60,000 gross or under in order to comply with the provisions of the Fast Track Route as set out in the Mayor's draft London Plan Policy H6 and the Mayor's Affordable housing and Viability SPG. The applicant was also asked to explore the availability of grant funding to increase affordable housing delivery. These issues were still outstanding at Stage 2.

138 At the point of determination, the application was subject to RBKC Consolidated Local Plan Policy CH2, which required 50% of all residential floorspace above 800 sq.m. (GEA) as affordable housing. As the proposals fell short of this target, the application was subject to viability testing. The Council's independent review of the applicant's FVA identified a number of flaws in the general approach taken; which had not yet been resolved at the point at which the application was taken to committee. On this basis RBKC concluded that the applicant had failed to demonstrate that the maximum reasonable amount of affordable housing contrary to the Consolidated Local Plan Policy CH2 and this was cited as one of the reasons for refusal. Since RBKC resolved to refuse planning permission, the RBKC Local Plan has been adopted and the affordable housing target reduced to a minimum of 35% affordable housing by floorspace (GIA) below which the applicant would be required to submit a financial viability assessment.

139 The revisions to the application submitted to the Mayor on 13 November 2019 seeks planning permission for 462 residential units, of which 40% would be affordable by habitable room and by unit. This represents a 41 unit increase in the total number of affordable units proposed within the application considered by RBKC on 30 May 2019.

140 The revised scheme also proposes changes to the affordable housing tenure to provide a combination of London Affordable Rent (LAR) and the intermediate rent levels have also been adjusted to below London Living Rent (LLR) levels. The proposed changes to the affordable housing offer is summarised in table 5 below.

Table 5 – evolution of the application and affordable housing offer

	<b>Initial submission (February 2019)</b>	<b>Amended application submitted to the GLA (November 2019)</b>	<b>Net change</b>
Social Rent	70	0	-70
LAR	0	77	+77
Discount LLR	0	109	+109
RBKC Intermediate Rent	75	0	-75
Private Sale units	282	276	-6
<b>Total residential units</b>	<b>427</b>	<b>462</b>	<b>+35</b>
<b>Total affordable units</b>	<b>145</b>	<b>186</b>	<b>+41</b>
<b>% Affordable (by unit and habitable room)</b>	<b>35%</b>	<b>40%</b>	<b>+5%</b>

#### Assessment of the revised affordable housing offer

141 The current application seeks planning permission for 462 residential units, including: 276 private sale units, 77 LAR, 109 intermediate rent units at below LLR levels. Overall, this equates to 40% affordable housing by habitable room.

Table 6 – affordable housing

<b>Tenure</b>	<b>Units</b>	<b>Habitable rooms</b>	<b>GIA (sq.m.)</b>	<b>% by unit</b>	<b>% by habitable room</b>	<b>% by GIA</b>
LAR	77	248	7,759	40%	40%	35%
Discount LLR	109	266	9,402			
Private Sale units	282	772	31,453	60%	60%	65%
<b>Total</b>	<b>462</b>	<b>1,286</b>	<b>48,614</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

#### Proposed tenure mix

142 Overall, the scheme proposes a 48:52 split between LAR and intermediate rent by habitable room and a 45:55 tenure split by GIA floorspace. The scheme would deliver 35% affordable housing by GIA and therefore would comply with the provisions of RBKC Local Plan Policy CH2 in terms of overall quantum of affordable housing but the offer would fall slightly short of the RBKC's preferred tenure split of 50:50 by floorspace. However, RBKC has confirmed that given that the tenure split is policy compliant, and the overall affordable package has improved, the proposed tenure split is considered acceptable.

143 As such, the application accords with the tenure mix requirements set out in London Plan Policy 3.11, Policy H7 of the Mayor's intend to publish London Plan, the Mayor's Affordable Housing & Viability SPG and RBKC Local Plan Policy CH2.

#### Grant funding

144 To be eligible for the 'Fast Track Approach' the applicant must also have sought grant to increase the level of affordable housing beyond 35%, taking into account the Mayor's strategic target of 50%, in line with Policy H5 of the Mayor's intend to publish London Plan and the Mayor's

Affordable Housing and Viability SPG. As the revised application would provide 40% affordable housing, all of the proposed London Affordable Rent and intermediate units below LLR levels would be eligible for GLA grant (£28,000 per unit) under the 'Developer led Route', in line with the Mayor's Affordable Homes Programme Funding Guide.

145 GLA officers have considered the affordable housing values and have confirmed that the standard grant rates applied to all units based on 40% affordable housing would not be sufficient to cover the loss in value (and lower profit requirement) arising from an increase in affordable housing from 35% to 40%. As such, grant funding would not increase the proposed quantum of affordable housing provision and would not be secured on this basis.

#### Early Stage Review Mechanism

146 Mayor's intend to publish London Plan Policy H5 clearly sets out the requirements for review mechanisms, which are necessary to secure the maximum public benefit from schemes and to incentivise delivery. These requirements are echoed in the Mayor's Affordable Housing & Viability SPG. An early stage review would be secured by the in the Section 106 agreement, which would be triggered if an agreed level of progress on implementation is not made within two years of the permission being granted, in accordance with Policy H5 of the Mayor's intend to publish London Plan and the SPG, with appropriate provisions included within the Section 106 to ensure additional affordable housing is provided on-site should the early review mechanism be triggered and this is found to be viable. Substantial implementation would be defined as the first phase of construction of the scheme to podium level, which accords with the requirements of the SPG. Officers are satisfied that this review mechanism is required in this instance to incentivise delivery and accords with the Mayor's Affordable Housing & Viability SPG and Mayor's intend to publish London Plan Policy H6. As the proposal is eligible for the Fast Track Route, a late stage review is not required.

#### Conclusion - Eligibility for the 'Fast Track Route'

147 As the proposed tenure split accords with the tenure mix requirements and all other planning obligations requirements have been met, the scheme is compliant with the criteria set out in Policy H5 of the Mayor's intend to publish London Plan and the Mayor's SPG and a late stage review mechanism is not be required in this instance. Appropriate triggers have been included within the Section 106 agreement to ensure the phased delivery of affordable housing within the scheme, linked to the occupation of market sale units.

#### Affordability

148 Policy H6 of the Mayor's intend to publish London Plan and the Mayor's Affordable Housing and Viability SPG sets out the Mayor's priority to deliver genuinely affordable housing. Paragraph 4.7.4 of the Mayor's intend to publish London Plan confirms that London Affordable Rent should constitute a low cost rent product for households on low income, with rent levels based on social rent and set in relation to the GLA's published benchmarks set out in the Mayor's Affordable Homes Programme 2016-21 Funding Guidance. The affordable rented housing would be let at London Affordable Rent levels set annually by the GLA and would be secured at this level in the Section 106 Agreement. As shown in table 7, this equates to between 39% and 27% of market rent in the area. Eligibility for LAR units would be restricted based on local need and subject to nominations agreement.



Table 7 - London Affordable Rent benchmarks

<b>Unit size</b>	<b>London Affordable Rent (2019-20 benchmarks)*</b>	<b>% of market rent**</b>
1 bedroom	£155.13 per week	38%
2 bedroom	£164.24 per week	39%
3 bedroom	£173.37 per week	32%
4 bedroom	£182.49 per week	27%

\*London Affordable Rents are exclusive of service charges

\*\*Market rents based on GLA London Rents Map, which is based on 2018/19 Valuation Office Agency data. To enable comparison, monthly market rents shown in the GLA Rents Map have been multiplied by 12 and divided by 52 to provide estimated weekly rents.

### Intermediate rent and London Living Rent

149 The intermediate rent units are proposed at below London Living Rent (LLR) levels for the Abingdon ward for the financial year 2019/20 and are inclusive of service charge which are shown below in Table 8. These rental levels would need to be secured within the s106 agreement and adjusted thereafter to account for future GLA publications. The Section 106 agreement would also secure appropriate rent restrictions which would apply to all of the discount LLR units to ensure that annual housing costs, including rent and service charge, do not exceed 40% of net household income, assuming a maximum gross household income of £60,000 a year and to ensure that rent levels for any unit would not exceed 80% of market rent in line with the provisions of the Mayor's current AMR and any rent increases remain genuinely affordable as defined by any subsequent AMR publications. This accords with the maximum income thresholds and affordability tests set out in the Mayor's intend to publish London Plan and the Mayor's Affordable Housing and Viability SPG.

Table 8 - Monthly London Living Rent levels compared to estimated market rent levels

<b>Unit size</b>	<b>Proposed intermediate rent</b>	<b>% of LLR*</b>	<b>% of market rent</b>	<b>Estimated market rent**</b>
1 bedroom	£295	91%	85%	£346
2 bedroom	£322	89%	76%	£423

\*London Living Rent - Abingdon – Financial Year 2019/20

\*\*Source: GLA London Rents Map, which is based on 2018/19 Valuation Office Agency data

### **Conclusion on affordable housing and financial viability**

150 In response to concerns raised by the Mayor at both consultation stage and Stage 2, and RBKC's reasons for refusal, GLA officers worked with the applicant to increase affordable housing provision in accordance with the Mayor's Affordable Housing & Viability SPG. The increased affordable housing offer (40% by habitable room and 35% by GIA) meets RBKC's Local Plan target and exceeds the applicable threshold level set by the Mayor's intend to publish London Plan and Mayor's Affordable Housing & Viability SPG.

151 The proposed tenure split accords with the requirements set out in the Mayor's intend to publish London Plan and Mayor's Affordable Housing & Viability SPG and the affordability levels proposed across each tenure would comply with the relevant requirement set by the NPPF, London Plan, Mayor's intend to publish London Plan and RBKC's Local Plan. Details of the affordable housing in terms of eligibility, affordability and perpetuity will be secured in the Section 106

agreement, should permission be granted, with appropriate phasing triggers to secure the delivery of affordable housing on a phase by phase basis before the occupation of market homes, together with an early implementation viability review mechanism.

152 The affordability levels proposed for London Affordable Rent, intermediate rent units are acceptable and comply with the London Plan income and eligibility requirements and would be secured at these levels in perpetuity within the Section 106 Agreement.

153 On this basis, the level of affordable housing proposed represents a significant benefit particularly given the recent poor delivery within RBKC. As such, the application accords and exceeds the requirements of London Plan Policies 3.3, 3.4, 3.5, 3.8, 3.9, 3.11 and 3.12; the Mayor’s Housing SPG (2016) and the Mayor’s Affordable Housing & Viability SPG (2017); Mayor’s intend to publish London Plan Policies GG4, D4, D5, D6, H1, H5, H6, H7, and RBKC’s Local Plan Policy CA5 and CH2.

### **Housing size mix and tenure**

154 London Plan Policy 3.8 states that new development should provide a mix of housing sizes and types, taking into account local and strategic housing requirements, the needs of different groups, the strategic priority for affordable family housing provision and the need to support the private rented sector. Policy H12 of the Mayor’s intend to publish London Plan states that schemes should generally consist of a range of unit sizes and sets out a number of factors which should be considered when determining the appropriate housing mix on a particular scheme. This includes housing need and demand, the nature and location of a site and the requirement to optimise housing potential and deliver mixed and inclusive neighbourhoods.

155 RBKC’s Local Plan Policy CH3 seeks a range of dwelling sizes and types of housing to reflect the varying needs of the borough taking into account the characteristics of the site, and current evidence in respect of housing need. The RBKC Local Plan provides the following unit size requirements which are based upon the borough’s most recent 2015 Strategic Housing Market Assessment (SHMA):

- 1 bed – 23%
- 2 bed – 29%
- 3 bed – 30%
- 4+ bed – 18%

156 In terms of affordable housing unit size requirements, the SHMA identifies the following requirements:

- 1 bed - 49%
- 2 bed – 21%
- 3 bed - 15.5%
- 4+ bed - 14.5%

Table 9 – Overall housing mix

<b>Unit size</b>	<b>Units</b>	<b>% mix</b>
Studio	4	1%
1 Bedroom	172	37%
2 Bedroom	220	48%

3 Bedroom	61	13%
4+ bedroom	5	1%
<b>Total</b>	<b>462</b>	<b>100%</b>

Table 10 – housing mix by tenure

Unit size	Private sale		Intermediate rent		London Affordable Rent	
	units	%	units	%	units	%
Studio	4	1%	0	0%	0	0%
1 Bedroom	90	33%	61	56%	21	27%
2 Bedroom	140	51%	48	44%	32	42%
3 Bedroom	42	15%	0	0%	19	25%
4 Bedroom	0	0%	0	0%	5	6%
Total	276	100%	109	100%	77	100%

157 Whilst the scheme is weighted towards the provision of one and two bedroom units, this is a constrained site with limited scope for private amenity areas and a greater proportion of the family sized homes proposed are for London Affordable Rent. In addition 2 bed 4 person units can accommodate small families so this should be a consideration. This responds positively to the Council’s priorities set out above and would make an important contribution towards RBKC’s family sized unit requirements. Overall, the scheme provides a good mix of housing tenures, types and unit sizes across a range of tenures and affordability levels and, as such, the proposed dwelling size mix is acceptable in view of density and form of the development and the site’s location and characteristics.

### Play space

158 Policy 3.6 of the London Plan states that development proposals that include housing should make provision for play and informal recreation, based on the expected child population generated by the scheme and an assessment of future needs. Further guidance on the application of this policy is provided in the Shaping Neighbourhoods: Children and Young People’s Play and Informal Recreation SPG (2012), which sets a benchmark of 10 sq.m. of useable child play space to be provided per child. Policy S4 of the Mayor’s intend to publish London Plan states residential developments should incorporate good quality, accessible play provision for all ages, of at least 10 sq.m per child. Play space provision should normally be provided on-site; however, off-site provision may be acceptable where it can be demonstrated that this addresses the needs of the development and can be provided nearby within an accessible and safe walking distances, and in these circumstances contributions to off-site provision should be secured by Section 106 agreement.

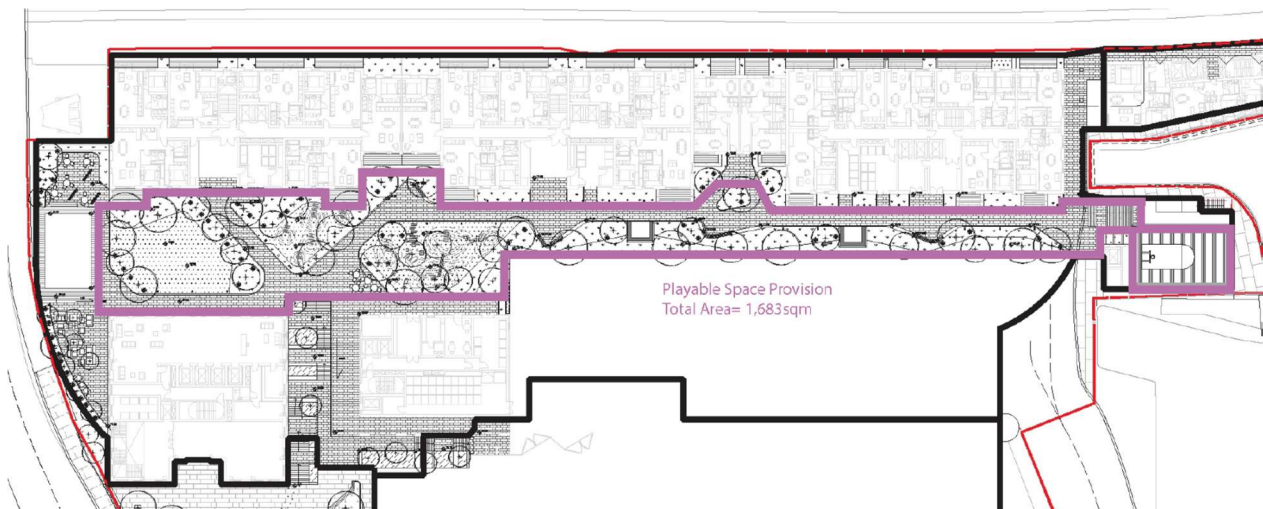
159 One of RBKC’s reasons for refusal cited the lack of a suitable quantity and quality of appropriate external playspace based on the child occupancy of the development contrary to London Plan Policy 3.6 and Policy CR5 of RBKC’s Consolidated Local Plan. The officer’s report to committee noted that the proposed playspace provision attributed to the public plaza should be discounted due to its proximity to Warwick and West Cromwell Road and high footfall in the area. The space attributed to the community sports building should also be discounted as it would be open to all residents and subject to booking, potentially on a fee paying basis.

160 Since the application was considered at Stage 1, the GLA has produced the GLA population yield calculator. This replaces the GLA's former playspace calculator which was used in determining the original playspace requirement.

161 Based on the revised housing mix as set out in Table 13 and using the latest iteration of the GLA's Population Yield calculator, an increased child yield of 163 can be expected, resulting in a requirement for 1,624 sq.m of playspace. There are no existing areas of playspace in within 800 metres of the site, however areas of playspaces are expected to be delivered on the northern Warwick Road sites as a requirement of site allocation Policy CA5, which are currently under construction.

162 The applicant has excluded areas previously proposed as playspace in the public plaza and the community sports hall. The applicant's revised play space and landscape strategy indicates that a total of 1,683 sq.m. of play space would be provided comprising 720 sq.m. of dedicated playspace to the southern end of the podium and the roof of the former community sports building with the remainder (963 sq.m.) identified as informal playspace to the eastern end of the podium.

Figure 6: Proposed playspace provision



163 The proposed dedicated playspace comprises an appropriate mix of naturalistic and informal play features within the landscaping as well as formal play space areas and equipment. Further soft landscaping to the podium has been introduced along with other environmental improvements which would make this space a much more usable and interactive space for play. The revisions also include improvements to access to the podium for the residents of building 7 by providing a dedicated lift for affordable residents up to the podium, as was requested by GLA officers at Stage 1. As such, the proposed playspace would be fully accessible by all residents within the scheme, irrespective of tenure. Full details of this would be secured via a condition.

164 However, the identified area for 'informal playspace' takes up the narrowest sections of the podium where space would be largely taken up by a pathway and a narrow strip of landscaping along the very edge of this space. It is impractical and unsafe for this space to be used for play as well as a main pedestrian thoroughfare. Therefore, given the constrained nature and conflicting priorities of this space, only a small proportion of this area of the podium would be deemed appropriate for play. The omission of a large part of this area would result in a deficit of playspace provision overall. Notwithstanding this, given the constrained nature of the site and the provision of alternative dedicated facilities for play including the MUGA and climbing wall as well as the public leisure facility within the site a shortfall in playspace provision is deemed acceptable in this instance.

165 Similarly, in RBKC's January report to committee it was considered that given the improvements to the podium level environmental and landscaping and further rationalisation and design evolution of the proposed play areas as well as the overall quantum and play opportunities proposed as part of the wider development, the proposals would now comply with Local Plan Policy CR5.

166 The open nature of the playspace within the wider landscaping scheme for the podium has been questioned by consultees due to safety concerns. However, now that all of the proposed playspace is now proposed at podium level, away from the West Cromwell Road, safety in terms of potential conflict with vehicles is no longer a concern. The playspace is in immediate proximity to the homes of the children they would serve. The podium playspace would benefit from extensive passive surveillance and activity from the proposed buildings surrounding it. Furthermore, given the significant level change between the street and the podium, the open space would have a more secluded quality and is unlikely to experience high levels of footfall from non-residents. Lastly, the design of the playspace accords with the provisions of the Mayor's Play and Informal Recreation SPG in terms of safety, accessibility and integration of playspace into landscaping schemes.

167 As such, the application would accord with London Plan Policy 3.6 and Policy S4 of the Mayor's intend to publish London Plan, as well as RBKC's Local Plan Policies CR5 and C1.

## **Density**

168 London Plan Policy 3.4 requires new development to optimise housing output, having regard to site context and character, urban design principles and public transport capacity. Table 3.2 of the London Plan includes a sustainable residential quality (SRQ) density matrix which sets out broad density ranges by Public Transport Accessibility Level (PTAL) and setting. These are advisory and paragraph 3.28 of the London Plan clarifies that the density matrix should not be applied mechanistically to individual applications. Paragraph 1.3.51 of the Housing SPG (2016) states that it may be acceptable for schemes to exceed the ranges in the density matrix in appropriate circumstances, providing that qualitative design and management concerns are addressed, including the requirement to achieve high quality design in terms of liveability, public realm, residential and environmental quality and having regard to other factors such as the proposed housing mix and planned infrastructure provision. It outlines the potential for large sites such as this to define their own characteristics in terms of setting and accommodate higher densities.

169 Policy D6 of the Mayor's intend to publish London Plan places a greater emphasis on optimising the density of a site through a design-led approach, whilst also having regard to the above factors in terms of context, public transport access and infrastructure capacity. It states that the higher the density of a development, the greater the level of design scrutiny is required and sets out notional density thresholds.

170 The 1.7 hectare application site has a PTAL level of 6a which is excellent. In view of the site's relative proximity to two higher order town centres and the density and size of buildings in the vicinity, the site would be classified as 'Central' for the purpose of applying the density matrix, in line with the advice notes set out within Table 3.2 of the London Plan. This would suggest an indicative guideline density range up to 405 residential units per hectare / 1,100 habitable rooms per hectare. Taking into account the site area (1.7 hectares) and the proportion of the scheme which is in non-residential use (40%), the application has a net residential density of 547 units per hectare / 1,541<sup>4</sup> habitable rooms per hectare. This exceeds the relevant guideline range in the London Plan SRQ density matrix for the site. However, the density is just a measure and the

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<sup>4</sup> The number of habitable rooms within the Notting Hill Genesis housing development but for the purposes of the assessment, it has been assumed that all units are 2 bed, equating to 3 habitable room per unit.

London Plan does not preclude higher densities in highly accessible locations such as this and where high quality design is proposed. More importantly, the site is allocated in the Local Plan to provide a minimum 450 units, therefore the principle of high density redevelopment of the site, in excess of the London Plan density matrix, has been deemed acceptable.

171 The Mayor's intend to publish London Plan takes a different approach to determining appropriate density levels, moving away from prescriptive levels and instead focusing on design in respect of Policy D3, which is examined in more detail in the following sections of this report, and the infrastructural requirements of the development. In this regard, Policy D2 of the Mayor's intend to publish London Plan, developments are required to be provided at densities that reflect the individual site's connectivity and accessibility levels, taking into account the future planned levels of infrastructure rather than existing and be proportionate to the site's connectivity to jobs and services.

172 The application site benefits from a PTAL level of 6a, which is an 'excellent' rating. The PTAL for the site is set to improve through the completion of TfL's 4 Lines Modernisation signalling upgrade to District line (and Circle, Metropolitan and Hammersmith & City lines), which is expected to be fully completed 2023. Furthermore, new trains are to be introduced on the Piccadilly line starting from 2024 and finishing in 2026 resulting in a gradual increase in the balance of fleet over that time. Also in the pipeline is the Piccadilly line signalling line upgrade. Although this is not currently funded and is paused while TfL lobby for funding from Central Government. As a result of these changes, the 2031 forecast predicts that the PTAL for the site would increase from 6a to 6b, which represents the highest PTAL level. In addition, the site is within close proximity to a number of higher order town centres as well as providing opportunities for jobs and access to retail and community leisure facilities on site. Therefore, it is considered that the proposed density is fully appropriate in terms of the development's infrastructural requirements being met. In terms of design, the scheme would fully comply with the provisions of Policy D3 in terms of residential amenity; would provide safe, accessible and attractive public and open spaces, of high quality design and would respond appropriately to the local character of the area as covered in more detail in the following sections of this report. Therefore, the proposed density would fully comply with the provisions of the London Plan, Mayor's intend to publish London Plan and RBKC Local Plan policies.

### **Standard of residential accommodation**

173 London Plan Policy 3.5 seeks to ensure that housing developments are of the highest quality both internally and externally and sets out minimum space standards for dwellings, which are based on the nationally described space standards. The 2016 Housing SPG provides further detailed guidance on residential design quality and sets baseline standards covering units per floor per core ratios, private open space provision, dual aspect and single aspect dwellings and recommended floor to ceiling heights. Policy D6 of the Mayor's intend to publish London Plan carries forward the adopted minimum space standards and confirms that these apply to all tenures of self-contained residential accommodation. It sets out minimum requirements for private open space, ceiling height and requires developments to maximise the provision of dual aspect dwellings.

#### Internal and external space standards

174 Table 3.3 of the London Plan and Table 3.1 of the Mayor's intend to publish London Plan set out minimum internal space standards for new homes, which are set out below. All of the proposed units would either meet or exceed this minimum standard, as set out below in Table 16, with the majority provided with higher levels of internal space. All units would also meet the minimum room sizes / dimensions as defined under Policy D6 of the Mayor's intend to publish London Plan. In terms of ceiling height, all of the proposed residential units would comply with the

2.5 metre standard set out in the Mayor’s intend to publish London Plan, which is strongly encouraged in the 2016 London Plan and Housing SPG. Overall, having assessed the room layouts, GLA officers consider these would provide an acceptable quality of accommodation. Compliance with the approved floorplans would be secured by planning condition.

Table 11 – minimum space standards and proposed average provision

<b>Unit size</b>	<b>Minimum London Plan standard</b>	<b>Proposed average unit size</b>
Studio	37	37
1 bedroom 2 person	50	55
2 bedroom 3 person	61	64
2 bedroom 4 person	70	75
3 bedroom 5 person	86	103
3 bedroom 6 person	95	107
4 bedroom 6 person	99	132

### Dual aspect

175 The 2016 Housing SPG states that development should minimise the number of single aspect units and avoid the provision of single aspect units that are north facing; contain three or more bedrooms; or are exposed to noise levels above which significant adverse effects on health and quality of life occur. Policy D4 of the Mayor’s intend to publish London Plan states that development should maximise the provision of dual aspect units and normally avoid the provision of single aspect units, with these only provided where these are considered a more appropriate design solution to meet the requirements of Policy D3 part B (which is dealt with from paragraphs 189 to 197), and provide acceptable quality of accommodation in terms of passive ventilation, daylight, privacy and overheating.

176 In total, 62% of the units would be dual aspect (288 units) and 38% of would be single aspect (174 units). None of the single aspect units within the development are north facing and none are 3 beds. All of the units within building 1 would be dual aspect. In building 2, 81% would be dual aspect with all single aspect units being 1 bed units.

177 In terms of buildings 3, 4 and 5, 50% are single aspect. The majority (65%) of single aspect units are provided as 1 bed units. The single aspect units facing onto the railway tracks would be provided with winter gardens at lower levels to provide noise attenuation at the request of GLA officers. Appropriate noise mitigation and control measures would be provided to ensure these and the units are not exposed to unacceptable noise levels and to ensure compliance with World Health Organisation and British Standards (BS:8233: 2014), which would be secured by condition and is set out in detail in the noise section of this report.

178 None of the units within building 7B have windows on the western elevation due to the proximity to the railway track, which is a significant limiting factor. Notwithstanding this, the deck access arrangement of building 7A helps to optimise the proportion of dual aspect at 55%. The three beds single aspect units are all provided as maisonettes. The use of deep inset balconies with window openings on all sides has also been employed to improve the quality of affected units. In all instances where single aspect units are proposed, the narrow plan form helps to maximise daylight penetration. Furthermore, the appropriateness of the development of this strip of land for residential use has already been established by the extant and implemented planning permission for the site.

### Private open space

179 The 2016 Housing SPG and Policy D4 of the Mayor's intend to publish London Plan state that a minimum of 5 sq.m. of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m. should be provided for each additional occupant. The depth and width of private amenity spaces should be at least 1.5 metres. Paragraph 2.3.32 of the Housing SPG recognises that there may be exceptional circumstances where site constraints meant that it is impossible for private open space, dwellings may be provided with additional living space equivalent to these requirements.

180 As part of the revisions, the application now proposes to provide winter gardens to the units at lower levels within buildings 3, 4 and 5 as requested by GLA officers to offer protection to residents from noise from the railway.

Table 12 – private amenity space provision by type

<b>Type of private amenity space</b>	<b>No. units</b>	<b>%</b>
Balcony	242	52.4%
Winter garden/ balcony	30	6.5%
Ground floor defensible space	30	6.5%
No private amenity due to air quality/noise issues	160	34.6%

181 Approximately a third of units would not have access to private amenity space. This includes all units within building 1 and most units within building 2 apart from the top few levels. This is due to constraints of noise, wind, privacy and air pollution which is likely to particularly affect these southern blocks. Where external amenity is absent or reduced (in the case of some of the units within building 7), unit sizes have been increased by the same quantum of external amenity space to make up for the shortfall. Communal roof terraces are also provided in respect of building 2 and several are proposed above building 7 which also makes up for the private amenity shortfall. None of the units in question are family sized units and all of them would be provided with levels of internal space in excess of the minimum Mayor's intend to publish London Plan standards equivalent to the private external space requirement, in line with the requirements of the Mayor's Housing SPG. This is considered acceptable and would need to be secured by condition.

### Outdoor amenity space

182 RBKC's Local Plan Policy CA5 site allocation requires the provision of open amenity space on the 100 West Cromwell Road including landscape improvements.

Table 13 – amenity space requirements and provision (sq.m.)

<b>Type of amenity space</b>	<b>Sq.m.</b>
Balconies /terraces	3,834
Residential courtyards	1,379
Public realm	3,850
<b>Total amenity space proposed</b>	<b>9,063</b>

183 The overall amenity space provision is considered sufficient in terms of scale having regard to the significant spatial constraints of the site. One of RBKC's reasons for refusal cited the poor quality of the public open space by virtue of overshadowing and the exposure of the public open space and some of the communal terraces to adverse wind conditions. The segregation of building



7 from the public open space, absence of landscaping around building 7 and usability of the roof terraces were also identified as issues in relation to the original scheme.

184 The podium would still experience slightly windier conditions than would be ideal given the intended use of this space but this would be predominantly mitigated through the landscaping strategy. GLA officers consider the wind levels likely to be experienced at podium level to be within acceptable parameters and would not unduly impede the functionality or enjoyment of this space by residents and the general public. The wind conditions at communal terraces are generally improved through the revised proposals with the exception of one of the terraces at building 7. However, given the availability of alternative communal terraces within the building and that all units are provided with private amenity space, this is considered acceptable. This is discussed in more detail from paragraph 377 of this report.

185 As discussed in more detail below, in terms of overshadowing to the proposed landscaped podium, it will be in shadow for the majority of the day which is unavoidable. However, the breaks in the massing of buildings 3-5 help to alleviate this slightly, which is a benefit when compared to the consented scheme which comprised an unbroken wall of development along the railway track.

186 In terms of privacy, several units are provided with private amenity space at podium level which is proposed to be screened with landscaping. Further details would be required as to the design of these spaces to ensure that these units are afforded adequate levels of privacy to be secured by condition.

187 There are severe limitations on space at the northern end of the application site in particular. Whilst additional landscaping such as a landscaped defensible buffer between building 7 and the footway would be preferable, it is acknowledged that there is insufficient space for this and the proposed relationship with the footway is no different when compared to the previously consented scheme. The revised scheme incorporates a dedicated access point to the podium via building 6 in order to allay concerns raised at Stage 1 over the accessibility and connectivity of the podium to the residents of building 7.

188 In conclusion, GLA officers are satisfied that the external amenity spaces would generally be of an acceptable quality subject to the imposition of conditions requiring further details to be submitted in terms of landscaping, overlooking, privacy, accessibility, sunlight, noise and air quality, matters which are covered in more detail in the relevant sections of this report. A condition would be attached to require the submission and approval of a detailed scheme for landscaping, public realm, play space and landscaped boundaries to secure these elements of the scheme. As such, the proposed amenity space provision broadly complies with Policy CH3 and CR5 of the RBKC Local Plan.

### Privacy and overlooking

189 London Plan Policy 7.6 and Mayor's intend to publish London Plan Policy D3 and D6 require developments to deliver appropriate outlook, privacy and amenity. RBKC's Local Plan Policy CL5 explanatory text suggests a separation distance of 18 metres between habitable rooms to reduce inter-visibility. The minimum distance between proposed buildings 1 and 2 is 10.2 metres, however, the windows are offset so that no direct overlooking would take place, the 18 metre separation distance is a guide and this is a location suitable for high density development where such guidance can be applied more flexibly. There are also no balconies on these elevations which would exacerbate privacy issues. There is the potential for overlooking between building 5 and 7 which would be in closer proximity to each other. Appropriate screening and/or opaque glazing to the affected rooms should be adopted to ensure that this issue is mitigated the full details of which would be secured via the imposition of a planning condition. Further consideration to the impact of

the development on privacy between the building and existing residential is considered from paragraph 340 of this report.

#### Internal daylight, sunlight and overshadowing

190 Mayor's intend to publish London Plan Policy D4 and D8 and the Mayor's Housing SPG seeks to ensure that the design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space. LPPR Policy CL5 also seeks to ensure good standards of daylight and sunlight are achieved in new development and in existing properties; and where they are already substandard, that there should be no material worsening of the conditions.

191 The applicant has submitted an updated internal daylight, sunlight and overshadowing assessment which assesses the adequacy of the internal light provision within all of the residential units by reference to the Building Research Establishment's (BRE) guidelines<sup>5</sup> and the recommended Average Daylight Factor (ADF) target values for the level of daylight within living rooms, kitchens and bedrooms. This assessment has been updated to support the submission in May 2019 of revised internal layouts and balcony locations/configurations.

192 Average daylight factor (ADF) is a measure of the quality and distribution of light distribution within rooms, taking into account the size and number of windows. BRE guidelines set out recommend minimum target values for ADF, which vary depending on the use of a room. Bedrooms are subject to a 1% target and 1.5% and 2% applied to living rooms and kitchens respectively. The BRE guidelines provide an industry standard method of assessment for daylight, sunlight and overshadowing issues and is generally relied on by planning authorities as a comparative benchmark for assessment purposes. The Housing SPG (2016) states that BRE guidelines should be applied sensitively to higher density development, taking into account location, context and broadly comparable housing typologies found in London. Similarly, recent amendments to the NPPF (2018) state that planning authorities should take a flexible approach when applying daylight and sunlight guidelines, where these would inhibit making the efficient use of a site and where an acceptable living standard would be achieved.

193 The applicant has submitted an updated self assessment as part of the revised Environmental Statement. Of the 1,293 rooms assessed, 1,173 (88%) of the units would meet or exceed BRE and British Standards recommended levels of daylight amenity for either their specific room usage (achieve a minimum of 1.5 ADF). In terms of the performance of each building, in building 1, all rooms would achieve the ADF target for the relevant room use, 4% of rooms in building 2 would fail, 19% of rooms in building 3, 8% in building 4, 10% rooms in building 5 and 42% in building 7.

194 Whilst the proportion of failures are within acceptable parameters for most buildings, building 7 performs the least well, as also identified in RBKC's officer's original report to committee. This is due to a number of factors. The single aspect nature of the block warranted by its immediate proximity to the railway track makes a significant contribution to the poor performance of these rooms. The narrowness of the plot necessitates a first floor overhang to optimise the dimensions of the apartments thus restricting light to the ground floor rooms. Furthermore, the recessed balconies over the upper levels would limit light availability to the adjacent living rooms, which typically require the most amount of light. Projecting balconies would not be appropriate in this instance due to privacy issues caused by the adjacency of Warren and Atwood House opposite. Given the limitations of the plot and other constraints, it is accepted that there is little that can be

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<sup>5</sup> British Research Establishment (BRE) guidelines – Site Layout Planning for Daylight and Sunlight. A Guide to Good Practice.

done to improve the performance of these rooms without compromising residential amenity in other ways. It is also noted that this was not identified as a reason for refusal by RBKC and a similar block was also part of the consented scheme.

195 A significant majority of the proposed units would comply with BRE guidelines. However, there are a number of units within building 7 which would not meet BRE standards but GLA officers recognise that these issues are due to the particular site constraints of the plot and the applicant has worked hard to maximise daylight to these units whilst balancing the need to safeguard residential amenity more generally. Furthermore, the BRE guidelines should be applied with an appropriate degree of flexibility to higher density schemes within London. Therefore, on balance, GLA officers consider that the development would achieve acceptable levels of daylight for the proposed residential units, taking into account the site constraints.

196 In terms of the overshadowing of proposed public and communal amenity spaces, BRE guidelines recommend that that at least half of the amenity area within a development should receive at least two hours of sunlight (based on 21 March spring equinox). The original RBKC officers report to committee raised concerns that the scheme massing and layout would give rise to significant overshadowing, particularly to the podium level amenity space. However, in the January RBKC report to committee on the revisions it was considered that in light of the wider improvements to the quality of the podium open space, the level of overshadowing, although worsened, would comply with Local Plan Policy CL5 and CR5.

197 The applicant's overshadowing assessment demonstrates that the roof top amenity areas would generally meet the BRE benchmark. However, the central podium would experience overshadowing in excess of this target owing to the proposed buildings surrounding this space. The degree of overshadowing to the podium would be alleviated to some degree by the low level gaps between the massing of buildings 3, 4 and 5 which would bring more light into this space at certain times of day. Although overshadowing would still be an issue, due to the high quality design of the podium level open space and extensive landscaping, this would not impact on its attractiveness or usability and is therefore considered acceptable in line with the Mayor's intend to publish London Plan Policy D4 and D8 and RBKC Policies CL5 and CR5.

### Noise and vibration

198 The site is located in a particularly noisy environment with West Cromwell Road (A4 dual carriageway) running along the southern boundary of the site and railway tracks directly adjacent to the west of the site running the length of the site from north to south. These are both major noise sources. Road based noise generated by the A4 is relatively persistent and continuous in nature through the day and night, although traffic frequencies are reduced during the night time hours which results in reducing the average noise measurements. Train based noise contributes to the overall levels of noise and vibration experienced on the site, though this is more infrequent and the dominant noise source is attributable to road based vehicles.

199 Paragraph 180 of the NPPF states that planning decisions should seek to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative) of pollution and living conditions by ensuring potential adverse impacts resulting from noise are mitigated or reduced to a minimum; and noise levels which give rise to significant adverse impacts on health and the quality of life are avoided. Further guidance is provided in the Government's Planning Practice Guidance (PPG) and the Noise Policy Statement for England (NPSE) (2010).

200 Whilst the PPG and NPSE do not provide decision makers with technical or numerical values for categorising and assessing noise levels in decibels (dBs) in terms of their impact, industry standard guidelines set out in British Standard BS8233:2014 'Guidance on sound insulation and

noise reduction for buildings’ recommends that daytime noise levels do not exceed 35 dB and night-time values in bedrooms do not exceed 30 dB. This is aligned with the World Health Organisation recommendations set out in Guidelines for Community Noise (1998). With regard to external private and communal amenity spaces, British Standard BS8233:2014 recommends that external noise levels do not exceed an upper guideline value of 55 dB.

201 London Plan Policy 7.15 and Policy D14 of the Mayor’s intend to publish London Plan state that development should manage noise to improve health and quality of life by: avoiding significant adverse noise impacts on health and quality of life; mitigating and minimising existing and potential adverse noise impacts within the vicinity of new development; separating new noise sensitive development from major noise sources through the use of screening, internal layout, set back distances; and where this is not possible, adverse effects should be controlled and mitigated by incorporating good acoustic design principles. The Mayor’s London Environment Strategy aims to reduce the number of people adversely affected by noise and includes a wide range of policies and proposals to support this aim.

202 RBKC Local Plan Policies CO7 and CL5 seeks to ensure that noise and vibration does not have an adverse impact on the use of buildings, gardens and other spaces. RBKC’s Noise SPD provides more detailed guidance covering noise quality and acoustic design mitigation and sets out the following pre-planning risk assessment advice for applicants, which is summarised below in Table 14.

Table 14– Noise Exposure Categories (NEC) for new dwellings near existing noise sources

<b>NEC</b>	<b>Time (Hours)</b>	<b>LAeqT Road Traffic</b>	<b>LAeqT Rail Traffic</b>	<b>LAeqT Mixed Sources</b>	<b>Advice</b>
A	07:00 – 23:00	<55dB	<55dB	55dB	Noise need not be considered as a determining factor in granting planning permission, although the noise level at the high end of the category will be regarded as less desirable.
	23:00 – 7:00	<45dB	<45dB	<45dB	
B	07:00 – 23:00	55-63dB	56-66dB	55dB-63dB	Noise should be taken into account when determining planning applications and where appropriate, conditions imposed to ensure an adequate level of protection against noise to meet the Council’s recommended outdoor and indoor noise levels.
	23:00 – 7:00	45-57dB	45-59dB	45-57dB	
C	07:00 – 23:00	53-72dB	66-74dB	63-72dB	Planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise to meet the Council’s indoor noise level.
	23:00 – 7:00	57-55dB	59-66dB	57-66dB	

203 The SPD advises that where sites experience noise levels contained within, or on the boundary of NEC B or C the application would require recommendations and proposals to achieve the following internal noise levels:

- Bedrooms – (23:00-07:00) 30 – 35 dBL Aeq (8 hour) and 45 dBL Amax
- Living Rooms (7:00-23:00) – 30 – 40 dBL Aeq (16 hour)

204 A Noise Impact Assessment (2019) was submitted as part of the original Environmental Statement. This establishes the baseline noise levels at the site during the day and night, following noise monitoring surveys undertaken during March 2018 at twelve locations within and around the site at various locations on the podium to the south-western corner of the site, at the north eastern corner of the car park structure on the ramp going down to the basement northern car park, on Fenelon Place and Warwick Road, and along the strip of land to the north of the site. GLA officers consider this assessment to be of an acceptable quality and the methodology and noise modelling undertaken in line with industry standard practice.

205 The survey data indicates that the highest noise levels were found at the south western corner of the sites where the A4 and railway track meet, the noise level recorded in this particular location would fall into an NEC category 'C' location, where planning permission would not ordinarily be granted. However, the remaining survey points identified noise levels would fall into NEC category B. Noise levels generally improve away from the main roads.

Table 15 – Average baseline noise levels (figures given as dB LAeqT/ LAFmax) at each survey point (selection of 6 out of the 9 locations provided below)

	<b>Daytime</b>
Corner of A4 and railway track	68/ 82
In front of the billboard on the A4, railway partially blocked	69/ 74
North-western corner of podium structure	60/ 67
Middle of site	60/ 65
North of car park structure on vehicular ramp	60/ 68
Northern end of the site	61/ 68

#### Internal noise levels within residential units

206 The facades have been designed according to the levels of noise exposure experienced in those locations. It is anticipated that noise levels would reduce with increasing floor height from the surrounding roads/ railway. Noise intrusion into the proposed flats is subject to detailed design but is proposed to be controlled by a combination of high performance double/ triple glazing and sound insulation within the facades using massive boards (e.g. cementitious board) and a sufficient cavity such that the facades would have greater sound insulation properties than the windows. High external noise levels make the use of openable windows undesirable for occupants facing the railway or West Cromwell Road. The scheme proposes an alternative means of ventilation via a mechanical ventilation and heat recovery (MVHR) system serving all of the residential blocks. Full details of mitigation measures would be subject to later approval by condition.

207 The applicant's Noise Impact Assessment (2019) states that, once the above mitigation measures are taken into account, internal noise levels would accord with RBKC Noise SPD internal noise standards for NEC B and C and current best practice guidance in ProPG: Planning and Noise

(2017) for new residential development which is derived from the British Standard 8233:2014 and guidance from the World Health Organisation.

### Vibration

208 RBKC's Noise SPG requires a vibration assessment to be undertaken where railways are within 75 metres of a proposed development site. This would include the calculation of Vibration Dose Values (VDV) measured in accordance with BS 6472-1:2008 (revised). For residential development VDV (m/s 1.75) should not exceed the table as follows:

Table 16: Residential development VDV

<b>07:00- 23:00 16 hours a day</b>	<b>23:00 to 07:00 8 hours a day</b>
0.2 to 0.4	0.1 to 0.2

209 The vibration assessment confirms that the highest levels are one tenth of the lowest range stipulated in Table 16, therefore antivibration proposals would not be necessary to control tactile vibration.

210 However, due to high levels of groundbourne noise from train passbys at the site, anti-vibration measures would be required. It is proposed that the buildings located above the podium are isolated above the existing structure using elastometric bearings. Building 7 would also be provided with elastomeric bearings to provide sufficient acoustic performance to reduce the level of groundborne noise by up to 44 dB such that a 35 dB LAmax criterion can be met. This assessment is acceptable and, subject to the buildings being constructed in this manner the details of which would be required by condition, GLA officers do not consider that the proposed residential units are likely to be exposed to adverse levels of vibration.

### External amenity noise levels

211 In terms of the external amenity noise mitigation, the worst affected areas would include the outward facing residential balconies which would be exposed to the noise of the railway and road noise from West Cromwell noise. Noise levels would decrease further up these buildings and glazed balustrades would provide some attenuation. As requested at by GLA officers at Stage 1, projecting winter gardens are now proposed at lower levels in buildings 3, 4 and 5 which would provide enhanced acoustic attenuation. In their original report to committee, RBKC officers noted that the elevated noise levels would likely be experienced at podium level which would potentially have an adverse impact on the quality of this space. Having considered this issue further, GLA officers consider that noise levels experienced at podium level would be significantly reduced by the barrier effect of buildings 3, 4 and 5 which provide a continuous wall of development of at least 4 storeys and is expected to shield much of the noise from the railway. The podium is raised 10 metres off the ground at which noise from West Cromwell Road would be most acute. Extensive soft landscaping, particularly tree planting would reduce noise levels further within this space.

### Conclusion - noise and vibration

212 Through good acoustic design, sound insulation and noise mitigation measures, the residual noise levels expected both within internal residential units and external private, communal and public amenity spaces with the exception of some of the outward facing residential balconies would

comply with the relevant standards set out in RBKC's Noise SPD and an acceptable noise environment would be achieved. Subject to the above conditions being met, GLA officers consider that the application complies with the requirements of the NPPF, London Plan Policy 7.14, Policy D13 of the Mayor's intend to publish London Plan, RBKC Local Plan Policies CO7 and CL5.

## Urban design

213 The NPPF (at paragraph 124) states that good design is a key aspect of sustainable development. Paragraph 127 of the NPPF sets out a number of high level design objectives for new development, including the need to optimise the potential of a site; provide appropriate and welcoming layouts and landscaping; good architecture; establish a strong sense of place; and be sympathetic to local character while not preventing or discouraging appropriate change. Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

214 Chapter 7 of the London Plan and Chapter 3 of the Mayor's intend to publish London Plan includes a range of design principles and requirements which apply to new development and are set out within specific policies on: inclusive design (London Plan Policy 7.2/ Mayor's intend to publish London Plan Policies D3 and D5); designing out crime (London Plan Policy 7.3/ Mayor's intend to publish London Plan Policy D10); local character (London Plan Policy 7.4/ Mayor's intend to publish London Plan Policy D1); public realm (London Plan Policy 7.5/ Mayor's intend to publish London Plan Policy D7); architecture (London Plan Policy 7.6 and Mayor's intend to publish London Plan Policy D2); tall and large scale buildings (London Plan Policy 7.7 and Mayor's intend to publish London Plan Policy D8); heritage assets (London Plan Policies 7.8 and 7.9 and draft London Policies HC1 and HC3).

215 RBKC LPPR Policy CV1 sets out the vision for the Royal Borough requiring development to be of high quality design, well integrated into its context, overcoming some of the barriers to movement by which the north of the borough is characterised. New development should establish the 'Conservation Areas of the future', reflecting and matching the high quality urban design that already exists in the borough. Further development management policies are provided by LPPR Policies on public realm (CO4), streetscape (CR4), Conservation – vision (CO5), context and character CL1, design quality (CL2), heritage assets (CL3 and CL4), living conditions (CL5), views (CL11), building heights (CL12), and housing size mix and standards (CH3) together with additional planning guidance set out in RBKC's Access Design Guide, Building Height SPD, Designing Out Crime SPD, and Public Art SPG.

216 Three of RBKC's putative nine reasons for refusal relate to issues of design and heritage: principally, the impact of the proposed development on the prevailing townscape and key local views; would result in poor permeability, connectivity, and integration with areas around the site; harm the setting of designated heritage assets and fail to preserve or enhance their special architectural or historic interest; and insufficient and poor quality public open space.

217 GLA officers have been involved in the development of the layout, design and massing of the scheme from an early stage, through pre-application meetings, the Mayor's initial Stage 1 consultation responses and post Stage 2. The current scheme has evolved in response to comments made through this iterative process of design scrutiny, pre-application advice and public consultation. Furthermore, pursuant to the proposed revisions to the development, on balance the proposals are now acceptable in design terms.

## Layout

218 Eight buildings ranging from 31 storeys to the south of the site to 2 storeys at the northern end of the site. These buildings are all arranged around a central podium structure which rises up to 10 metres above ground level and spans the length of the site terminating at the beginning of Beckford Close. The podium structure provides the open space for the development as well as providing a new publicly accessible route from Beckford Place to the north to West Cromwell Road to the south. To the southern end of the development, the existing public realm fronting the main Tesco foodstore entrance is to be enhanced with additional soft landscaping and trees. Building 2 benefits from entrances to the office space, and leisure centre directly off this space. Between 2 and building 1, a public staircase is proposed up to the podium level. The applicant has drawn on lessons learnt from previous proposals for the site and with GLA officer input has further enhanced the legibility of access points to the podium level by enhancing lift access lobby via building 1 directly adjacent to the stairs. At podium level, all but buildings 6 and 7 are provided with direct access onto the podium, which provides activation along the length of this space, and the retail unit provides further opportunity for activation and vitality. To the northern end of the podium are buildings 6 and 7 which are accessed from street level with building 6 providing both lift and stepped access up to the podium.

219 The development represents an appropriate response in terms of form and layout given the various site specific constraints imposed upon it. In consultation with GLA officers following call in, the applicant has made substantial improvements to permeability across the site, including the provision of a fully public north-south pedestrian route over the podium. The applicant has also indicated that the potential for the future provision of pedestrian and cycle link between the site and the Earls Court development site through the basement of the scheme. However, given that this access currently benefits from an easement for construction traffic or servicing Earls Court development site. This could only be provided once this vehicular route is no longer required. This would need to be secured within the s106 agreement. RBKC officers also noted their support of the proposed improvements to the quality of the podium open space generally and site permeability, specifically the provision of 24 hour public access to the podium in their January 2020 report to committee. The safeguarding of a potential future pedestrian cycle link between the site and the Earls Court development site was also identified as a key requirement in RBKC's May 2019 report to committee.

220 While the significant level change between the street level and podium is likely to limit the volume of pedestrian footfall, GLA officers are satisfied that the layout of the scheme, distribution of building entrances and definition of public realm at street and podium levels is successful in the context of the identified site constraints.

221 With the exception of building 2 and 7, the main building entrances are located at podium level, which are well distributed to generate activity and are located in legible and accessible locations. Blank frontages have been minimised which maximises passive surveillance. A small retail unit and resident's pavilion are also provided at podium level which provides further opportunities for activity and would provide a further draw to non-residents.

222 Some of the podium level units are provided with their own individual private amenity space. Boundary landscaping would be provided in the form of hedge planting to provide privacy for units and ensure a clear distinction is made between public and private space, helping to contribute to a sense of ownership.

223 At ground level the existing public plaza is proposed to be retained and enhanced through landscaping measures. This area continues to form an arrival space to the main entrance to the Tesco superstore. The main entrance to building 2 and proposed leisure centre would also be



accessed from the plaza. At the northern end of the development are buildings 6 and 7 which are arranged in a linear form along Beckford Close.

224 Following the Mayor's decision to take over the determination of the application, GLA officers have worked with the applicant to further improve the design quality of the scheme by improving access to the podium for affordable residents including providing dedicated lift access to the podium from the northern end of the podium and improving the spatial quality of the entrance hall to the lift access through the introduction of additional glazing to help optimise daylight levels and ventilation into the lobby.

225 In conclusion, the layout of the scheme is well considered and responds well to the site specific constraints. The high quality public realm and the significant enhancements to the site permeability are also fully supported and the scheme therefore fully complies with the provisions of the London Plan, Mayor's intend to publish London Plan and RBKC Local Plan policies.

### Landscaping and public realm

226 The applicant's landscape strategy proposes a range of lawns, shrubs, ornamental planting, seating, play equipment, tree planting, and hard landscaping within the public podium and Tesco Plaza. Overall, the scheme provides a sufficient public realm offer comprising a range of well-considered public, private, and communal landscape amenity areas distributed, complimented by soft landscaping, in line with the objectives of London Plan Policy 5.10 and Policy G5 of the Mayor's intend to publish London Plan. The planting and landscaping proposals onsite will help to further mitigate microclimate impacts, such as wind and noise as well as address urban greening objectives and contribute towards significantly improving the biodiversity and ecological value of the site. The impact of the development on trees and urban greening is addressed in more detail under the relevant sections below.

227 The landscaping strategy is successful in creating a green buffer to the Notting Hill Housing car park, with private amenity and defensible space integrated into the planting along the frontages of buildings 3 -5. This approach is supported but conditions are recommended to ensure an appropriate balance of privacy is secured through mature planting. Further details of planting, hard surface treatments and greening, as well as their on-going management and maintenance would be secured by condition to ensure that high quality landscaping and public realm proposals are implemented prior to occupation of any residential units.

### Conclusion – layout, landscaping and public realm

228 The proposed design and layout would optimise the development capacity of the site whilst responding appropriately to the site's immediate environmental and site access constraints and the principle aspirations and objectives outlined in the Council's adopted Planning Brief. GLA officers also consider that the potential for the site to integrate with the surrounding area has been optimized given the existing site constraints and consider that the new public access route across the site, public realm and landscaping proposed would be of a high quality, providing a welcoming and attractive environment, which would be well-overlooked and benefit from an appropriate levels of activity and ownership. As such, the application accords with the policy context set out above.

## **Height and massing**

229 London Plan Policy 7.7 states that tall buildings<sup>6</sup> should be part of a plan-led approach and not have an unacceptably harmful impact on their surroundings. In terms of location, Policy 7.7

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<sup>6</sup> Tall buildings are defined in paragraph 7.25 of the London Plan as buildings that are substantially taller than their surroundings or cause significant change to the skyline.

states that tall buildings should be generally limited to the Central Activities Zone, opportunity areas, and areas of good access to public transport but leaves scope for tall buildings to be considered in other locations outside of these areas, subject to urban design analysis and compliance with the criteria set out in Policy 7.7. To accord with this criteria, tall buildings should:

- be located in areas whose character would not adversely be affected;
- relate well to the surrounding buildings, urban grain and public realm, particularly at street level; improve the legibility of an area and enhance the skyline;
- incorporate the highest standards of architecture and materials;
- provide active ground floor activities that provide a positive relationship to the surrounding streets;
- contribute to improving the permeability of the site and wider area, where possible;
- incorporate publicly accessible areas on the upper floors where appropriate;
- make a significant contribution to local regeneration;
- not adversely affect their surroundings in terms of microclimate, wind, overshadowing, noise, glare, or give rise to interference with aviation or telecommunication infrastructure; and
- not adversely impact local or strategic views.

230 Policy CL12 seeks to resist buildings which are significantly taller than the surrounding townscape other than in exceptional circumstances, where the development would have a wholly positive impact on the character and quality of the townscape. The policy also seeks to require proposals to strengthen the traditional townscape in terms of building heights and roofscapes, by requiring developments to:

- Reflect the prevailing building heights within the context
- Provide for larger developments, a roofscape that reflects that of the context of the site;
- Seldom use height to express local landmarks so that the prevailing building height is maintained.

231 The policy also seeks to resist buildings which are significantly taller than the surrounding townscape other than in exceptional circumstances, where the development would have a wholly positive impact on the character and quality of the townscape.

232 RBKC's Building Heights SPD provides further guidance on the development of tall buildings in the borough including identifying where in the borough would be particularly sensitive to the development of tall buildings. In order to protect the character and appearance of conservation areas the document defines a 100 metre buffer zone around the conservation areas within the borough. In respect of the application site, the buffer zone would encroach on part of the southern end of the site only due to its adjacency to the Philbeach Conservation Area.

233 The document also identifies key views and vistas across the borough, the backdrops of which would also require protection. The dual constraints of conservation area and key view protection has been combined to produce the following diagram which identifies the areas (in yellow) within the borough which are particularly sensitive to tall buildings and those which are deemed non sensitive.

Figure 7: RBKC Building Height SPD - Inappropriate and highly sensitive locations for tall buildings map

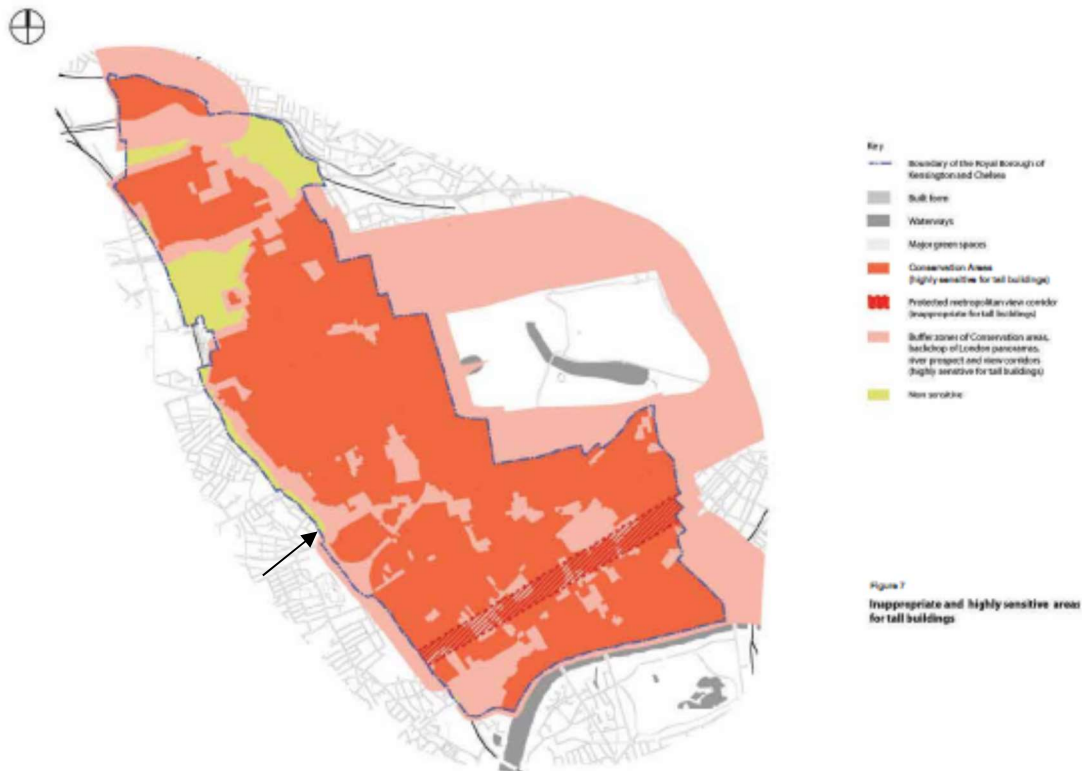


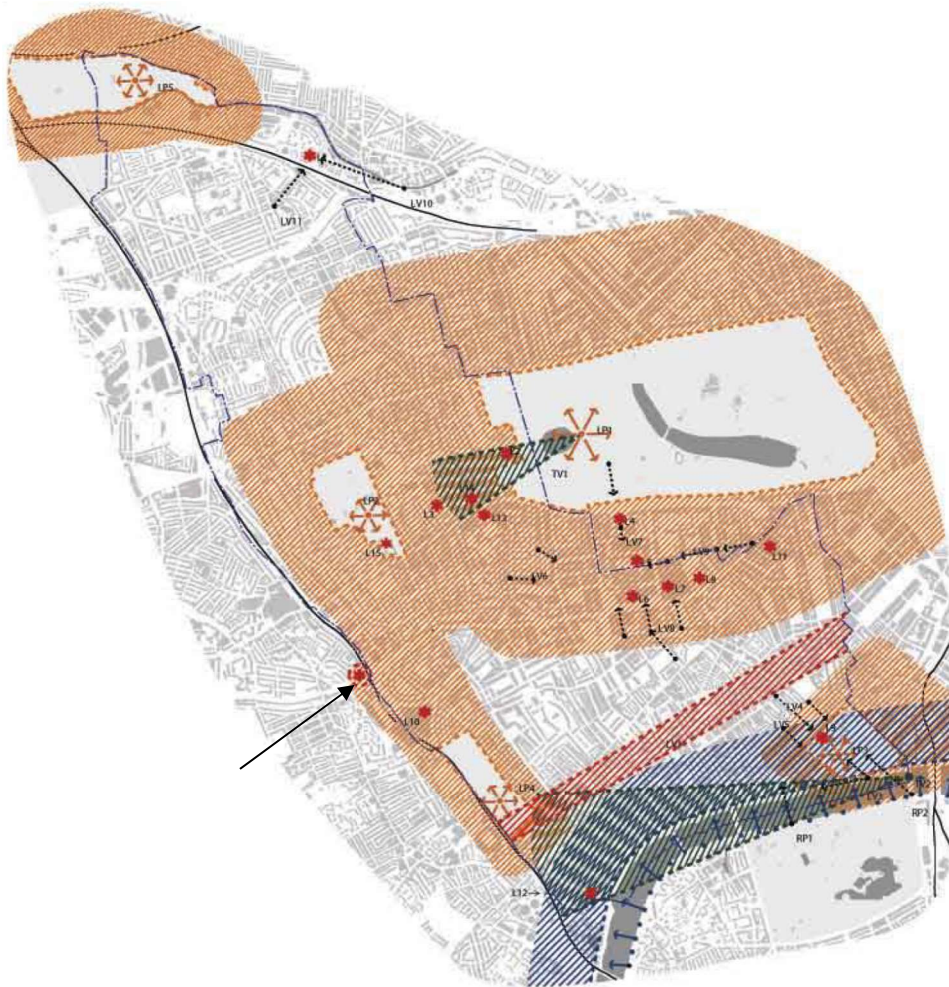
Figure 8: detailed extract of above map



234 As shown on figure 7 and 8, the majority of the borough is deemed sensitive to tall buildings to some degree in the most part, with the exception of certain areas to the west and northern ends of the borough.

235 In addition, figure 9 below, also within the RBKC Building Height SPD identifies the site as the only site deemed suitable for a potential key landmark in the borough.

Figure 9: RBKC Building Height SPD – protection of strategic and local views



- Key
- Boundary of the Royal Borough of Kensington and Chelsea
  - Built Form
  - Waterways
  - Major green spaces
  - - - Building line forming distinct skyline of panoramic views
  - ▨ Back drop of panoramic views
  - ↗ River prospect
  - ▨ Back drop of river prospect
  - ★ Key landmark
  - ★ Potential key landmark
  - Linear view to key landmark
  - ▨ Townscape view
  - ▨ Panoramic view
  - ▨ Protected strategic view

236 In addition, the Building Height SPD sets out sieve tests and proactive tests in RBKC, with the former assessing what locations in the borough are inappropriate for tall buildings and the latter setting out three tests to support the case for locating a tall building.

Tall building assessment

237 The application proposes 8 buildings of varying height from 2 storeys to up to 31 storeys (29 storeys above podium level) as set out in table 1. The vast majority of buildings in the vicinity of the site are approximately 5 storeys in height. However, the consented developments to the north of the site within the Warwick Road allocation are 10 storeys on average, ranging up to 17 storeys from grade. Notwithstanding this, in line with RBKC's Building Height SPD, most of the proposed buildings would at least be defined as tall buildings (district landmark) and building 2 as currently proposed would qualify as a (metropolitan landmark) building and would also be the tallest building in the area. District landmarks are defined in the SPD as buildings between 1.5 times and 4 times the context height. Metropolitan landmarks are defined as buildings whose height is more than 4 times the typical building height.

238 In this regard, the second of RBKC's reasons for refusal states, amongst other issues, that the development would fail to relate to the prevailing townscape height, appear out of keeping in the local built context and appear in and disrupt local views contrary to related London Plan Policies 7.4 and 7.7, and RBKC Local Plan Policy CL12 and the Council's Building Heights SPD. Although it should be noted that RBKC have since amended their position pursuant to the scheme amendments with regard to building height and now deem the proposed development acceptable on balance in this regard.

239 Following the Mayor's decision to call in the application, the applicant has submitted revisions which involving increasing the height of building 2 by 7 storeys, which represents an overall increase of 23 metres. Other than this, the building heights and massing remain as originally submitted.

240 RBKC's Local Plan Policy CL12 (a) requires proposals to strengthen traditional townscape in terms of building heights and roofscape by requiring developments to:

- i. Reflect the prevailing building heights within the context
- ii. Provide for larger developments, a roofscape that reflects that of the context of the site
- iii. Seldom use height to express local landmarks so the prevailing building height is maintained.

241 As stated above, the proposed buildings are generally above the prevailing building heights in the vicinity of the site with the exception of the development sites to the north of the application site. These sites establish a taller average datum of 10 storeys. The proposed buildings on site average 12 storeys which is taller than the average building height in the vicinity and slightly taller than the established building heights to the north. As such, whilst part of the proposed development would be taller than its surrounding, this is considered appropriate in this context given the location of the tallest building adjacent to West Cromwell Road which provide a visual marker particularly from views along the road from the east and given the high quality design of the proposal which is discussed further below. The design team have undertaken further work to accentuate the slender proportions of building 2 by breaking the mass of the tower into two distinct vertical elements and stepping its roofline by a storey. This assists in reducing the perceived bulk of the building whilst adding architectural interest.

242 In terms of criteria ii), the existing roofscapes in the area comprise areas of relative uniformity, however, the more modern developments in the area add considerably more variation to the prevailing roofscape. To the south east the roofscapes are characterised by a mixture of 5 storey Georgian terraces with single storey mansard roofs along West Cromwell Road and Georgian terraces with flat roofs to the south. These roofscapes are therefore uniform in height, regularly punctuated by chimney stacks. Buildings on the opposite side of the railway track within LBH&F

are generally lower in scale, being relatively uniformly 5-6 storeys in height facing onto the railway track comprising a mixture of pitched and flat roofs.

243 By contrast, the roofscapes created by the buildings to the east and north of the site are much more varied in terms of height and form. Flat roofed buildings are prominent in these areas, with some incorporating some form of set back at upper levels. Buildings in these areas are generally 10 storeys but there is a tower element consented under the St Edwards scheme to the north which rises up to 17 storeys. The proposed development varies quite considerably across the piece in terms of roofscape. The development along the railway track varies in height by two to three storeys interspaced with four storey connecting buildings. Building 7 is particularly unique as it extends to 14 storeys in height and quickly steps down to 4/5 storeys to the north. Building 2 would introduce a very tall building not unlike the tall building punctuating the St Edwards scheme to the north. Therefore, the roofscape created by the scheme would be more akin to the roofscapes created as a result of the modern developments to the north. Therefore, it is considered that the use of flat roofs for the proposed buildings are appropriate noting that the existing buildings within the site have flat roofs along with some of those surrounding as discussed above.

244 Criterion iii) would be met as the proposed building heights are appropriate in their context and whilst the proposal would introduce a building of 'metropolitan landmark' status, the development has not only relied on height to achieve this objective but also careful consideration of building design to achieve high architectural quality. The site is also identified for a potential key landmark building as shown in figure and given that the site is partially within an area non-sensitive to tall buildings in the Borough, this represents one of the few instances where height would be appropriate and warranted.

245 Part b) of Policy CL12 seeks to resist buildings significantly taller than the surrounding townscape other than in exceptionally rare circumstances, where the development has a wholly positive impact on the character and quality of the townscape. As discussed above, the site is identified for a potential key landmark building and the high quality design of the proposal ensures that the development would have a positive townscape impact.

246 In respect of the sieve tests criteria as set out in the Building Height SPD, the massing strategy for the site has been carefully considered and the proposed massing arrangement development through a thorough design-led process with due regard given to the amenity requirements of neighbouring buildings and the setting of nearby heritage assets. The quality of the architecture would be high and create visual interest in terms of the variation of building heights across the site. The identification of the site for a potential landmark building acknowledges the appropriateness of the site for a taller building to assist in wayfinding on one of the key gateways into London. The legibility of the site would also be greatly improved through the creation of a raised publicly accessible landscaped podium. Furthermore, the development would provide much needed public leisure facilities as well as a significant number of much needed new homes including affordable homes.

247 Turning to the sieve tests, the tallest building is located at the southern end of the site fronting onto West Cromwell Road creating maximum legibility for the building. The building heights gradually step down from West Cromwell Road towards the northern end of the site respecting proximity of existing residential development and plot widths in this location. The impact on heritage assets and views is assessed in more detail in the following section of this report. However, it is concluded that although the development would result in less than substantial harm to some nearby heritage assets, this would be to the lower end of the scale and would be outweighed by the significant public benefits of the proposals. In terms of the relationship to the public realm, the development would deliver a much improved ground floor public plaza with building 1 and 2 terminating at this level providing further activation to this corner of the plaza. would significantly enhance the permeability of the site by creating a more direct link to the north

of the site from Warwick Road. Urban design quality would be greatly improved as a result of the scheme by introducing a number of high quality buildings that would contribute to wayfinding and legibility. Matters relating to sustainability and land use are covered under the relevant sections of this report and fully comply with the provisions of the development plan.

248 Turning to the criteria set out in Policy 7.7 of the London Plan, the site is opposite the Earls Court opportunity area, benefits from a PTAL score of 6a which is 'excellent' and within walking distance to a district centre and two major town centres and it the site is identified for a potential key landmark in RBKC's Building Heights SPD. GLA officers therefore consider that there are strong material planning considerations which in this particular instance justify the provision of a tall and large buildings on this well connected and under-utilised brownfield site. It is also considered that the scheme would significantly improve the skyline by adding visual interest through the varied scale. GLA officers are satisfied that the proposed layout, design, architectural approach and the proposed high quality facing materials would ensure the provision of a high quality scheme in accordance with the criteria set out in Policy 7.7 and that the application would not significantly adversely affect the surrounding area in terms of microclimate, wind, overshadowing or noise. Whilst there would be an adverse impact on daylight/ sunlight as a result of the development to some units within Warren and Atwood House to the north of the site this impact would not be substantial. Daylight sunlight is discussed further from paragraph 313. The development would not impact on any strategic views; however, it would impact on the setting of a number of heritage assets in the area. This is discussed further in the heritage section of this report. For the reasons given above, on balance, the proposal would accord with Policy 7.7 of the London Plan.

249 This policy approach has broadly been carried forward in Policy D9 of the Mayor's intend to publish London Plan however, Policy D9 specifies that tall buildings should be in locations deemed appropriate for tall buildings in development plans. As set out above, given the site's identification for a potential key landmark building and reduced sensitivity to height as well as its allocation for high density residential led development in RBKC's Local Plan, this site is entirely appropriate for the development of tall buildings.

#### Conclusion on height and massing

250 The scheme respects and enhances the local character of the area and is of an appropriate height given the local context as explained further above. The proposal makes the best use of the site given its constraints, particularly the need to retain the podium and the car park structure resulting in a change in levels up to the main public space. The development would substantially improve the permeability of the site by providing a new north-south public route across the podium and future proofing a further direct public pedestrian route between the site and Earls Court to the south. It is also considered that the arrangement of proposed massing and building heights creates a successful skyline composition that mediates in scale between the surrounding built character described above and the height and elegant proportions of building 2 and therefore complies with the provisions of London Plan, Mayor's intend to publish London Plan, RBKC's Local Plan and Building Heights SPD.

#### **Detailed design and architecture**

251 London Plan Policy 7.6 requires buildings to be of the highest architectural quality and comprise materials which complement rather than necessarily replicate local architectural character. RBKC Local Plan Policies CL1 and CL2 which requires development to be of the highest architectural and urban design quality, taking opportunities to improve the quality and character of building and the area and the way it functions.

252 The simple and well-considered design approach to the form and detailing of proposed buildings complements the heights and massing configuration, resulting in a clean-lined and varied skyline with subtle articulation achieved through design features including brick detailing, inset and protruding balconies and deep-set window reveals. The proposed additional height to building 2 accentuates its n elegant and distinctive form in townscape views and improves on the heights/massing composition of the wider scheme by increasing the height difference between proposed building typologies. The design team have also revisited its façade configurations to respond directly to the proportions of St Cuthbert’s Church, resulting in a more nuanced appearance to the sizing and depth of window openings. The use of reconstituted, pale stone results in the building appearing recessive in the majority of longer-range townscape views, most notably in the background of St Cuthbert’s Church and Brompton Cemetery. In closer range views, the attention to detail and quality of facing materials is evident.

253 The additional height to building 2 creates a more elegant building form in townscape views and improves on the heights/massing composition of the wider scheme. The design and architectural treatment of blocks 3-5 greatly improves on the consented scheme, with attention given to defining the top, middle and bottom portions of each building. The breaks between them avoids creating a continuous wall of development and results in a sequence of mansion blocks with similar character to comparative examples of traditional mansion blocks in the vicinity of the site. The design of buildings 6 and 7 at the northern end of the site has been given equal consideration to achieve a tenure blind scheme. The use of glazed brick to the lower levels of this linear block provides a tactile materiality at street level and helps to define the maisonette units. The simple and refined brick detailing is continued to the upper levels of the block and is consistent with the quality of blocks 3-5.

254 To ensure that these features are delivered, conditions are recommended in relation to the detailed design of elevations, facing materials and balconies. Subject to these requirements being met, GLA officers consider that the scheme would provide a good standard of architecture, which would respond appropriately to the local context, in line with RBKC Local Plan Policy CL1 and CL2, London Plan Policies 7.4, 7.6 and the NPPF.

### **Fire safety**

255 Policy D12 of the Mayor’s intend to publish London Plan seeks to ensure that development proposals achieve the highest standards of fire safety and to ensure the safety of all building users. In line with this a Fire Strategy has been submitted alongside the planning application, prepared by OFR Fire and Risk Consultants, a firm of qualified fire engineer consultants. In line with Policy D12, the Fire Strategy includes details of the construction methods to be implemented to ensure that adequate protection would be provided to facades to restrict fire spread. Details of means of evacuation for all building users including disabled users and occupants and specific measures to reduce the risk to life from fire including the use of sprinklers, the use of wet risers, fire alarms, and compartmentalisation generally with maintenance of all safety features within the building has been provided in line with manufacturers recommendations and Building Regulations requirements. Access to the site for fire engines and service personnel would be from the ground floor Tesco plaza, from street level in front of buildings 6/7 and from podium level via the car ramp. The availability of water supply would be confirmed during the design and construction period. Whilst we consider that the Fire Strategy is in accordance with Policy D12 in terms of broad content, the fire safety strategy of the buildings would be considered at a later stage outside of the planning process.

256 Furthermore, fire evacuation lifts would need to be provided throughout the development in accordance with Policy D7 of the draft London Plan. This would need to be secured by condition.



## **Designing out crime**

257 Policy 7.3 of the London Plan seeks to ensure that the principles of designing out crime are integrated in the design of new development to promote a sense of security without being overbearing or intimidating. The criteria in Policy 7.3 requires new development to provide legible, convenient and well-maintained movement routes and spaces which are well-overlooked and benefit from an appropriate level of activity, with private and communal spaces clearly defined to promote a sense of ownership. RBKC Local Plan Policy CR2 requires development to be secure and designs out crime.

258 As set out above under 'layout', the provision of active frontages has been maximised within the scheme, with ground floor units in commercial, community and ancillary residential floorspace adjacent to the redesigned public square along West Cromwell Road providing appropriate levels of overlooking and activity during the day and evening. A condition is recommended to ensure that glazing within the proposed commercial, community and ancillary residential units is visually permeable and not obscured or blanked by advertisements or solid roller shutters, in the interests of designing out crime and encouraging overlooking. The podium level residential units face into the internal courtyard to generate natural surveillance whilst also ensuring those units have well-defined private amenity spaces in the form of hedge planting to provide a clear distinction between public and private space.

259 The main entrances to the site are particularly important in terms of designing out crime and natural surveillance, and GLA officers are satisfied that the approach proposed is appropriate with the potential for active frontages maximised along these routes, taking the site constraints into account. One of the significant changes since the Mayoral call in is to remove the gated entrance onto the podium public realm which provides enhancements in terms of permeability and ensures that members of the public can access the site 24 hours a day apart from in exceptional circumstances such as emergencies. Whilst this is considered a benefit in design and permeability terms, this does need to be adequately managed to ensure that new residents feel safe and secure. As such, the applicant is committed to adequately managing this space and further details of the proposed management approach to all public routes within the site would be secured by condition including the use of CCTV. As part of the Section 106 agreement, the applicant would be required to secure a future pedestrian link between the site and Earls Court site directly south which is currently secured as a construction route in connection with the future redevelopment of Earls Court and ensure that this route is appropriately designed to prevent crime and promote safety. As such, the application accords with London Plan Policy 7.3 and Policy CR2 of the RBKC Local Plan.

## **Conclusion on urban design**

260 RBKC resolved to refuse the original application on the grounds of excessive height, scale and massing, overdevelopment of the site and failure to respect the site's local context and harm to the character and appearance of the surrounding area. However, following the submission of revisions to the scheme, in their report to committee in January 2020, officers noted lack of amendments to the height and massing means that there is no difference in the impact previously outlined to the committee, and this remained a concern in isolation. However, it was also acknowledged that this needed to be considered as part of the wider amendments to the quality of public open space and range of improvements to the urban design rationale generally in light of this it was considered that the increase in height would not in isolation make the scheme objectionable. GLA officers consider that the proposed height and massing of the development is acceptable in this instance, taking into account the site's location, immediate and wider urban and landscape context.

261 GLA officers consider that the design, layout and landscaping of the scheme is well-considered and fully optimises the development potential of the site, whilst successfully resolving the environmental and site access constraints. Furthermore, the architectural approach and use of brick materials would ensure the provision of a high quality, distinctive and cohesive scheme which responds appropriately to the surrounding urban and landscape context, topography, views and historic environment.

262 On this basis, the application accords with London Plan Policies 3.5, 3.6, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, the Housing SPG (2016), Policies D1, D2, D3, D4, D5, D6, D7, D9, D11 of the Mayor's intend to publish London Plan and accords with RBKC Local Plan Policies CR2, CL1 and CL2.

## **Inclusive design and access**

263 London Plan Policy 7.2 and draft London Plan Policy D5 require all future development to meet the highest standards of accessibility and inclusion, and that the design process has considered how everyone, including those with disabilities, older people, children and young people, will be able to use the places and spaces that are proposed. London Plan Policy 7.6 demands that buildings and structures meet the principles of inclusive design; and London Plan Policy 3.8 and draft London Plan Policy D7 require that ninety percent of new housing meets Building Regulation requirement M4(2) 'accessible and adaptable dwellings' and ten per cent of new housing meets Building Regulation requirement M4(3) 'wheelchair user dwellings', that is, designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users. RBKC's Local Plan Policies CH3 and CR1 relate to housing need for specific users and accessibility generally, and RBKC's Access Design Guide SPD (2010) provides more specific advice on access related issues.

264 Details of accessible and inclusive design have been provided within the Design & Access Statement which focuses on the inclusive design measures within the public realm and buildings. The application drawings and landscape drawings also show how key inclusive design features would be incorporated.

265 All residential units would meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. A total of 47 units would meet Building Regulation M4(3) 'wheelchair user dwellings', representing over 10% of the units. 40% of wheelchair units are to be provided across LAR and DLLR tenures across a range of floors and the remainder as market units. Detailed layouts for the M4(3) units are included as part of the submitted drawings and will ensure that the scheme delivers accessible homes of an acceptable standard in accordance with London Plan and Local Plan policy. A condition is recommended that will ensure that the units meet the relevant Building Regulations requirement.

266 The submitted drawings and landscape drawings demonstrate that appropriate levels and gradients can be provided across the site to ensure an inclusive environment throughout. The wider public realm has been designed to be inclusive to all users, including adequate illumination and tactile and visual aids for navigation. Level access would be provided to all commercial uses.

267 The development is car-free apart from 31 Purple Badge accessible parking spaces in the basement for the residential units, equating to 6.7% of the total units. Two Purple Badge bays are also provided in association with the leisure centre use. The car parking management plan, secured through the S106 agreement, will set out measures to monitor and increase this provision up to 10% in compliance with draft London Plan Policy T6.1. This will be secured by condition.

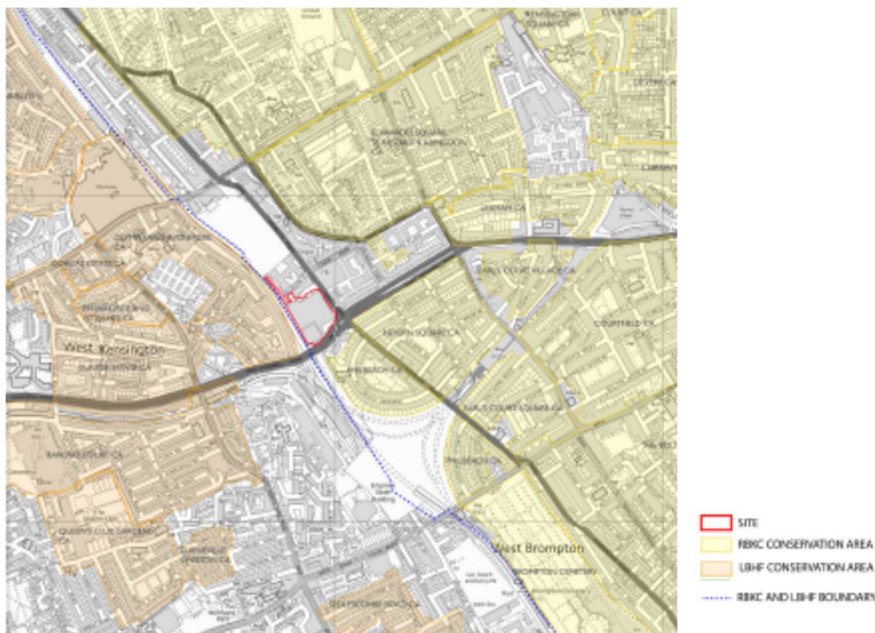
268 In conclusion, the application would achieve a high level of accessible and inclusive design and would comply with London Plan Policies 3.8, 6.13, 7.1, 7.2, 7.5 7.6, draft London Plan Policies

GG1, D3, D5, T6.1, T6.5, the Accessible London SPG, and RBKC Local Plan Policies CH3, CR1 and Access Design Guide SPD.

## Heritage

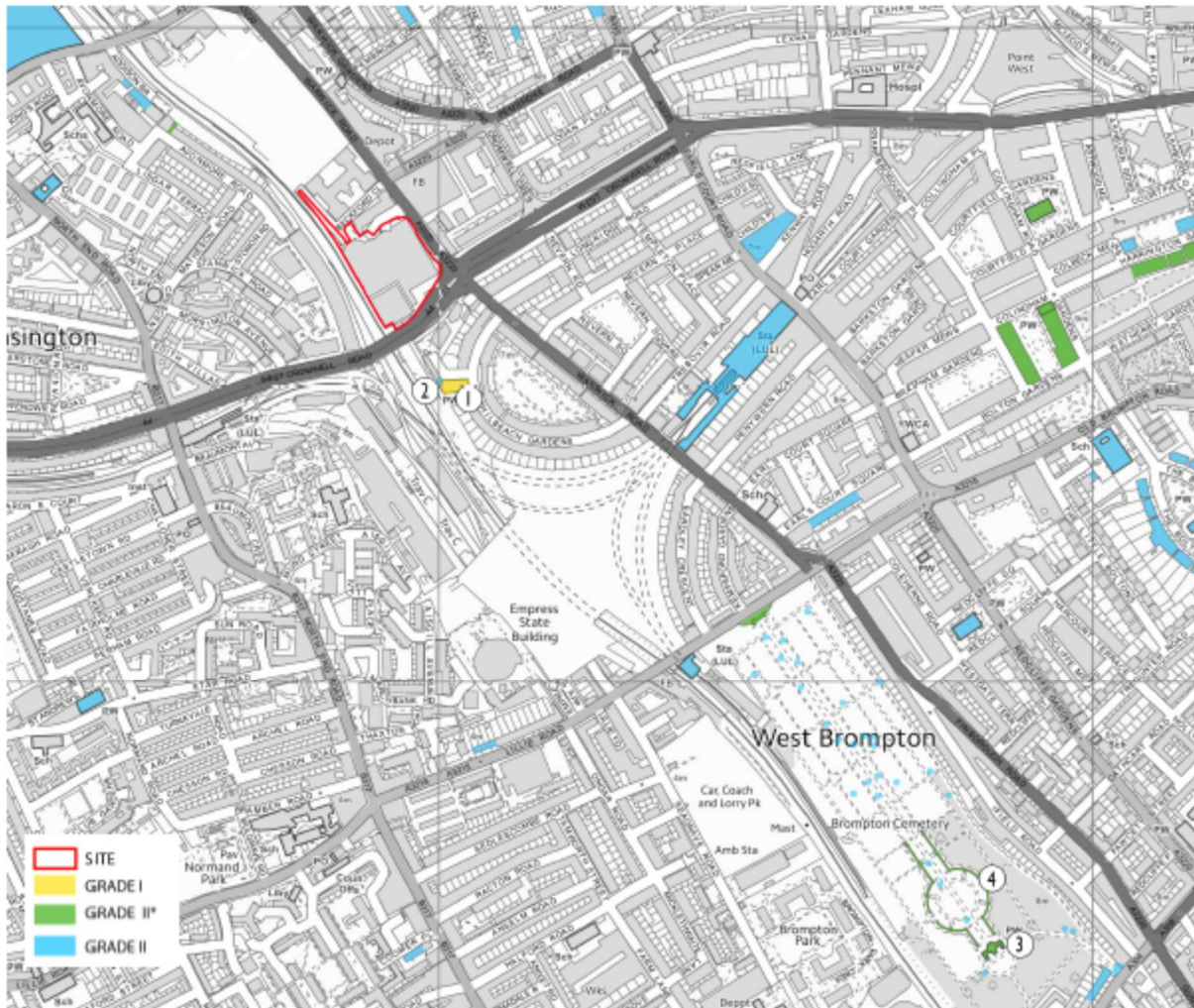
269 The site does not lie within a conservation area and there are no listed buildings on site. However, there are a number of Conservation Areas within the surrounding area and several listed buildings. Philbeach Conservation Area is 80 metres directly to the south of the site, Nevern Square Conservation Area is located directly to the east and to the south of the site is Earls Court Station and Earls Court Square Conservation Area. To the north west of the site lies Edwards Square, Scarsdale and Abingdon Conservation Area and directly to the north of this is Holland Park Conservation Area. Olympia and Avonmore Conservation Area lie to the west on the opposite side of the railway line in LBH&F, beyond which lies the Gunter Estate Conservation Area and to the north, the Dorcas Estate and Fitzgeorge and Fitzjames Conservation Areas. To the south of Gunter Estate lies Barons Court Conservation Area.

Figure 10: Conservation areas in the vicinity of the site



270 There are a number of listed buildings and structures in the vicinity of the site including Earls Court Station, which is Grade II listed and a number of buildings on Avonmore Road to the north of the site which are predominantly Grade II listed with 22/22A being Grade II\* listed. Of particular note, is the Grade I listed St Cuthbert's Church and associated Grade II listed Clergy House within Philbeach Conservation Area to the south of the site and the Grade II\* and Grade II listed structures within Brompton Cemetery located some 50 metres to the south of the site.

Figure 11: Map of listed buildings in the vicinity of the site.



271 There is also a collection of unlisted buildings of merit to the west of the site in LBH&F, most of which have frontages onto the railway track. This includes Avonmore Gardens, a large mansion block directly opposite to the north of the site, Beaumont House and the Warwick building directly west of the main development site.

272 Historic England lodged an objection to the original scheme due to the harmful impact on highly graded assets and on five conservation areas, with potential harmful impacts on other conservation areas in the vicinity. It was recommended that the maximum height of the development be reduced to much closer to that of the consented scheme. Historic England have maintained an objection to the scheme following the submission of revisions noting the increased level of harm resulting from the increase in height of building 2 which should be weighed against the public benefits of the scheme. Furthermore, neighbouring LBH&F also lodged an objection to the scheme due to the harmful impact on views from the Olympia and Avonmore Conservation Area. It was also considered by LBH&F that the applicant's HTVIA does not test the impact of views on Gunter Estate Conservation Area sufficiently.

273 One of the reasons for refusal as identified by RBKC in the May report to committee was that the development would harm the setting of designated heritage assets and fail to preserve or enhance their special architectural or historic interest. At this time, RBKC did not consider that the harm was outweighed by the public benefits of the scheme. At Stage 1 and 2 however, GLA officers considered that the public benefits arising from the development would outweigh the harm

identified to heritage assets. However, following the submission of the various revisions to the scheme, RBKC now consider that the public benefits would outweigh the harm to nearby heritage assets subject to these benefits being fully secured within the s106 agreement and this was confirmed within RBKC's January 2020 officer's report to committee and formal response to the revised submission.

274 The following sections of this report consider the impact of the development on the significance of all conservation areas in the vicinity, having regard to the applicant's HTVIA and the statutory duties and local, strategic and national policy tests set out below.

275 In relation to listed buildings section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that all planning decisions should *"have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*. The proposals impact on nearby listed buildings is discussed further below. In addition, the Barnwell Manor Wind Farm Energy Limited v East Northamptonshire District Council case tells us that "Parliament in enacting section 66(1) did intend that the desirability of preserving listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. The case also makes it clear that there is a strong presumption against granting planning permission that would harm the character and appearance of a conservation area.

276 The NPPF identifies that the extent and importance of the significance of the heritage asset is integral to assessing the potential impact, and therefore acceptability. The definition of significance in this context is the value of the heritage asset in relation to its heritage interest and this may be archaeological, architectural, cultural or historic. It may also derive from a heritage asset's physical presence as part of the townscape or its setting. The NPPF states that when considering the impact of the proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), requires clear and convincing justification. Furthermore, paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should also be taken into account in determining the application.

277 The NPPF confirms that where a proposed development will lead to 'substantial harm' or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where a development will lead to 'less than substantial harm', the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

278 London Plan Policy 7.8 and Policy HC1 of the Mayor's intend to publish London Plan state that development affecting heritage assets and their setting should conserve their significance. The RBKC Local Plan Policies CL3 and CL4 requires development to preserve and to take opportunities to enhance Conservation Areas and historic spaces and protect the heritage significance of listed buildings respectively.

#### Philbeach Conservation Area

279 The Philbeach Conservation Area is located to the south of the site and includes buildings on Philbeach Gardens, Eardley Crescent and Kempsford Gardens and buildings on the western side



of Warwick Road. The significance of the Conservation Area is defined in RBKC's Philbeach Conservation Area Appraisal as the terraces, built in the 19<sup>th</sup> Century in the Italianate and Domestic Revival styles, along with St Cuthbert's Church (Grade I) and the associated Clergy House and Philbeach Hall; the mature trees (particularly those on Philbeach Garden and communal garden). Key views are identified along the length of Philbeach Gardens (including from within Philbeach Gardens), Eardley Crescent and Kempsford Gardens. Views looking westwards into the Conservation Area are also identified. St Cuthbert's Church is identified as a landmark building in the Conservation Area Appraisal.

280 None of the buildings on the existing site or immediate surroundings would be visible from any of the identified views from within the conservation area. However, with the proposed development in place, building 2 would be clearly visible above the roofline of Philbeach Gardens in each of the identified views 10-11 moving along the street appearing more prominently in each of these views. The most significant impact would be from view 10C, which the building appears directly behind St Cuthbert's Church as shown below.

Figure 12: View 10C looking northwards along Philbeach Gardens – existing situation





Figure 13: View 10C revised proposed view looking northwards along Philbeach Gardens



Figure 14: View 10C proposal as originally submitted winter view looking northwards along Philbeach Gardens





Figure 15: View 11 revised proposed winter view looking northwards along Philbeach Gardens



Figure 16: View 11 proposal as originally submitted winter view looking northwards





281 Whilst proposed building 2 is of high quality design, given its height, it would compete with and adversely impact, to some extent, the ability to appreciate St Cuthberts church as an identified landmark building in the Philbeach Conservation Area Appraisal, particularly from view 10C. When compared to the impact of the originally submitted scheme it was still clearly visible above the roofline of the church in view 10C but somewhat obscured by the church in view 10A. Whilst building 2 would now be clearly be more visible in these views, it is considered that the increased height compared to the scheme as originally submitted does serve to differentiate building 2 more successfully from the scale of buildings in the conservation area and also appears as a more elegant and slender building in the background. This would go some way to offsetting the adverse impact of the development on the setting of the conservation area. As such, GLA officers are of the view that the proposed revised development would amount to less than substantial harm and at the low to moderate end of the scale given the increased scale and therefore prominence of building 2.

### Nevern Square Conservation Area

282 Nevern Square is located directly east of Philbeach Gardens Conservation Area. The conservation area is made up of mid-late Victoria terraced houses and mansion flats as well as a Grade II listed Railway Station and a former mews. The focus of the area is Nevern Square which is a well maintained and planted private garden square. HTVIA views 5 and 6 are taken from within the conservation area and in both instances no existing buildings from within the application site or beyond the conservation area itself are currently visible. As shown in figure 17 below, building 2 alone would be clearly visible over the established building line, the rest of the proposed buildings would be obscured by existing buildings along this terrace. The development would also be visible from view 6, from within Nevern Square itself.

283 Building 2 would appear as a single entity in the background behind the existing unbroken roofline of buildings surrounding the square. However, in this view it would be somewhat obscured by existing established trees within the square itself. Given that the identified views are currently completely unaffected by development outside of the conservation area and building 2 would be clearly visible in these views as a result of the development the degree of impact is greater. However, the degree to which the proposed development would impact on the ability to appreciate would be relatively minor. The extent of harm to the conservation area would still be less than substantial and toward the low end of the scale.

Figure 17: View 5 of revised proposed development along Longridge Road from Templeton Place



### Brompton Cemetery Conservation Area

284 The Brompton Cemetery Conservation Area includes the cemetery and grounds only. The Cemetery is a Grade I Registered Park and Garden and contains a Grade II\* listed Church of England Chapel and four arcade quarters that form the circle to the avenue (also Grade II\*). The entrance gates and various other original features are also listed. The cemetery is divided into two by a ceremonial axis which runs the length of the cemetery from north to south. This is flanked by the arcades, chapel and monuments on either side. It is along this route moving northwards that the views have been taken from. The below views are the furthest south along this route.

Figure 18: view 13A of revised proposed development looking northwards along the ceremonial route showing the cumulative impact outlined in orange

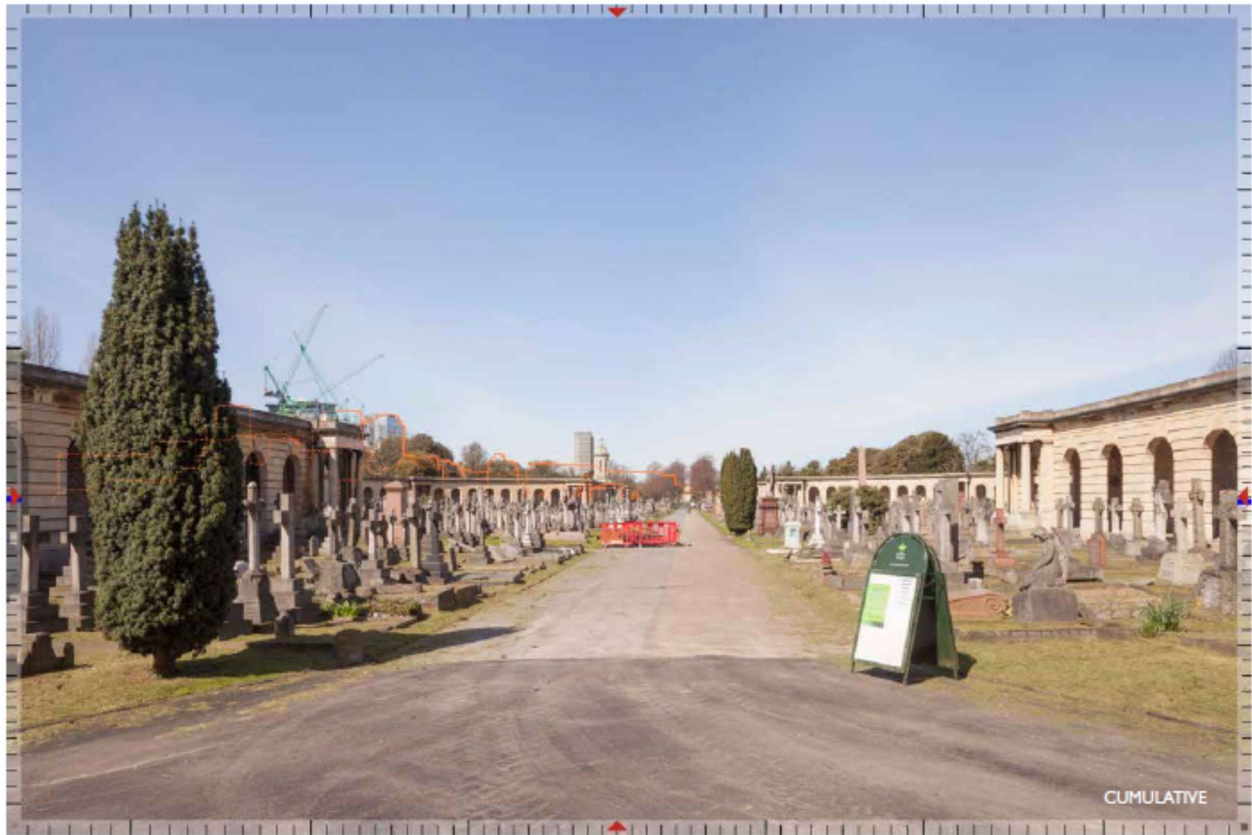


Figure 19: view 13A of original proposed development looking northwards along the ceremonial route





Figure 20: View 13C of revised proposed development further northwards along the ceremonial route

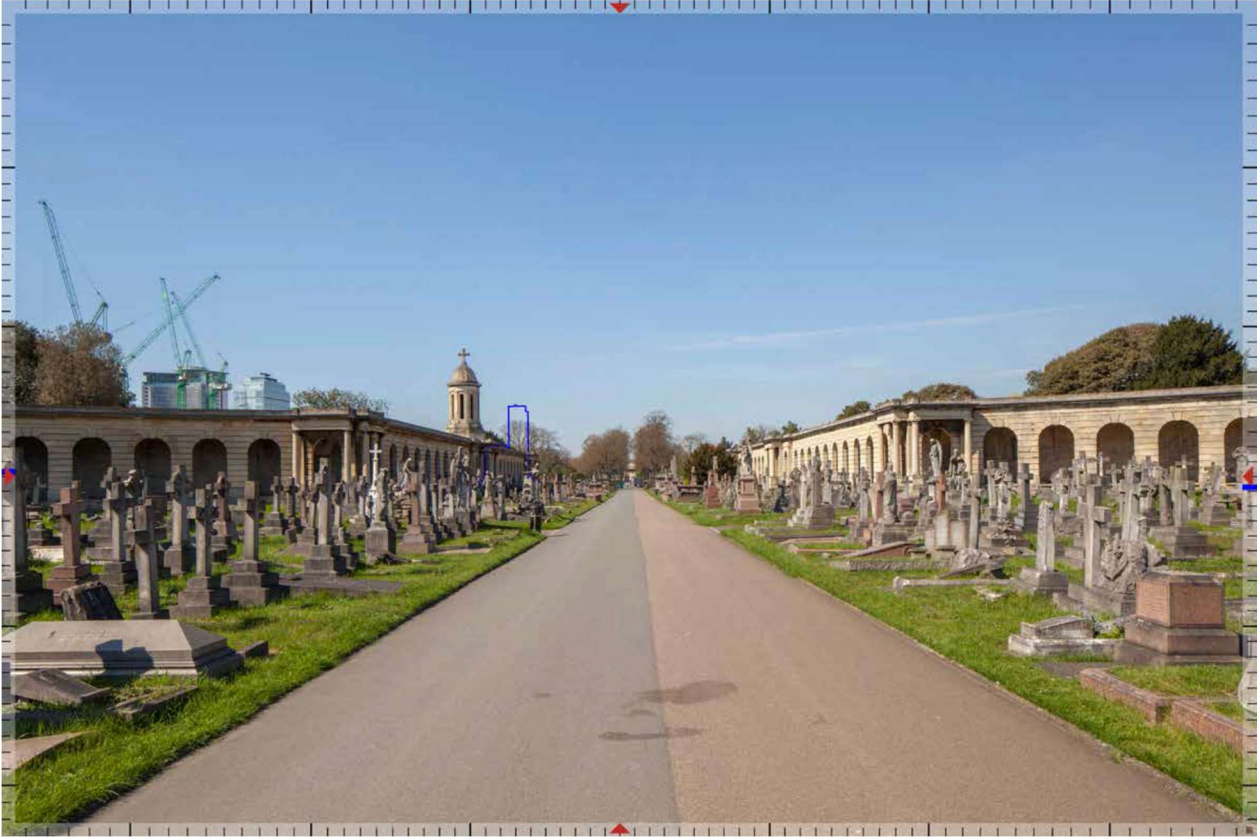
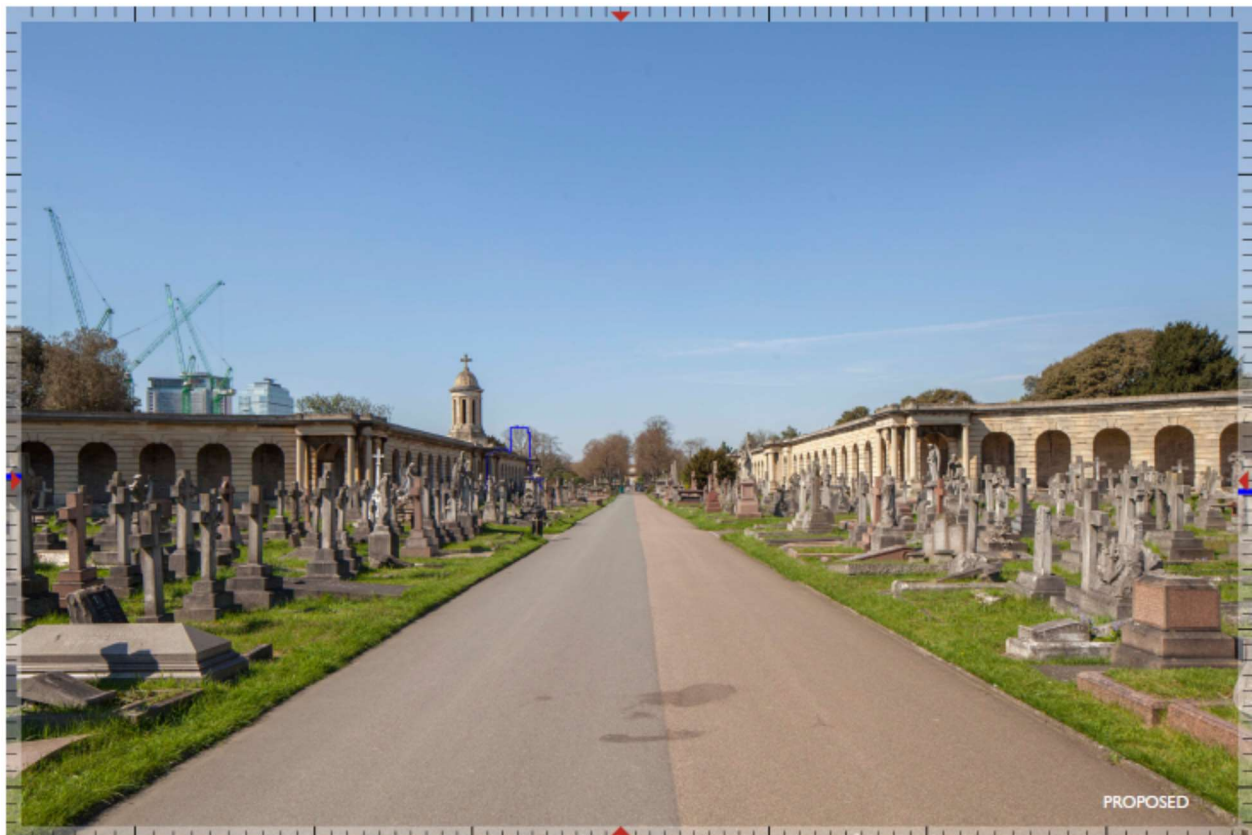


Figure 21: View 13C of proposal as originally submitted further northwards along the ceremonial route



285 As shown by the images above, building 2 would appear alongside the stone/ cupola structure which sits atop the listed arcades to the left of the ceremonial route. Whilst some existing development is visible either side of the ceremonial route, they tend to be set at a distance away from the main axis and landmark focal point of the chapel at the termination of this view. The appearance of a tall, modern building has a slightly unbalancing effect on the vista and detracts from its central focus which should be the listed arcades and chapel. The most notable impact of the development on the conservation area is from the far southernmost point, the impact of the development lessens as the viewpoints move further north along the ceremonial route where the cupola becomes more dominant, and in one case (13B) obscures the building 2 almost entirely. Building 2 can again be appreciated in 13C, where it would regain prominence but would no longer directly compete with the cupola structure. The development cannot be seen at all from view 13D where it would be entirely obscured by established mature tree planting. The impact of the development on the setting of Brompton Cemetery Conservation Area would be less than substantial towards the lower end of the scale. The development would give rise to a slightly increased degree of harm compared with the original submitted scheme by virtue of the increased visibility of building 2.

#### Queens Club Gardens Conservation Area

286 A single view (15) is taken from the north eastern corner of Queens Club Gardens. None of the buildings currently on site would be visible in this view. However, the consented Earl's Court development would be visible over the established roofline (shown outlined in orange in Figure 22 below) of buildings surrounding the Gardens, which are relatively uniform in height. With the proposed development in place, building 2 would also project above existing development surrounding the club gardens, the rest of the development would be obscured by the existing

buildings. As such the development would result in harm to the significance of the conservation area to a minor degree, particularly given that the consented scheme for the Earls Court Masterplan would also appear as a larger mass above the building line in this view. Again, the impact of this change would be less than substantial and at the lower end of the scale.

Figure 22: View 15 of revised proposed development looking westwards from the Queens Club



### Olympia and Avonmore Conservation Area

287 The following conservation areas are located within the neighbouring borough of Hammersmith and Fulham. Olympia and Avonmore Conservation Area is made up of a variety of areas including residential streets, the Whiteleys Depositories, now known as Kensington Village which comprises a commercial estate, mansion blocks, primary schools and an exhibition centre. The area is defined as being of differing uses and scales but its character is defined by both its key location on a main arterial route and its quiet backwater atmosphere. The Olympia Exhibition Centre is identified as visual and tourist landmark of national significance. The long elevation of Kensington Village is also identified as a landmark in the Olympias and Avonmore Character Profile.

288 Currently none of the existing buildings on site or any buildings from outside the conservation area are visible in any of the identified views from within the conservation area. However, with the proposed development in place buildings 2, 3, 4 and 5 would be clearly visible as a development cluster from within this conservation area as shown below. It would also be clearly visible in view 18, appearing well above the 3 storey townhouses on Lisgar Terrace. In all instances, the development would introduce a substantial modern development in the background of these views where none currently exist. Therefore, the magnitude of change would be larger for this reason. These are also some of the only identified views where a large proportion of the development other than building 2 would be visible. However, the increased height of building 2 has the effect of breaking up the massing of the development and making the building cluster appear more refined less homogenous compared to the originally submitted scheme. The revised



proposed development would provide a much more considered and symmetrical termination to this view, setting it well apart from surrounding existing development. Therefore, it is considered that although the visibility of the development significant, the degree of harm to the conservation area would be less than substantial towards the lower end of the scale. It is considered that the scheme would result in less than substantial harm towards the lower end of the scale. Indeed, neither Historic England, nor has LBH&F reported any additional harm arising from the development to the significance of this conservation area beyond that of the original proposals.

Figure 23: view 17 looking eastwards along Stanwick Road – existing situation





Figure 24: view 17 of revised proposed development looking eastwards along Stanwick Road

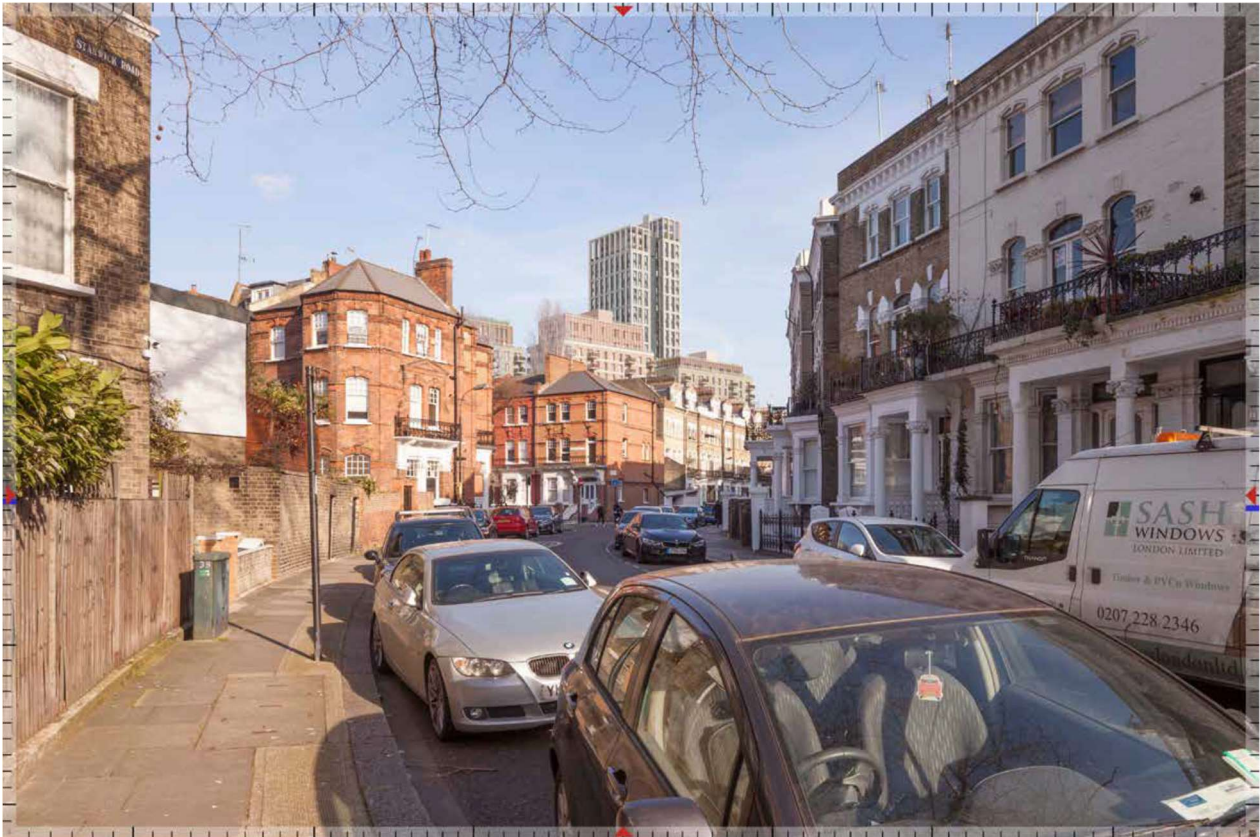


Figure 25: view 17 of original proposed development looking eastwards along Stanwick Road

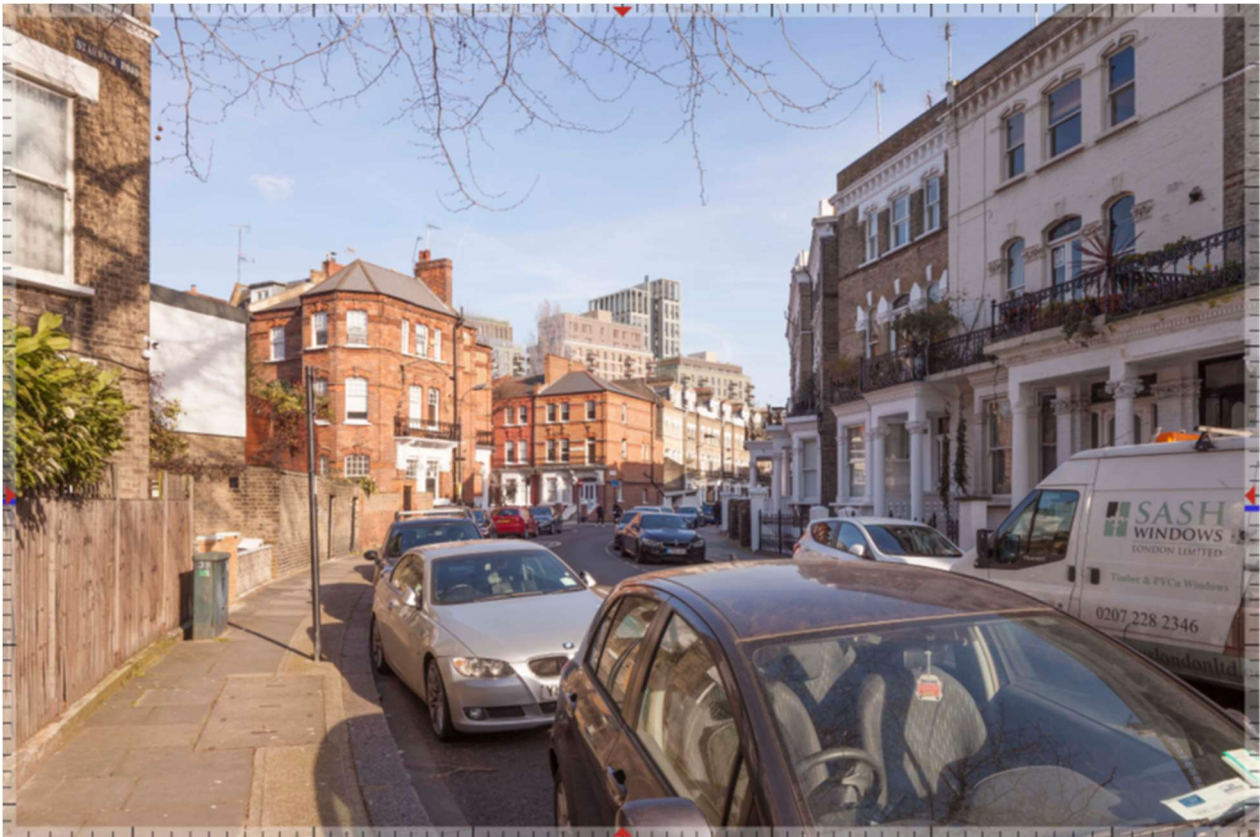




Figure 26: view 19 of revised proposed development looking eastwards along Avonmore Road



Figure 27: view of original proposed development looking eastwards along Avonmore Road



### Impact on other conservation areas

289 There would be no harm to the significance of the Edwardes Square/ Scarsdale and Abingdon Conservation Area as a result of the development or the Barons Court Conservation Area barely visible from these conservation areas. The significance of the Earls Court Village Conservation Area would also not be harmed due to the distance of the development from this area and the visibility of existing modern development in the background of this view. Lexham Gardens Conservation Area to the north of Earls Court village would only experience the proposed development at the very periphery of the area and therefore there would be no impact on the significance of the conservation area or the ability to appreciate it. The development would only be visible in isolated areas from within Fitzgeorge and Fitzjames Conservation Area, therefore no harm would arise from the development on the setting or significance of this area. There would be a negligible impact on the significance of the Holland Park Conservation Area as the development would be barely visible from any of the viewpoints aside from view 12 where it will be flanked by existing modern development of similar height to the proposed development. It would also serve to infill an established boundary of development to the park. Whilst building 2 would be more prominent in this view when compared with the originally submitted proposals, it would not detract from the significance of the conservation area and therefore no harm would arise as a result.

290 LBH&F noted in their formal consultation response that an assessment of key views from Gunter Estate Conservation Area had not been carried out, particularly in respect of views from Edith Road and Gliddon Road toward the development. Having given this further consideration, it is likely that the development could be partially visible in views from Edith Road and Gliddon Road looking eastwards toward the development site. However, due to the scale of existing buildings in these views it is unlikely that the development could be appreciated to any significant degree, and only towards the periphery of the conservation area. Therefore, it is highly unlikely that the development would adversely impact on the ability to appreciate the area. Therefore, it is concluded that no harm would arise as a result of the development on the Gunter Estate Conservation Area.

### Assessment of impact on listed buildings and unlisted buildings of merit

291 The development would be visible in the setting of listed buildings at the northern end of Avonmore Road. Figure 26 above is taken from view 19 which shows Grade II\* listed 22/22A Avonmore Road in the foreground to the left of the image. The development would only be visible in this oblique angle some distance from this and the other listed buildings to the north, therefore it is considered that no harm would arise as a result of the development on the setting and therefore significance of this collection of listed building.

292 St Cuthbert's Church was constructed in the late 1800s and listed in 1969. The significance of the building mainly lies in the aesthetics of its exterior form and to a greater degree the interior of the building which is noted for its range of decorative features by both well-known artists and the local community which is listed in more detail in the listed building description. The proposed revised development would appear as a more prominent presence above the roofline of the St Cuthbert's Church and when viewed from view 10C (see figure 15). In other identified views moving both away from and towards the proposed development along Philbeach Gardens, building 2 would quickly move away from the immediate backdrop of the church, thereby significantly improving the viewers ability to appreciate the church and spires more fully. Notwithstanding this, building 2 would still detract from its setting by introducing a significantly taller building in the background where previously, the church would have been the tallest and therefore focal point in these views.

293 The established tree planting along Philbeach Gardens would obscure some of the church and therefore proposed building 2 from view, this does little to mitigate the impact. However, the harm would be offset somewhat by the fact that the increased height of building 2 would serve to better differentiate itself from the scale of the Church and generally provide a more elegant building in its backdrop which would offset to a substantial degree the increased impact of the additional height. As reported at Stage 1 and 2, the impact of the development on the setting and therefore significance of the Grade I listed St Cuthbert's Church would be notable and less than substantial. The extent of harm is still considered to be less than substantial but at the low to moderate end of the scale and slightly increased when compared to the original submitted proposals.

294 In terms of the impact of the development on the associated Grade II listed Clergy House, GLA officers consider that there would be no harm on the significance of this building and as the development would not appear in the setting of the building except in oblique views.

295 The development would also appear in the background setting of the Brompton Cemetery Grade I Registered Park and Garden as well as the Grade II\* listed Chapel and arcade. The chapel and the arcade were both designed by Benjamin Baud and listed in 1969. There are other Grade II listed structures within the cemetery however, it is not considered that these structures would be adversely impacted upon as a result of the development.

296 The development would appear some distance away to the west of the Grade II\* listed Chapel when viewed from the ceremonial route. However, as the focal point of this route the development would still have a detracting quality given the extensive setting within which the chapel sits. Building 2 is clearly visible to the west of the chapel, particularly at a distance, the visibility of which has been increased by virtue of the proposed storeys compared to the scheme originally submitted. There are no other competing structures of equivalent height in these views other than the cupola structure to the western arcade. As such, there would be some harm to the setting and therefore significance of the Chapel as a result of the development, the degree of harm is somewhat lessened given the distance of development from the building itself. Therefore, the harm is considered to be at the lower end of less than substantial. The impact of the development on the Grade II\* listed arcades is particularly evident in relation to the western arcade and associated cupola which is one of the most prominent structures in the cemetery. When viewed from the southern end of the ceremonial route (figure 18), the proposed building 2 would directly compete with the structure. The increased height of building 2 would somewhat dwarf the cupola structure this view thereby adversely impacting its significance. However, the impact of the development would still be considered less than substantial and at the lower end of the scale. In terms of the impact of the development on the Grade I Registered Park and Gardens, the development would be visible in part looking northwards, including from the main ceremonial route as would a number of existing and proposed developments in the background setting albeit the relative proximity of the development to the site and size of the building would mean that the development would be one of the more prominent modern developments in the skyline. Therefore, the development also result in less than substantial harm to the cemetery at the lowest end of the scale.

297 It is not considered that the development would harm the setting or significance of the unlisted buildings of merit given that the development in the vicinity is already varied by virtue of the redevelopment of the northern Warwick Road sites and by virtue of the substantial physical separation between the site and unlisted buildings created by the railway track.

#### Conclusion on heritage assets

298 GLA officers conclude that there would be harm to the significance of Philbeach Gardens, Nevern Square and Brompton Cemetery Conservation Areas and this would be less than substantial

at the lower end of the scale; with the exception of Philbeach Gardens which would experience low to moderate harm. It is concluded that Nevern, Brompton Cemetery, Queens Club and Olympia and Avonmore Conservation Areas would experience less than substantial harm towards the low end of the scale as a result of the development. The degree of harm is increased in a number of instances, as the selected vistas are currently unaffected by modern development beyond the boundary of the conservation areas themselves. This and the low rise, uniform nature of buildings within the identified conservation areas make them more susceptible to harm.

299 In terms of the impact on listed buildings in the vicinity of the site, the development would give rise to less than substantial harm to the Grade I listed St Cuthbert's Church to a low to moderate degree owing to the increased presence of the building, particularly when viewed from viewpoint 10C. The development would also result in less than substantial harm to the significance of the Grade I Registered Park and Garden, Grade II\* listed Brompton Cemetery chapel and to a slightly greater degree to the listed western arcade but in all three respects, the degree of harm would be at the lower end of less than substantial.

300 In coming to these conclusions, GLA officers have taken account of the statutory duties contained in the Planning (Listed Buildings and Conservation Areas) Act 1990.

301 Overall, the scheme would have less than substantial harm at the lower end of the scale, low to moderate in some instances, and there would be harm to Grade I and Grade II\* listed buildings, considered to be in the top 6% of such designations nationally. As such, the public benefits arising from the scheme would need to be sufficient to outweigh the harm caused in order to be considered acceptable. At Stage 1 and 2, GLA officers concluded that the public benefits arising from the scheme as originally submitted would be sufficient to outweigh the harm to heritage assets arising from the development. However, due to the slight increased level of harm arising from the increase in height to building 2 (which is offset in some instances by the fact that the building would now appear more elegant and differentiates itself more successfully from the heritage assets in question) since the amendments to the application, the public benefits need to be further considered. The public benefits of the revised scheme are as follows:

- The comprehensive regeneration of an existing brownfield site benefiting from excellent public transport accessibility which has been allocated in the RBKC Local Plan specifically for high density residential led mixed uses.
- The development would contribute 462 additional homes (an increase of 35 homes compared to the original scheme as submitted) which would deliver 103% of RBKC's annualised housing delivery targets from 2019/20 in accordance with Policy H1 of the Mayor's intend to publish London Plan.
- An increase in affordable housing from 35% to 40% (an overall increase of 41 affordable housing units compared to that originally submitted – 186 affordable units in total).
- Delivery of a fully integrated public leisure centre and pool with dedicated entrance from the ground floor public plaza in accordance with the site allocation. In contrast, the original scheme proposed a private pool and small community sports hall at the opposite end of the development. The sports court and climbing wall above building 6 would be retained as originally proposed.
- New complementary commercial floorspace including offices, retail and leisure/ non-residential institution floorspace.

- The provision of 2,550 sq.m. of new public open space at podium level and substantial landscaping improvements to the ground floor Tesco plaza;
- The development would increase the permeability of the site by introducing a fully publicly accessible route over the podium 24hrs a day which was previously gated and to be closed off to the general public at night. The development would also now provide for a future pedestrian and cycle connection through to Earls Court once construction of the masterplan is complete;
- Substantial urban greening of the site where no soft landscaping or ecological features currently exist. The revised proposals involve an improvement to the site's Urban Greening Factor score of 0.22 to 0.27;
- Contributions to the design and physical improvements to the Warwick and West Cromwell Road junction to improve safety; and
- Other s106 contributions towards public art, training and employment opportunities, carbon offsetting, sports and leisure, library facilities, parks and open space, travel plans, air quality in accordance with RBKC's Planning Contributions SPG.

302 The revised proposal provides significant improvements to the overall public benefits package compared to that originally submitted.

303 GLA officers consider that the current proposal provides a range of significant and substantial benefits which would clearly outweigh the less than substantial harm identified to some nearby heritage assets. In coming to these conclusions, GLA officers have taken account of the statutory duties contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. In particular, officers have attached considerable importance and weight to the desirability of preserving the setting of the listed buildings discussed above and great weight to the conservation of the conservation areas and their settings in question. RBKC officers came to the same conclusions in their January 2020 report to committee. As such, the proposals would comply with the provisions of the NPPF, London Plan Policy 7.8, draft London Plan Policy HC1 and RBKC Local Plan Policies CL3 and CL4.

## **Inclusive design**

304 London Plan Policy 7.2 and Mayor's intend to publish London Plan Policy D5 require all future development to meet the highest standards of accessibility and inclusion, and that the design process has considered how everyone, including those with disabilities, older people, children and young people, will be able to use the places and spaces that are proposed. London Plan Policy 7.6 demands that buildings and structures meet the principles of inclusive design; and London Plan Policy 3.8 and Mayor's intend to publish London Plan Policy D7 require that ninety percent of new housing meets Building Regulation requirement M4(2) 'accessible and adaptable dwellings' and ten per cent of new housing meets Building Regulation requirement M4(3) 'wheelchair user dwellings', that is, designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users.

305 RBKC Local Plan Policy CL2 requires development proposals to meet the highest standards of accessible and inclusive design, and RBKC's Access Design Guide sets out the specific guidance with regards to accessibility.

306 Details of accessible and inclusive design have been provided within the Design & Access Statement as revised, which focuses on the inclusive design measures within the public realm and

buildings. The application drawings and landscape drawings also indicate how key inclusive design features would be incorporated.

### Accessible homes

307 A total of 47 wheelchair adaptable dwellings would be provided which would meet Building Regulation M4(3), representing 10% of the units in the scheme, with the remaining 415 units meeting Building Regulation requirement M4(2). The proposed wheelchair accessible/adaptable homes would be provided across the range of tenures and types of housing proposed and unit sizes in order to provide choice. A condition is recommended which would ensure that this level of accessible housing is secured, in accordance with London Plan Policy 3.8 and Mayor's intend to publish London Plan Policy D7.

### Public realm

308 As set out under the site description, there are significant level changes across the site resulting from the retention of the car park structure and podium atop which much of the proposed development would sit. The applicant's submitted plans show that there would be a 10 metre level change between the public podium and the street level. This would be addressed by providing both easy rise stepped and step free lift access up to the podium at both northern and southern ends of the site. Both easy rise and step free (ramped with a less than 1 in 20 gradient) access is proposed to West Cromwell Road from the public plaza. Overall, the submitted drawings and landscape drawings demonstrate that appropriate levels and gradients can be provided across the site to ensure an inclusive environment throughout the scheme. Full details of the accessibility of the proposed landscaping and highways works in terms of access for pedestrians, cyclists and disabled people would be secured via planning condition.

### Car parking

309 The development proposes 31 disabled car parking spaces serving residential units, which would be available for Purple Badge holders. This represents 6.7% of the total number of residential units proposed. Space for a further 15 spaces has been identified subject to the reallocation of car club spaces and/or storage space should the need arise, taking the total provision of 10%. In addition, two Purple Badge disabled parking spaces would be provided to serve the proposed leisure centre. The proposed disabled parking provision serving both the residential and non-residential elements complies with the standards in the London Plan and Mayor's intend to publish London Plan and would be secured by condition.

### Inclusive design - conclusion

310 The application would achieve a high level of accessible and inclusive design and would comply with London Plan Policies 3.8, 6.13, 7.1, 7.2, 7.5 7.6, Mayor's intend to publish London Plan Policies GG1, D5, D7, T6.1, T6.5, the Accessible London SPG and RBKC Local Plan Policy CL2, together with the aspirations for inclusive and accessible design set out in the RBKC Access Design SPG.

## **Neighbouring amenity impacts**

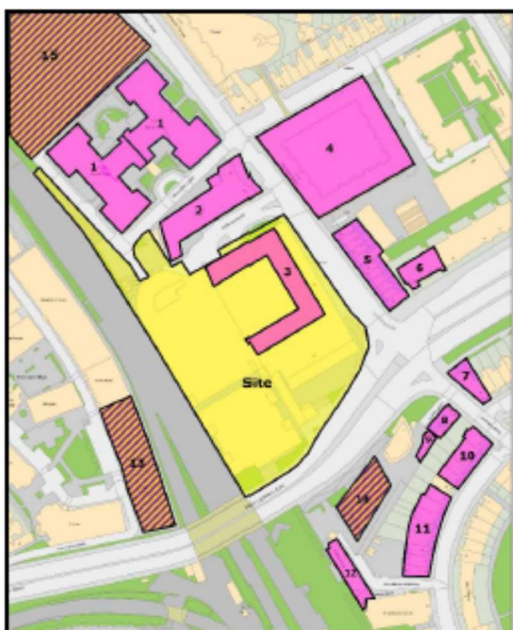
311 London Plan Policy 7.6 and the Mayor's intend to publish London Plan Policies D3 and D8 seek to ensure that new buildings should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings in relation to privacy, overshadowing, wind and microclimate. This is particularly relevant where tall and large-scale buildings are proposed. London Plan Policy 7.15 and Policy D14 of the Mayor's intend to publish



London Plan state that development should manage noise to improve health and quality of life. RBKC Local Plan Policy CL5 seek to ensure development provides good living conditions for occupants of new, existing and neighbouring buildings. Further planning guidance provided in Policy CE6 and the Council’s Noise SPD.

312 The existing sensitive receptors in the vicinity of the proposed development site are identified on figure 28 below which is taken from the applicant’s Daylight, Sunlight and Overshadowing Report within the Environmental Statement. They include the Notting Hill Genesis housing development, which is within the application site boundary above the Tesco superstore. 181 Warwick Road to the north, which is an apart-hotel development, and Warren and Atwood House further north, which is an existing residential development. The full list of surrounding properties is provided below.

Figure 28: Map of nearby sensitive receptors



Plan No	Address	Plan No	Address
1	Atwood & Warren House – 185 Warwick Road	8	2 Cluny Mews
2	Aparthotel-181 Warwick Rd	10	66-70 Philbeach Gardens
3	NH&T Housing Development	11	57-64 Philbeach Gardens
4	Chesteron Square	12	Philbeach Hall & Clergy Hse
6	80-100 Warwick Road	13	Warwick House Consent
8	Latham Court	14	Cluny Mews Consent
7	75 Warwick Road	15	Kensington Row Consent
8	119-121 Warwick Road		

### Daylight, sunlight and overshadowing

313 The impact of the development on daylight/ sunlight was identified as a reason for refusal by RBKC in their May 2019 officer’s report to committee, particularly in relation to the impact of the development on daylight/ sunlight to some of the units within Warren and Atwood house. This is discussed in more detail below.

314 The applicant’s updated daylight/sunlight assessment considers the potential impact of the proposed development on existing neighbouring properties in terms of daylight, sunlight and overshadowing, taking into the existing baseline conditions experienced. The assessment uses three methods of assessing daylight - Vertical Sky Component (VSC); No Sky Line (NSL); and Average

Daylight Factor (ADF) - and one measure of sunlight - Annual Probable Sunlight Hours (APSH) which are summarised below alongside the findings of the assessment.

315 The nearby properties as identified in figure 28 above have been assessed.

316 The assessment of baseline conditions is based upon a comparison between the proposed development and the envelope of the existing buildings on site. The report also assesses the cumulative impact of the following consented schemes on the baseline position should those schemes be developed in advance of the proposals:

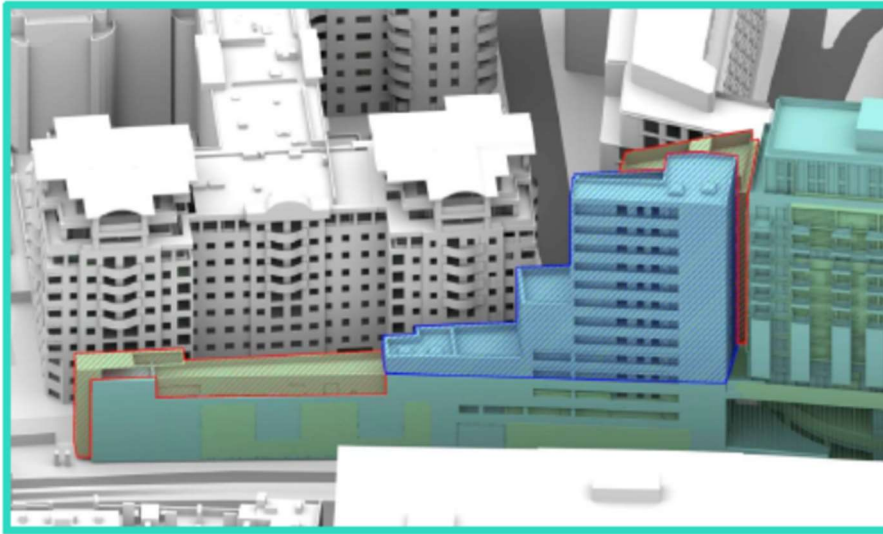
- Kensington Row;
- Cluny Mews; and
- Warwick Building Extension.

317 In addition, a comparison has also been drawn between the previously consented scheme (LPA Ref. PP/11/00107), which can be used as a comparable upon which to assess the impact upon daylight/ sunlight which is particularly important in terms of the impact on Warren and Atwood House to the north of the site. Figure 29 below indicates the massing that has been removed in red hatching and added in blue hatching compared with the previously consented scheme.

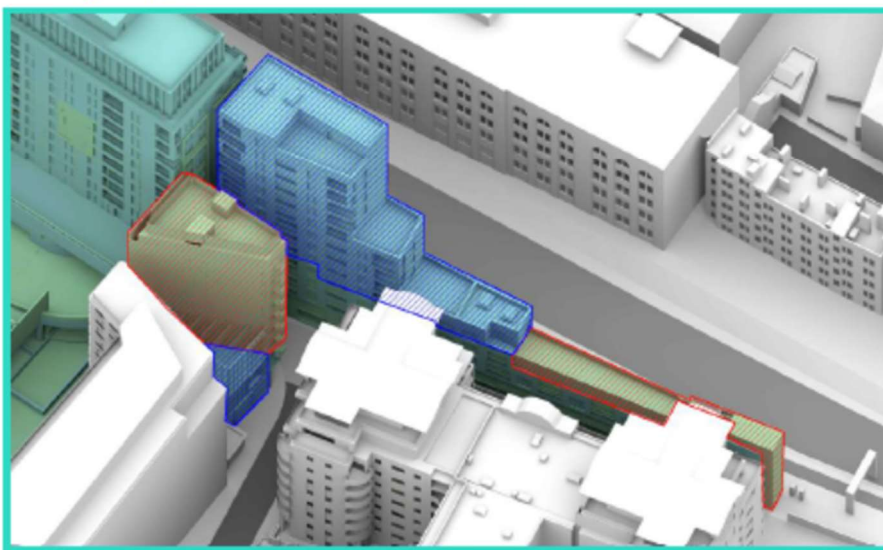


Figure 29: diagrams showing the change in massing between the previously consented scheme and current proposals

Drawing P656/170



Drawing P656/171



## Daylight

318 To assess daylighting impacts on surrounding development, a Vertical Sky Component (VSC) test has been carried out. The VSC test assesses the potential for daylight into a building by quantifying the amount of sky visible from within a room which is unobstructed by buildings and is measured from a centre point of a window pane. The BRE guidelines suggest that if the VSC is greater than 27%, sufficient skylight should reach the window in question. In terms of assessing the impact of a proposed development, the BRE guidelines state that occupants of the existing building shall experience a materially noticeable reduction in the amount of skylight they receive where there the VSC with the development will be both less than 27% and less than 0.8 times its former value, with the guidelines suggesting that 'moderate adverse impacts' likely to be expected where the level of reduction is above 30% and 'substantial adverse impacts' above 40%.

319 This assessment has been supplemented by a No Skyline Level test (NSL). The NSL calculates the daylight distribution within a room by plotting the NSL. The NSL divides points on working plane (0.85m above FFL) which can or cannot see visible sky. If following construction of a new development, a room is likely to experience a noticeable reduction if a significant area of the room is beyond the NSL or is less than 0.8 times its former value. It should be noted that consideration will need to be given to the depths of single aspect rooms. If the room is greater than 5m deep, then an adverse infringement may be unavoidable. Both the VSC and NSL assessment methods have been used to evaluate the effect the proposed development may have on the neighbouring residential properties.

320 Average daylight factor has also been tested. ADF is a measure of the quality and distribution of light distribution within rooms, taking into account the size and number of windows. The calculation considers the VSC value, the size and number of windows serving the space, the overall size of the room and its intended use to give an overall percentage value. BS 8206-2 *Code of practice for daylighting* recommends ADF values of 2% in kitchens, 1.5% in living rooms and 1% in bedrooms.

321 Of the 12 property groups and properties assessed, the effect on daylight amenity to the following properties have been assessed as negligible:

- Chesterton Square;
- 76 Warwick Road;
- 119-121 Warwick Road;
- 2 Cluny Mews; and
- Philbeach Hall & Clergy House.

322 The following properties would contain one or more rooms which do not meet BRE guidance and the impact on these properties is discussed in more detail below.

#### Warren and Atwood House

323 There are 808 windows serving 568 rooms within this property. Of those rooms, 72% would meet BRE guidelines in terms of VSC and NSL terms. 54 (10%) rooms would experience minor reductions and 107 (19%) would experience moderate to major adverse impacts in daylight which represents a slight worsening when compared to the originally submitted proposals which reported 105 rooms experiencing moderate to major adverse impacts.

324 'Minor' reductions in daylight would affect 54 rooms in total but these are likely to be unnoticeable to the occupants. In terms of the remaining 107 rooms that would experience a moderate to major impact, 66 of these rooms would still experience a change in ADF which is no greater than 0.2% or 30% of the baseline which in most instances would be unnoticeable by the occupant. The living rooms and bedrooms would still achieve the recommended daylighting levels for the relevant room usages. The remaining 41 rooms which would experience major reductions in daylight affect 18 units are shown in figure 30 below. All of the highlighted windows/rooms are located directly adjacent to the vacant parts of the development site. Therefore, it is appropriate to consider the alternative target values and focus on how much light will remain in the proposed condition rather than the amount that will be removed.

Figure 30: Location of rooms in Warren and Atwood House that would experience major reductions in daylight (shown in magenta)

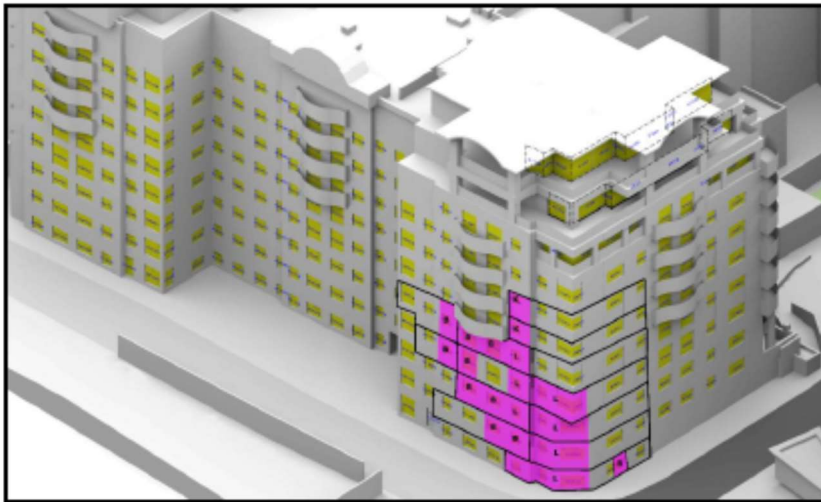


325 Of the 18 units affected, 8 would have major impacts to all rooms within those apartments including the living rooms. Most of the affected rooms would be bedrooms (63%) and the remaining (37%) would affect living rooms. These would represent major losses and significant reductions in overall and percentage terms of VSC/NSL and would suffer for losses in daylight distribution that fall below what would be considered reasonable for the relevant rooms in the BRE guidance. The overall impact of the proposed revised scheme on daylight and sunlight to Warren and Atwood House remains unchanged when compared to the originally submitted scheme.

326 When comparing the proposed scheme with the consented scheme, 13% of rooms would experience an improvement to daylight levels compared to the consented scheme, 80% would be unaffected by the proposals or would experience a minor adverse impact that would be unnoticeable to the occupants and a good level of daylighting would be retained. However, moderate adverse impacts would be observed to 4% of the remaining rooms and major adverse impacts to 3% of which 7 would be living rooms, the rest would be bedrooms and kitchens in 12 of the units. The extent of impact would be less than compared with the existing situation – 6 fewer units would be affected.

327 Therefore, compared to the consented scheme, although it is acknowledged that there would a degree of improvement to some of the windows, this would not offset the additional major adverse impacts which would arise as a result of the proposed development.

Figure 31: Location of rooms in Warren and Atwood House that would experience major reductions in daylight (shown in magenta) compared to consented scheme



328 RBKC has raised concerns over the outcome of the assessment in respect of Warren and Atwood House in particular. The Council has asked the applicant to confirm how many residential units would be lost should the massing of building 7 be reduced so that the daylight impact is the same as the impact of the consented scheme. There would be a loss of 4 family units (3 x 2B/4P and 1 x 3B/6P). There would be 20 further units that would likely need to become smaller, resulting in the loss of a further 20 habitable rooms (these are made up of 10 x 3b6p units that are down-sized to 2 bed units and 10 x 2 bed units down-sized to 1 bed units). The resulting cut back in massing terms is shown hatched below:

Figure 32: Cut back required to bring impact in line with consented scheme



329 The resulting loss of affordable housing units and habitable rooms would disproportionately impact upon the quantum and quality of the affordable housing offer and would not be supported.

330 An assessment of all remaining properties affected by the development is provided below:

- 181 Warwick Road – Apart hotel: Given the use of the building as an apart hotel, the units are occupied on a temporary basis and it is therefore acknowledged that occupants are

unlikely to notice a difference in daylight. Therefore, it is accepted that VSC/NSL are less appropriate measures of impact and ADF would instead be considered to determine the impact. On this basis, 84% of the rooms would retain in excess of 2% ADF which is the BRE and British Standard recommended daylight level for any principal residential living space when compared with the existing situation. In terms of the remaining 16% of rooms, only 5 rooms (2%) would not meet the BRE and British Standard recommended level of ADF but they would still achieve levels of 1.13% or more which is considered acceptable. The proposed revised scheme would have the same impact on Warwick Road when compared with the originally submitted scheme. The impact compared to the consented scheme is also almost exactly the same with only 5 rooms not meeting the relevant standards.

- Notting Hill Genesis: Of the 200 rooms within the property 66% would not experience no noticeable changes to daylight to these rooms when compared to the existing situation. 28% of rooms would experience small unnoticeable changes to daylighting levels. Of the remaining 13 rooms within the building 12 already experience compromised levels of daylighting due to proximity to other structures but would still retain acceptable levels of daylight. The remaining room is a bedroom which would experience a noticeable change; but given its use as a bedroom it would generally be accepted to have a lesser requirement for daylight. Therefore, the impact is within acceptable limits. One of the rooms would experience an improvement when compared to the consented scheme, 30% would experience no change and 62% would experience further minor reductions but that these would not be to a noticeable degree. When compared with the originally submitted proposals the revised scheme would result in minor reductions in daylight to 3 further rooms, but this reduction is likely to be unnoticeable by the occupants.
- 80-100 Warwick Road: Of the 43 rooms within the building 98% are fully compliant in VSC and NSL terms when compared to the existing situation. Only 1 room would experience a small reduction in daylight but this would be served by two other windows that would be fully BRE compliant. Therefore, the impact is acceptable. Compared to the consented scheme, the development would experience additional VSC reductions of no more than 10% to 91% of rooms which would not be noticeable. Only 4 of the rooms would experience any noticeable reductions compared to the consented scheme. The impact is considered acceptable.
- Latham Court: 12 of the 14 rooms within the development are fully BRE compliant. However, 2 of the rooms would experience a noticeable change in the daylight within these rooms. NSL would be fully acceptable. The impact is minimal and therefore acceptable.
- 57-64 Philbeach Gardens: 90% of the 100 rooms within this development would be full compliant in VSC and NSL terms so would not experience any change. The 10 remaining rooms would experience only marginally breach BRE compliance in terms of VSC, NSL. In terms of ADF, the impact would be unnoticeable. On this basis, the impact would be acceptable. 95% of rooms would experience very small reductions compared to the consented scheme but no more than 10%. The remaining 5 rooms would experience a noticeable reduction but not significant.
- 66-70 Philbeach Gardens: When compared to the existing situation, all but one of the rooms would be BRE compliant in VSC and NSL terms. Only 1 of the rooms within this group would notice any change in daylight as such the impact is considered to be negligible. However, 97% of rooms would experience additional VSC reductions when compared to the consented scheme but no greater than a 0.1% ADF reduction which is unlikely to be noticeable. Only 1 would experience a noticeable further reduction.

331 The additional daylight impact on Warwick House, Cluny Mews and Kensington Row on cumulative basis are confirmed to be negligible.

### Sunlight

332 Annual probable sunlight hours (APSH) is a measure of sunlight that a given window may expect over a year period. In line with the BRE guidance, the applicant has assessed windows within the above properties which are orientated within 90 degrees of south. Of the 10 property groups and individual properties assessed 6 would not experience a noticeable impact on APSH. The impact on the remaining properties is set out below:

- Warren and Atwood House: 80% of the 487 rooms assessed would be fully BRE compliant. 96 of the remaining rooms would be significantly impacted by the development due to the lack of existing development west however many of the rooms retain close to or in excess of the BRE recommended level of 25%. Of the 33 living rooms affected would experience a minimum of 20% total APSH which would typically be acceptable in an urban context. However, 15 living rooms would experience major losses in sunlight beyond the provisions of BRE guidance. Again, these apartments are located on the south western corner of the building closest to the site.
- 181 Warwick Road Aparthotel: 20% of the 218 rooms would be significantly impacted by the development but these would still retain at least 20% total APSH, which is accepted as a good level of sunlight amenity in an urban context with the exception of 22 rooms which would be more materially affected. However, as stated above, due to the temporary occupancy of these rooms, the impact is considered to be acceptable.
- Notting Hill Genesis: Of the 125 rooms assessed, 78% are fully BRE compliant in terms of sunlight including 2 non-habitable ground floor rooms. In terms of the remaining rooms, reductions retain close to or up to 16% in excess of the BRE recommended 25%. In total, 3 living rooms are affected to a material degree which is a small number of rooms and is considered acceptable.
- 84 Warwick Road: One room in this four room property would experience a 3% change in winter APSH but the room retains 31% total APSH which is above the recommended BRE level of 25% and is therefore considered acceptable.

333 On this basis the impact of the proposals on sunlight is considered to be within acceptable parameters in the most part and the affected units would still receive APSH levels which would be entirely appropriate in an urban context. However, the exception to this would be the impact on 15 living rooms within Warren and Atwood House.

### Overshadowing

334 The applicant's daylight, sunlight and overshadowing report confirms that in terms of transient overshadowing the proposed development would not cast shadow on any of the surrounding areas of amenity space, apart from the private terraces serving the Notting Hill Genesis development to a noticeable but not significant degree. The impact of the scheme on sun on the ground at the surrounding areas of the Notting Hill Genesis development during the summer months would not be noticeable. The impact is very similar when compared against the consented scheme.

### Conclusion to daylight and sunlight matters

335 The proposals would adversely affect small number of adjacent properties but these reductions are generally within acceptable parameters given the densely developed urban context of the site. However, there are instances, within Warren and Atwood House where the development would result in a number of the units experiencing a major adverse impact on levels of daylight. In total 21 units within Warren and Atwood House would experience a major adverse impact on daylight as a result of the proposals, and in the case of 8 units, the proposed development would have a major adverse impact to all rooms including the living rooms. When compared with the previously consented scheme (LPA Ref. PP/11/00107) it is acknowledged that some of the properties would experience a slightly improved level of daylight sunlight. However, 7 units, which include living rooms would experience materially worse levels of daylight compared to the consented scheme as a result of the revised scheme. Furthermore, these units would already experience significant losses as a result of the development of the consented scheme.

336 In RBKC's officer's January 2020 report to committee on the revised scheme it is noted that the day and sunlight impact on Warren and Atwood House that in light of the lack of amendments to the bulk, scale, and massing of building 7, the proposals retain a level of impact that was considered unacceptable in the May 2019 scheme. It was therefore concluded by RBKC that the current proposals would fail to comply with Local Plan Policy CL5. RBKC advised that further investigation is undertaken to investigate how the daylight sunlight impacts could be reduced in line with the consented scheme. Notwithstanding this, RBKC remains supportive of the scheme as a whole given its overall benefits.

337 It is important to note that the NPPF requires that a flexible approach should be taken in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would generally provide acceptable living standards). Given the undeveloped nature of the adjacent strip of land (the development of which has already been established by virtue of the extant planning permission for the site) which has an allocation for high density residential development in the Local Plan, some degree of change in relation to surrounding daylight conditions must be expected and the residual daylight levels achieved within the affected properties are not uncommon in urban locations.

338 The proposed development does not impact on the vast majority of units within the vicinity and tested. As discussed above, the day and sunlight report submitted with the application demonstrates that out of all the units tested 8 units would experience major adverse impacts including living rooms, all of which are within Warren and Atwood House. Warren and Atwood House comprise 278 units in total and, as such, the proposal would impact 3% of the total number of units within this building.

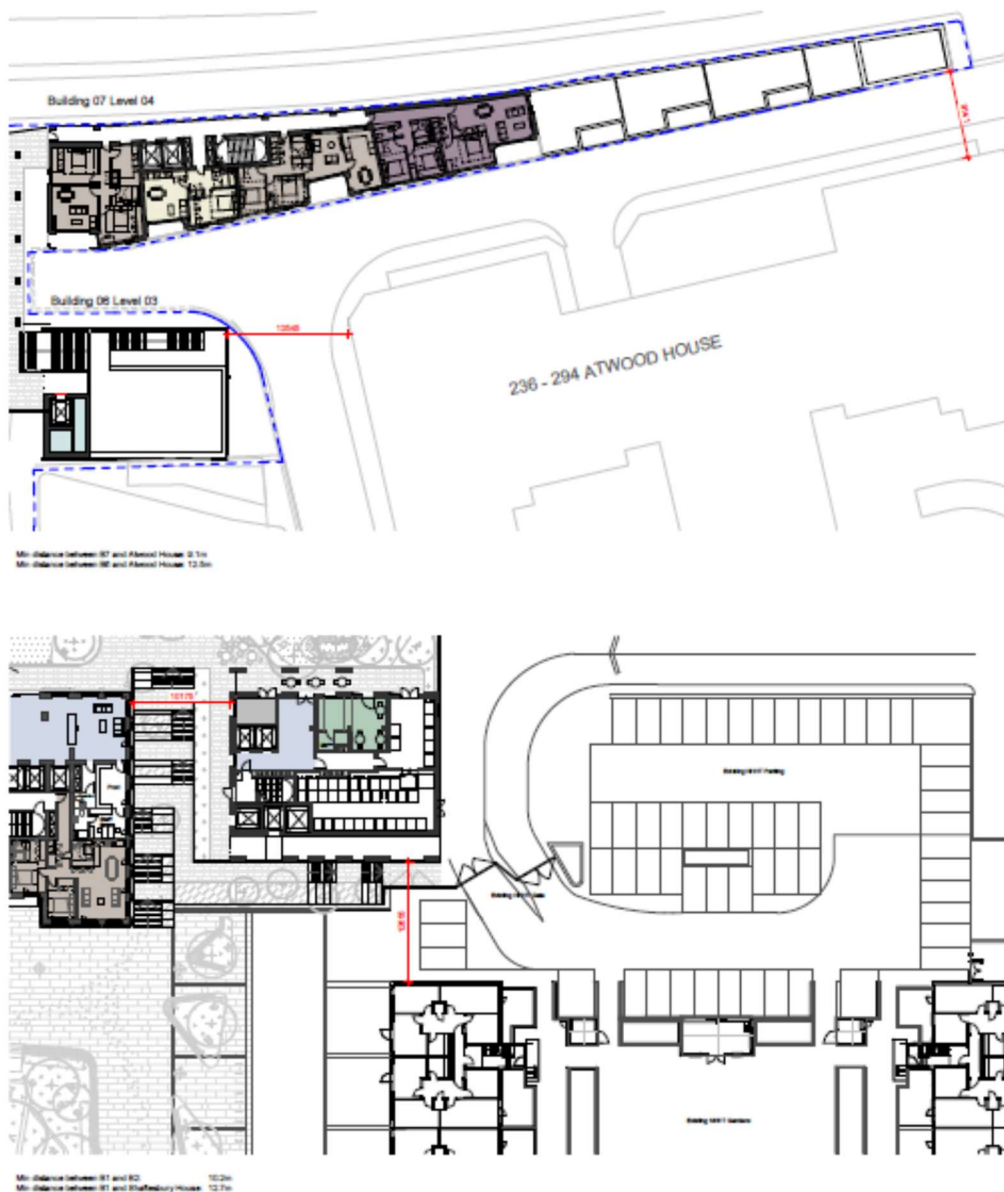
339 In addition, whilst it is acknowledged that the development would have a major adverse impact on 8 units within Warren and Atwood House and 7 units would experience further adverse impacts compared to the consented scheme. These results must be weighed against the benefits of redevelopment. Reducing the massing of building 7 to bring it in line with the impact of the consented scheme as suggested by RBKC would result in a significant reduction in affordable habitable rooms (53 in total) which would have an adverse impact on affordable housing unit number and mix and could result in the development not delivering the other benefits of the scheme such as the public leisure centre. Considering the acute need for affordable homes in the Borough, and the overall wider public benefits that the scheme would bring forward, a reduction in affordable housing of this extent to improve the daylight to 8 existing apartments compared the existing would not be warranted in this instance. Therefore, on balance, it is considered that the proposed development would comply with London Plan Policy 7.6, the Mayor's intend to publish London Plan Policies D3, D8 and Local Plan Policy DM01.



## Privacy, outlook and sense of enclosure

340 RBKC's Local Plan Policy CL5 explanatory text suggests a separation distance of 18 metres between habitable rooms to reduce inter-visibility. The Mayor's Housing SPG however, acknowledges that adhering rigidly to this distance can limit the variety of urban spaces and housing types in the city, and can sometimes restrict density. Figure X below identifies the distances between the proposed development and existing residential. The minimum distance between building 7 and Atwood House is 9.1 metres and the minimum distance between Building 6 and Atwood House is 12.5 metres. The minimum distance between Shaftsbury house and B1 is 12.7 metres. There is no worsening of the privacy conditions on existing residential developments as a result of the proposed revisions made to the scheme during the course of this application.

Figure 33: Distances between nearby sensitive receptors



341 Compared to the existing context, the proposal would result in new building 7 being located 9.1 metres to the west of Atwood House and building 6, 12.5 metres to the south. The height of building 7, within this part of the site, is limited to storeys with the top floor being set back which



increases separation whilst building 6 is limited to 3 storeys with MUGA above. Whilst some properties within the lower floors of Atwood House would experience a different outlook and privacy compared to that existing, such a relationship is not uncommon within urban locations particularly when units front each other. Although these separation distances are less than the optimal minimum of 18 metres, the separation is considered to be acceptable to protect the privacy and outlook of the occupiers of Atwood House and ensure that a significantly increase sense of enclosure does not occur. It should be noted that the separation guidance usually applies to rear to rear distances and in any event the guidance can be applied flexibly given the densely developed context of the site. Direct overlooking has been minimised through the design of internal layouts, window placement and other design features. It is also noted that RBKC arrived at the same conclusions.

342 The separation distances provided to the adjacent apart hotel are considered acceptable particularly given the temporary nature of the accommodation.

343 For the above reasons, it is considered that the proposal would not significantly negatively impact on any neighbouring residential occupier in terms of loss of outlook, sense of enclosure or privacy. Therefore, the development would comply with London Plan Policy 7.6, Mayor's intend to publish London Plan Policy D3 and the Housing SPG in respect of privacy and overlooking.

### **Noise, light, disturbance and vibration**

344 The most significant impact in terms of noise and vibration would be experienced during the construction period caused by a 20% increase in vehicle movements and piling works in the most part which would give rise to a major adverse impact on existing sensitive receptors. The noisiest works would be carried out in the initial phases of the construction; therefore, the worst impact would be relatively short lived. A number of mitigation measures are proposed in the original Environmental Statement including restricting activities to daytime hours, the erection of hoardings to maximum height, the provision of a robust Demolition and Construction Environmental Management Plans for submission and approval and monitoring and restricting noise levels to be secured by condition. The impact of the development on road noise is considered to be negligible and noise from plant would be restricted to 10dB below the background noise levels and secured by condition. Subject to conditions, it is considered that the proposed development would not negatively impact on nearby residential occupiers due to increased noise.

345 With reference to vibration impacts, the submitted ES confirms that the proposal would not result in any additional vibration to neighbouring residents beyond that already experienced by the proximity of roads and railway. As such, the proposal is considered acceptable in this regard.

346 Concerns were raised by RBKC that the MUGA proposed at roof level of building 6 might give rise to issues of noise and disturbance with no specific mitigation measures proposed by the applicant to combat noise outbreak. As such, the use of the MUGA would need to be restricted to prevent disturbance to neighbouring occupiers and residents of the proposed development. Furthermore, the applicant would be required to provide comprehensive management plan for approval detailing how the use of the sports court would be managed to prevent adverse impact on residential amenity to ensure that the use can be secured in perpetuity for the benefit of residents in line with the Mayor's intend to publish London Plan agent of change policies.

347 The proposal would result in increased pedestrian and vehicle activity within and surrounding the site, however, this is a consequence of the majority of developments and in this urban setting would not result in any increased disturbance to neighbouring occupiers. Lastly, a condition is proposed to ensure that any external lighting proposed is sensitively designed and in locations which would not impact on neighbouring occupiers. The MUGA proposed would not contain floodlights to ensure no negative impacts on neighbours.

348 As such the proposals would not result in harm to neighbours by way of noise, light, disturbance or vibration and complies with London Plan Policy 7.15, Mayor's intend to publish London Plan Policies D13 and D14, RBKC Local Plan Policies CL5 and CE6.

### **Neighbouring amenity impacts conclusion**

349 The proposals would not have an unacceptable impact on the amenity of neighbouring occupiers, and therefore the proposals comply with London Plan Policies 7.6, 7.7 and 7.15, and Mayor's intend to publish London Plan Policies D3, D6, D8 and D13, RBKC Local Plan Policies CL5, CE6 and the Mayor's Housing SPG and RBKC's Noise SPD.

### **Sustainability and climate change**

350 London Plan Policy 5.2 and Policy SI2 of the Mayor's intend to publish London Plan, require development proposals to minimise carbon dioxide (CO<sub>2</sub>) emissions to meet the Mayor's targets, in accordance with the following energy hierarchy:

- Be lean: use less energy
- Be clean: supply energy efficiently
- Be green: use renewable energy

351 Major development proposals are required to provide a detailed energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy.

352 These requirements are also set out in RBKC Local Plan Policy CE1. From 1 October 2016, applications proposing residential buildings were required to meet the zero carbon target. In meeting this zero carbon target, residential schemes should achieve a minimum on-site reduction of at least 35% improvement beyond Part L 2013 Building Regulations, with any shortfall required to achieve the zero carbon target secured via a carbon off-set payment. Non-residential uses are not at present subject to the zero carbon target and should demonstrate at least a 35% on-site reduction beyond Part L 2013. Policy SI2 of the Mayor's intend to publish London Plan includes the expectation that energy efficiency measures alone should account for a minimum of 10% of the reductions carbon dioxide emissions for residential development and 15% for non-residential development.

353 An addendum energy strategy for the site was submitted by the applicant as part of the revised application submitted in November 2019. Based on the energy assessment submitted in November 2019, an on-site reduction in CO<sub>2</sub> emissions of 15% beyond 2013 Building Regulations compliant development is expected on the residential element of the scheme, which exceeds the minimum expectations for on-site CO<sub>2</sub> savings, in line with GLA Energy Assessment guidance (2018) and Policy SI2 of the Mayor's intend to publish London Plan. In addition to this, it was reported at stage 1 that the development would result in an on-site reduction in CO<sub>2</sub> emissions of 13% in respect of the non-residential element which would fall short of the 15% requirement. Since Stage 1, the applicant has sought to verify this figure and model additional energy efficiency measures to obtain a 15% improvement as a minimum. The emissions reduction has since been revised to 7% against a 2013 Building Regulations compliant development. The applicant has identified that the proposed pool would have an adverse impact on the overall 'lean' performance of the non-domestic uses. Therefore, in order to reduce the impact of the pool on performance a condition would need to be applied requiring the applicant to investigate the potential for further efficiency measures including water heat recovery in order improve the % reduction in CO<sub>2</sub> emissions in line with Mayor's intend to publish London Plan Policy SI 2 and GLA Energy Assessment Guidance.

354 Following an initial review of the applicant's energy strategy, the applicant was advised that, whilst GLA officers considered that the applicant had broadly followed the energy hierarchy, further

information, discussion and additional measures were required in relation to energy efficiency, overheating, cooling demand, the proposed gas fired Combined Heat and Power (CHP) system, provision for a future connectivity to a district heat network and further demonstration that the potential for solar panels on roof level has been maximised. These matters have been subject to further discussion between the applicant and GLA officers, with the submission of an addendum Energy Strategy and appendices submitted in November 2019. An assessment of these revisions is set out below.

#### Use less energy (Be lean)

355 A range of passive design and demand measures are proposed as part of the development to reduce energy demand, including good building fabric performance, improving upon Part L 2013 notional building u-values and air permeability; high efficiency mechanical ventilation units with heat recovery; lower energy lighting, and provision of smart meters. The demand for cooling and the overheating risk will be minimised through a number of methods including energy efficient lighting, low energy appliances, insulation, balcony shading, solar control glazing, internal blinds, mechanical ventilation in compliance with building control. The potential for passive/natural ventilation potential has been maximised, taking into account noise and air pollution issues. However, active ventilation was also proposed to buildings 1, 2, 3 and 4 which would only be acceptable should all other measures on the cooling hierarchy have already been fully exploited. The applicant would be required to consider for overheating risk before considering before cooling such as the glazing g-value and facade thermal performance. Updated cooling demand and specification for residential and non-domestic uses, demonstrating that cooling has been minimised should also be supplied as part of a pre-commencement condition.

356 The area weighted average (MJ/m<sup>2</sup>) and total (MJ/year) cooling demand for the actual and notional building was been provided at Stage 1, although the cooling demand was significantly above the notional. Therefore, the applicant was asked to consider further passive design measures and ensure the actual building's cooling demand is lower than the notional. This is largely due to facade design which would be addressed via a pre-commencement condition as set out in paragraph 355 above.

#### Supply energy efficiently (Be lean)

357 The applicant has provided further correspondence with LBH&F regarding connection to the identified proposed Hammersmith and Fulham district heating network. LBH&F have confirmed that this is intended to be delivered in connection with the future Earls Court masterplan. The applicant has confirmed at a future potential connection to this network would be safeguarded through the provision of plans and drawings of the potential connection route and plant room. The applicant has also demonstrated that a site wide heat network would be supplied by a single energy centre and all elements of the scheme would connect to the centralized energy centre via the onsite network. Safeguarding the future potential connection to the LBH&F district heating network will be secured by planning condition.

358 The applicant's original Energy Statement submitted in January 2019 included proposals for a Combined Heat and Power (CHP) plant. However, given the scale and nature of the development this was not deemed acceptable and the applicant was asked to explore alternative low carbon heating methods and that the proposed energy strategy be revised. The addendum Energy Statement dated November 2019 instead proposed centralised air source heat pumps backed up by gas boilers which is deemed acceptable. A planning condition is required for the submission of details of the proposed air source heat pump solution. The submission should demonstrate the efficiencies declared within the addendum Energy Statement have been achieved including costs to the occupant and monitoring provisions.

### Use renewable energy (Be green)

359 The applicant has investigated the feasibility of a range of renewable energy technologies and is proposing to install PV and VRF Heat Pumps for the non-domestic element. A total of 60 sq.m. of net PV, equivalent to 13kWp is proposed to the roof of building 2 only. The applicant suggests opportunities for additional PV could be reviewed further following planning consent when the roof design is developed in more detail and they suggest that the provision of PV on any other roof area will be limited and the benefits could be outweighed by other factors e.g. practicality of safe access and removal/replacement, the infrastructure required for its operation, and the cost of its maintenance. A condition should be applied requiring the applicant to review their PV proposals and demonstrate that PV has been maximised prior to the commencement of works on site.

### Carbon off set payment

360 A carbon offset payment of £324,720 would need to be secured in the s106 agreement to offset the shortfall against the zero carbon London Plan target. By comparison, the applicant's energy strategy which was submitted in January 2019 and predicated on a CHP facility envisaged a site wide carbon off-set payment of £ 514,810 would be required.

### Conclusion – energy strategy

361 Overall, the range of CO<sub>2</sub> reductions would accord with the requirements of Policy 5.2 of the London Plan, 2018 GLA Guidance and Policies SI2 and SI3 of the Mayor's intend to publish London Plan subject to conditions and a carbon offest payment.

## **Flood risk**

362 London Plan Policy 5.12 states that development proposals must comply with the flood risk assessment and management requirements set out in the NPPF over the lifetime of the development and Mayor's intend to publish London Plan Policy SI 12 seeks to ensure that flood risk is minimised and mitigated, and that residual risk is addressed. Local Plan Policy CE2 requires development at risk of flooding including sites greater than 1 hectare to incorporate flood risk measures to account for site condition in accordance with Building Regulations, existing guidance and the recommendations of the site specific Flood Risk Assessment, the Strategic Flood Risk Assessment and the Local Flood Risk Management Strategy. These measures should:

- Address all flood depths for the 1 in 100 year storm event plus climate change to ensure the development will remain safe during a flood event throughout its lifetime;
- Take into account access, egress and emergency exit routes;
- Ensure buildings remain safe for occupants in case of flooding; and
- Apply where required, the measures and actions included in the Local Flood Risk Management Strategy Action Plan.

363 Furthermore, flood risk measures should be protected and maintained for the lifetime of the development. It is noted that RBKC has not raised any objections to the flood risk strategy proposed subject to the imposition of conditions.

364 The site is located within Flood Zone 1. However, as the site lies in Flood Zone 1 and the site is greater than 1 hectare, a Flood Risk Assessment (FRA) is required. The applicant's FRA confirms that the majority of the site has a very low risk of surface water flooding. However, there are small areas where there are at 'low' to 'high' risk of surface water flooding (see figure 34

below). Mitigation is proposed through the implementation of the submitted drainage strategy which is discussed in more detail below. There are no records of groundwater flooding at the site, therefore the risk from this source is reported as low. However, flood resistant techniques would be employed into any construction works where possible. Furthermore, there is potential for groundwater flooding to affect the ground floor of buildings. As such, the finished floor level of building 7 is to be raised 300mm above existing ground floor levels. Pumped devices would be installed in the basement to protect against sewer flooding and provision of non-return valves to prevent water entering properties. Access and egress would not be affected by flooding given the site's low risk. The FRA is considered robust and complies with the provisions of London Plan Policy 5.12, Mayor's intend to publish London Plan Policy SI 12 and RBKC Local Plan Policy CE2 subject to the imposition of conditions securing the suggested mitigation measures as set out in the applicant's FRA and Drainage reports.

Figure 34: Environment Agency indicative surface water flood map - extents



### Sustainable urban drainage

365 London Plan Policy 5.13, Mayor's intend to publish London Plan Policy SI 13 and RBKC Local Plan Policy CE2 promote the utilisation of sustainable urban drainage systems and for developments to achieve greenfield runoff rates in line with the drainage hierarchy. Policy SI13 advocates a preference for green over grey features and advocates the use of drainage systems to provide water efficiency, improved water quality, and enhanced biodiversity, urban greening, amenity and recreation.

366 The surface water drainage strategy provides an assessment of existing runoff rates, and attenuation storage required to restrict the 100 year (plus 40% climate change) post-development discharge rate to greenfield runoff rate of 10.4 l/s (1 in 100 year event). The surface water

drainage strategy addresses the Drainage Hierarchy, and notes that rainwater harvesting, blue/green roofs, tree pits, and permeable paving would form the basis of attenuation. The final details of which would need to be submitted for approval by condition to ensure the greenfield runoff rate is achieved.

367 In terms of water use, the applicant's sustainability statement states that the proposed dwellings will have a maximum indoor water consumption of 105 l/person/day and the non-residential components of the development will target a minimum BREEAM rating of 'Excellent'. Conditions are recommended to secure these features, in line with Policies 5.13 and 5.15 of the London Plan and Policy SI5 of the Mayor's intend to publish London Plan.

#### Urban greening and trees

368 London Plan Policy 5.10 and Policy G5 of the Mayor's intend to publish London Plan require new development to provide urban greening in order to contribute to the adaptation and reduction of the effects of climate change and promote biodiversity. As set out above, the proposed development would include substantial areas of landscaping, including tree planting, flower rich perennial planting, hedges, grassland and green roofs and walls. The Urban Greening Factor (UGF) for the site has been calculated as 0.27 compared to a score of 0.22 based upon the original scheme. Whilst this falls short of the 0.4 UGF target for residential led mixed-use schemes, it has been robustly demonstrated that this is the maximum reasonable score given the site constraints and represents a significant improvement on the existing situation. The proposed landscaping works would be secured by condition, as would the on-going maintenance of landscaping and tree-replanting. Overall, the application provides appropriate levels of urban greening which would be of a high quality and constitute a substantial net increase in urban greening based on the existing site. As such, the application accords with Policy 5.10 of the London Plan and Policy G5 of the Mayor's intend to publish London Plan.

369 Six trees are proposed to be removed from the Tesco Plaza area and replaced with 15 trees as part of the development. A number of trees are also proposed at podium level. Most of the tree planting proposed is at podium level where 53 trees are proposed to be provided. Planting at podium level has increased compared with the original scheme to provide further mitigation against wind conditions including 2 additional 7 metre deciduous trees and replacing five 4.5 metre high trees with six 7 metre high trees to the western edge of building 1. Additional shrub planting is also proposed. RBKC did not object to the removal of existing trees but did query whether the trees would be provided with sufficient substrate depth to accommodate the roots and future growth.

370 The applicant has since provided further detail on the planting strategy for the trees which is provided within the revised Design and Access Statement. This confirms that the podium decking allows for depths of 1 metre or more of topsoil which is considered sufficient to accommodate mature tree root balls. The trees would be anchored using underground guying systems until the root growth secures the trees after establishment. GLA officers consider the proposed tree planting scheme to be acceptable as the trees proposed to be removed are to be replaced with significantly more tree planting than currently exists which largely includes tree planting of greater maturity and RBKC is now in agreement. The additional technical information provided in respect of the tree planting demonstrates that tree planting could be accommodated at podium level. Notwithstanding this, full details of the tree planting strategy including maintenance and irrigation should be provided for approval subject to planning condition to ensure that the proposals to ensure full compliance with London Plan Policy 7.21, G7 of the Mayor's intend to publish London Plan, Policy CR6 of the RBKC Local Plan and RBKC's Trees and Development SPD.

## **Conclusion on climate change and sustainability**

371 The proposed development would minimise carbon dioxide emissions to meet London Plan targets and local policy regarding climate change. The development would not increase flood risk and would deliver sustainable urban drainage and urban greening benefits over the existing situation at the site. The development has committed to achieve high standards in sustainable design and construction. In these respects, the development is in compliance with relevant planning policies regarding sustainability and adapting to climate change.

## **Other environmental issues**

### **Air quality**

372 A core priority of the Mayor's London Environment Strategy (2018) is to improve London's air quality and protect public health by reducing exposure to poor air quality, particularly for the most disadvantaged and those in priority locations such as Air Quality Focus Areas, and outlines a range of initiatives which seek to improve the capital's air quality over time, including the Ultra Low Emission Zone (ULEZ). London Plan Policy 7.14 and Policy SI1 of the Mayor's intend to publish London Plan state that London's air quality should be significantly improved and exposure to poor air quality should be reduced, especially for vulnerable people. Policy SI1 states that development proposals should not create unacceptable risk of high levels of exposure to poor air quality and should ensure design solutions are incorporated to prevent or minimise increased exposure to existing air pollution.

373 RBKC Local Plan Policy CE5 requires development to be carried out in a way that minimizes the impact on air quality and mitigates exceedances of air pollutants. As such, the Council requires all major developments provide an air quality assessment and require developments to be air quality neutral and should not materially increase local air pollutants or other emissions. Control of particles and nitrogen dioxide should also to be controlled during demolition and construction.

374 The whole of the borough of RBKC is within an Air Quality Management Area. RBKC's most recent Air Quality Status report was published in draft in July 2019. Although the mean nitrogen dioxide levels remain above objective levels, they have reduced since 2016 levels across the board indicating an improvement in air quality.

375 The applicant has submitted an Air Quality Assessment as part of the Environmental Statement which has since been updated in November 2019 in line with the proposed revisions. The revised report reflects the change in energy strategy to remove CHPs from the scheme, a decrease in traffic generated by the scheme and increased height of building 2 resulting in a taller chimney stack.

376 The air quality assessment is of good quality and indicates that the development meets air quality neutral standards and will not result in unacceptable impacts on local air quality with the proposed mitigation measures in place. In order to ensure that the development as built would not exceed the impact described in the air quality assessment and prevent impacts during the construction phase conditions would be secured to require details of the engines, boilers and generators would meet or improve upon the emissions rates that other technical parameters as described within the Environmental Statement. A full Construction and Demolition Management Plan including a Dust Management Plan should be provided for approval in accordance with the provisions set out in the Environmental Statement and ensuring all non-road mobile machinery to be used during demolition and construction comply with GLA's emission standards as set out in the GLA's Control of Dust and Emissions During Construction and Demolition SPG. It is also noted

that RBKC also concluded in their May report to committee that the air quality impacts and mitigation measures would be acceptable and fully policy compliant provided the mitigation measures as proposed are fully secured by condition. Therefore, with these conditions secured, the proposals would fully comply with Policy 7.14 of the London Plan, Policy SI1 of the Mayor's intend to publish London Plan and CE5 of RBKC's Local Plan.

## Wind

377 A wind microclimate study was carried out as part of the Environmental Statement in January 2019 and subsequently updated in November 2019. The study was carried out to assess the existing wind conditions at and around the site and to assess the wind conditions that would occur with the introduction of the new development and associated landscaping, taking into account the industry standard Lawson Comfort Criteria (LCC) for pedestrian comfort and safety which identifies the following targeted conditions for mixed use developments:

- 'Strolling' during the windiest season on pedestrian thoroughfares;
- 'Standing' conditions at main entrances, drop off areas, and bus stops throughout the year; and
- 'Sitting' conditions at outdoor seating and amenity areas during the summer season.

378 Concerns were raised in RBKC's officer's report to committee in relation to the original proposals over the expected wind microclimate impacts on the public podium and communal terraces which would experience wind exceedences beyond the Lawson Criteria recommendations even with mitigation in place. Concerns were also raised regarding the acceptability of the mitigation measures proposed.

379 The wind microclimate impacts of the development have been remodelled based on the proposed revisions to the scheme. With the proposed landscaping in place, the wind conditions on the podium level during the windiest season would be marginally worse compared to the proposals as originally submitted with two further instances of 'walking' comfort conditions. However, there is an improvement in wind conditions within the ground floor public realm as a result of the proposed scheme revisions with more instances of 'sitting' wind conditions and fewer of 'standing'. Wind levels experienced at Beckford Close are also improved with fewer instances of 'strolling' conditions. There are no longer any instances of 'strolling' or 'standing' conditions on any of the communal terraces. Relative improvements to wind conditions would also be experienced at each of these locations during the summer season compared to the original proposals with the exception of the podium level which would experience two areas where 'strolling' conditions may occur compared with the original which would experience none.

380 No instances of strong wind exceedences are predicted at ground level compared with 4 instances along West Cromwell Road under the original scheme and there is also a 45% reduction in wind exceedences at podium level also.

381 The proposed wind mitigation measures have been enhanced in the revised scheme including the provision of more planting (shrubs and trees), increased tree size and additional baffles provided at podium and terrace levels.

382 As shown on the Figures X and X below, with the wind mitigation measures in place, the revised scheme would experience slightly worse wind conditions along West Cromwell Road but still LCC compliant and no worse than 'strolling' conditions during the windiest season. Whereas, the wind conditions to the north of the site along Beckford Close would improve with fewer



instances of 'strolling' conditions. There are no instances of 'walking' conditions at podium level and very similar results at ground floor level. The wind levels likely to be experienced in the revised proposals are similar to the results of the original proposals with a slight improvement reported at podium level with one fewer instance of 'standing' conditions. However, on the communal roof terraces, there are more instances of 'sitting' conditions and only one instance of 'standing' compared to four under the original scheme. Therefore, there would be a marked improvement in the wind conditions as experienced on the communal terraces compared with the original proposals.

Figure 35: Original scheme with mitigation measures in place – windiest season

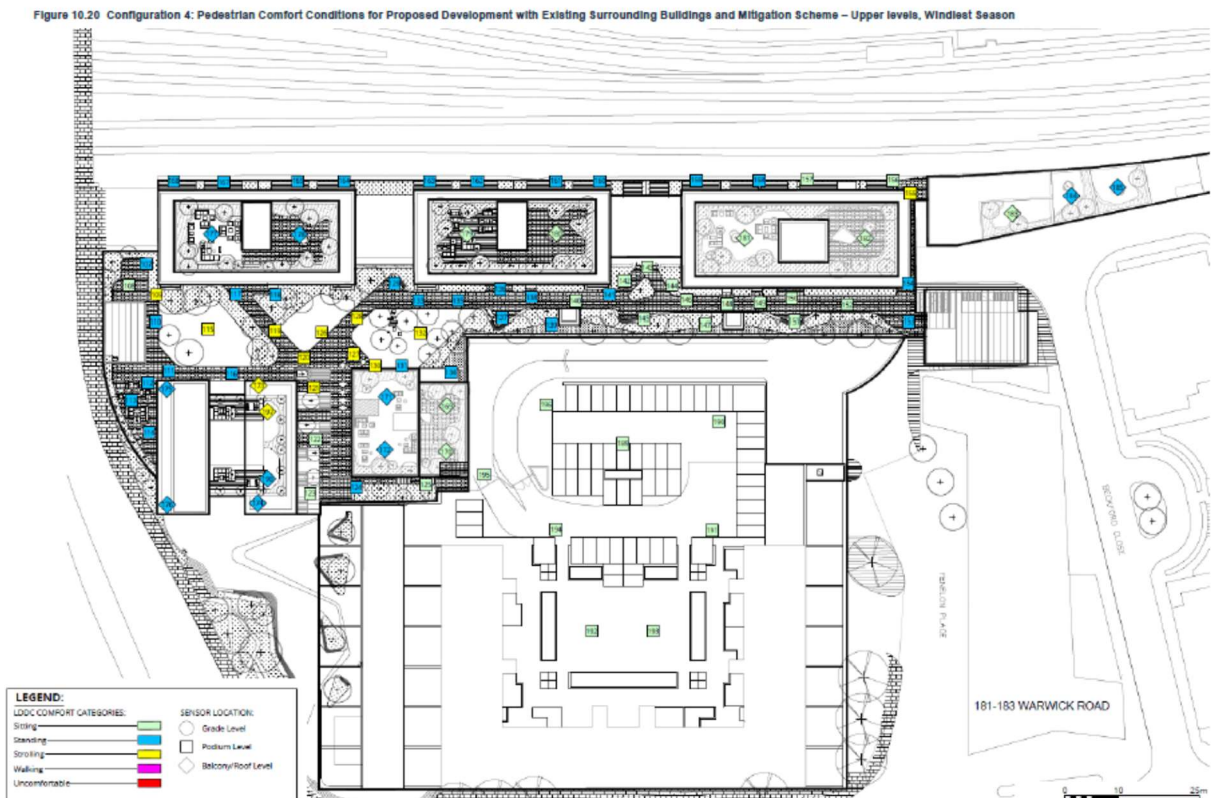


Figure 36: Revised scheme with mitigation measures in place: windiest season

Figure 10.14 Configuration 3: Pedestrian Comfort for the Proposed Development with Existing Surrounding Buildings, Landscaping Scheme, and Wind Mitigation Measures – Upper levels, Windiest Season



383 With the proposed mitigation measures in place, the proposals would meet the targeted conditions in the most part with the exception of the podium during the summer months which would experience 'standing' conditions to the southern end of the podium rather than 'sitting' throughout as the LCC advises. RBKC officers originally raised concerns that this would impact on the usability of this space, particularly given its dual purpose for general amenity and play space. 'Standing' conditions would affect roughly 40% of the podium which is characterised by 'gentle breezes'. Despite this exceedance, it is considered that these areas would still be appropriate for play. There is one instance of 'standing' wind conditions to one of the communal roof terrace to building 7 during the summer months which would also just breach the LCC 'sitting' target but this still represents an improvement on the original scheme.

384 In terms of the appropriateness of the proposed mitigation measures, the mitigation proposed relies mainly on tree and shrub planting rather than physical barriers to wind, which is preferable. The use of balustrading and screens at terrace level is not uncommon in schemes incorporating buildings of this height and would not impede the usability of this space. RBKC are also now in agreement that the wind conditions as experienced within these communal amenity spaces would be appropriate and not unduly impact on their usability.

### Conclusions

385 In conclusion, despite the increased height proposed to building 2, the current proposals would represent an improvement across the site when compared with the original proposals with just landscaping in place. With the proposed mitigation measures in place the impact is very similar to the proposals as originally submitted however, wind comfort levels to be experienced on the communal roof terraces would experience improvement such that they would now meet the LCC target levels for the most part. The podium level public realm would still experience standing conditions to the southern end but the impact on the usability of the space is likely to be limited.

Given the additional mitigation measures proposed, both RBKC and GLA officers now consider the scheme would be acceptable in this regard and would not result in a significant impact on users of nearby streets/roads or future occupiers of the proposed development. Subject to condition the development would therefore fully accord with London Plan Policy 7.6, Policy D8 and D9 of the Mayor's intend to publish London Plan and Local Plan Policy CL5.

## **Waste**

London Plan Policy 5.17 requires adequate provision for waste and recycling storage and collection facilities as part of new developments. In relation to waste generated through demolition, groundworks and construction, Policy 5.18 requires applicants to produce site waste management plans to arrange for the efficient handling of construction, excavation and demolition waste and materials. Mayor's intend to publish London Plan Policy S17 seeks to reduce waste and increase material reuse and recycling and promotes a circular economy. The policy also sets several waste targets including a strategic target of zero biodegradable waste or recyclable waste to landfill by 2026. RBKC Local Plan Policy CE3 promotes re-cycling and re-use of waste and requires new development to provide innovative well designed, functional and accessible refuse and recycling storage space which allows for ease of collection in all developments.

### Construction waste

386 The applicant has produced a Site Waste Management Plan as an appendix to an outline Construction Traffic Management Plan which states that has been developed to ensure compliance with the Site Waste Management Regulations 2008 condition and implement best practice with regards to resource efficiency and management of waste which accords with the provisions of London Plan Policy 5.18 and Mayor's intend to publish London Plan Policy SI 7. However, a full Construction Environmental Management Plan (CEMP) would need to be secured by condition which would require the submission and approval of a detailed waste management plan to set out a scheme for the recycling and disposal of waste generated through the demolition, site clearance, groundworks and construction.

### Operational waste

387 Details of waste management during operation is contained within the Transport Assessment (January 2019) having regard to the waste management guidelines as contained within RBKC's Transport and Streets SPD. The strategy sets out minimum internal storage capacity (allowing for segregation of waste) for individual units as well as the location and size of communal waste and recycling storage and collection facilities. The communal waste and recycling storage facilities for buildings 1-5 would be located at podium level with a central holding zone provided in building 1. Bulky items would be stored at basement level. Collections would be made via the Shaftsbury Place car park. A bin store is provided at ground floor of building 7 and collections would be made direct from Beckford Close.

388 The proposed strategy is acceptable in line with London Plan Policies 5.17 Mayor's intend to publish London Plan Policy S17 and RBKC Policy CE3. Notwithstanding this, the plan would need to be fully updated to reflect the current revised proposals. To ensure the proposed strategy is implemented and subject to further detailed discussion with the local waste collection authority, a condition is recommended to require a more detailed operational waste management and recycling strategy to be submitted and approved by RBKC. Associated issues in relation to logistics and refuse vehicle access and movements would also be covered by further recommended conditions relating to deliveries and servicing and highways design.

## Contaminated land

389 London Plan Policy 5.21 and RBKC Local Plan CE7 requires the investigation and, where appropriate, remediation of contaminated sites, with appropriate mitigation to ensure contaminated land is brought back into beneficial use and to avoid harm to the environment or human health. A Phase 1 Contamination Report (2018) has been submitted as part of the application. This included a desk-based assessment, on-site survey and review of existing contamination data on the site to provide an initial evaluation of the ground conditions, geology, hydrology and the potential extent of soil contamination, taking into account the historic use of the site. The assessment concludes that the potential risks arising from contamination can be mitigated appropriately through carrying out targeted intrusive investigation to identify and via industry standard recommended best practice measures Construction and Demolition Environmental Management Plans the submission and approval of which would need to be secured by condition. Accordingly, appropriately worded planning conditions are recommended to require further assessments to be undertaken in relation to land contamination to determine the level of contamination in more detail, with full details of the proposed mitigation and monitoring measures to be provided and secured.

## Transport

390 Chapter 9 of the NPPF sets out the Government's aim to promote the use of sustainable modes of transport. When considering the transport implications of development proposals, the NPPF states that decision-makers should ensure that site specific opportunities available to promote sustainable transport modes have been taken up; safe and suitable access to site would be achieved for all users; and any significant impacts from development on transport network (in terms of capacity or congestion) or highways safety can be mitigated to an acceptable degree. Paragraph 109 of the NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or where residual cumulative impacts on the road network would be severe. Paragraph 110 of the NPPF sets out additional criteria which should be addressed which includes pedestrian, cycle and inclusive access.

391 London Plan Policy 6.1 sets out a strategic approach for transport in London. This includes the aim to encourage patterns of development that reduce the need to travel, especially by car, through the use of maximum car parking standards; seeking to improve the capacity and accessibility of public transport, walking and cycling infrastructure; encouraging shifts to more sustainable modes of travel and promoting walking and safe and step-free access. Policy 6.3 states that the impact of development proposals on transport capacity and network should be fully assessed and not adversely affect safety, with schemes appropriately phased where transport capacity is insufficient to allow for the expected trip generation. Other relevant transport policies are Policies 6.9, 6.10, 6.11 and 6.13 which cover cycling, parking and traffic congestion. Policy 8.2 of the London Plan sets out the Mayor's priorities for planning obligations and states public transport improvements should be given the highest importance, alongside affordable housing.

392 The Mayor's Transport Strategy (2018) (MTS) seeks to promote sustainable mode shift, reduce road congestion, improve air quality and assist in the development of attractive, healthy and active places. The MTS aims to ensure that by 2041, 95% of all Londoners' trips will be made on foot, by cycle or by public transport in Central London. Also of particular relevance is Proposal 5 which states the Mayor (through TfL) will make it easier for people to walk and cycle in London by; maintaining, expanding and improving wayfinding with 'Legible London' and making sure the on-street cycle network signage is clear and consistent. Policy 3, 9 and 10 relate to Vision Zero which aims to eliminate all deaths and serious injuries on London's transport system. One of the targets is to promote safe street design by ensuring all transport infrastructure projects in London contribute to reducing road danger with particular attention to high risk areas such as junctions.

393 Proposal 80 of the MTS sets out that the Mayor, through TfL and the boroughs will:

- a) Impose high expectations on developers to deliver transport solutions that will promote a shift to active, efficient and sustainable modes, reduce road congestion, improve air quality and assist in the development of attractive, healthy and active places.
- b) Restrict car parking provision within new developments, with those locations more accessible to public transport expected to be car-free. New developments should contain high levels of cycle parking and storage, and contribute to the provision of on-street cycle parking in town centres and other places of high demand.

394 Policy T1 of the Mayor's intend to publish London Plans requires development proposals to support this overarching aim, as do a range of other policies in the Mayor's intend to publish London Plan on 'Healthy Streets' (Policy T2), cycling (Policy T5), parking (Policy T6, T6.1-T6.5) and funding necessary transport mitigation measures (Policy T9). Policy T4 of the Mayor's intend to publish London Plan requires transport impacts to be assessed and mitigated and avoid road danger. A number of the policies contained in Chapter 1 are also relevant: including making the best use of land (GG2) and creating a healthy city (GG3).

395 RBKC Local Plan Policy C03 seeks to ensure that walking, cycling and public transport are safe, easy and attractive and preferred by residents to private car ownership and use. Policy CT1 requires major development proposals with significant trip generation potential to be in locations with a PTAL score of 4 or above (or planned to be), and where there is sufficient public transport capacity. This policy also requires that development would not result in any material increase in traffic congestion or on-street parking pressure; new residential development is permit-free; car parking is at or below the adopted car parking standards; parking in non-residential development is for essential need only; cycle parking showing and changing facilities are provided in new development and improvements to the walking, cycling environment are made through new developments and new development to incorporate measures to improve road safety, and in particular safety of pedestrians, cyclists and motorcyclists, and resist development that compromises road safety. Furthermore, all larger scale development should provide Transport Assessments and Travel plans; contributions toward improvements to transport services, access and interchange would be sought; resist new public car parks and loss of off-street coach parking; and ensuring that development does not reduce access to, or the attractiveness of, existing footways and footpaths used by the public, or land over which the public have a right of way. Also of relevance to the proposals are policies relating to public realm (Policy CO4), street and outdoor life (Policy CR3), and streetscape (Policy CR4).

396 In respect of site specific transport improvements, the Local Plan Warwick Road sites allocation (Policy CA5) seeks to secure streetscape improvements to the West Cromwell Road in connection with all development sites; pedestrian and cycle improvements; a contribution to investigate and implement measures to return the Earl's Court one way system to two way working.

397 RBKC's Transport and Streets SPD (April 2016) provides further guidance on detailed matters relating to transport.

#### Vision zero and healthy streets

398 The West Cromwell Road/ Warwick Road junction is hostile and traffic dominated with three lanes in each direction. It has a high accident record, including a number of fatalities, and the facilities for cyclists and pedestrians are poor. The proposed development will create further transport movement at this junction, including servicing and deliveries, as well as pedestrians and

cyclists navigating the crossing to order to access the residential and local amenities the proposal would provide. Therefore, this development necessitates a financial contribution towards improving this junction.

399 As such, an initial £150,000 s106 contribution would be required to facilitate the redesign the junction, incorporating and considering the proposed development requirements. A further £2.5 million contribution would also need to be secured within the s106 agreement for the delivery of upgrades to this junction. This will form part of a wider funding package to allow TfL to deliver a major Healthy Streets scheme at this location, with key objectives of improving safer usage by all, and improvements to pedestrian and cyclist facilities for the local community. This is in line with London Plan Policy 6.1, Policy 3, 9 and 10 of the Mayor's Transport Strategy and Mayor's intend to publish London Plan Policy T2 promoting the 'vision zero' objectives, which aim to eliminate all deaths and serious injuries on London's transport system by design safe streets and reducing risk at more hazardous locations, such as junctions.

400 Mayor's intend to publish London Plan Policy T2 Healthy Streets aims to improve air quality, reduce congestion and make attractive places to live, work and do business. The Healthy Streets Active Travel Zone assessment and assessment against the Healthy Streets Indicators, which have been submitted as part of the applicant's transport assessment (TA), highlight how the development improves the site and local area when compared with the existing situation. The development would enhance the footway of West Cromwell Road by adding soft landscaping to overcome the level change. The existing plaza in front of the Tesco store will be redesigned providing an improved, landscaped footway area, short-stay cycle parking, additional planting and seating, which will improve the sites connection with West Cromwell Road. Pedestrian and cyclist access is also via Fenelon Place, Beckford Close and which is acceptable.

401 The landscaped amenity area within the development would enhance the site and should be promoted as a safe, relaxing space to stop and rest. The site layout encourages permeability with a connection provided to the adjacent 195 Warwick Road site; this integration and interaction with the adjacent area is positive.

402 There is also a local aspiration to provide a pedestrian and cycle route below West Cromwell Road connecting the site to the Earls Court Opportunity Area, via the north-south NAR underpass (Northern Access Route) as identified in the May 2019 RBKC officer's report to committee. As such the s106 agreement would need to ensure that the applicant use reasonable endeavours to secure necessary consents for the provision of a pedestrian and cycle link between the site and Earls Court via the Northern Access Route in the event the Northern Access Route is not required for constriction access to Earls Court.

403 The guard rail to the opposite side of the street extends only around the corner of Beckford Close and the unregulated parking identified in the report would be mitigated through the redevelopment of a large portion of the land where the unregulated parking currently takes place. Whilst it acknowledged that the proposed set back pavement beneath building 7 would not create the most attractive pedestrian environment, this arrangement is deemed necessary given the narrow plot width of this part of the site and need to maximise the proportions and residential amenity of the upper floors of this building. As such it is considered acceptable under Policy T2 of the Mayor's intend to publish London Plan, Policies CT1 and CR1 of the RBKC Local Plan.

#### Public transport impact assessment

404 At Stage 1 and Stage 2 consultation, an updated modal split exercise was requested by TfL to understand the impact of the development on the public transport network and any necessary mitigation. In particular, concerns were raised about the station capacity at Earls Court Station and its ability to cater for current demand in the peak hours.

405 An updated modal split exercise has been prepared which states that the development will give rise to an additional 191 entries to Earls Court Station in the AM peak. This 191 is further split out with 103 and 7 people travelling on the District line, north-eastbound and south-westbound, respectively, and 74 and 9 people travelling on the Piccadilly line eastbound and westbound, respectively. A gateline capacity assessment has been carried out for Earls Court station, but no assessment has been provided for West Kensington Station. Whilst the proposal would result in some additional impact, the capacity issues identified are existing with the network and it would be unreasonable to suggest that the developer covers the costs to improve this existing situation. However, the developer has provided a significant contribution towards the existing safety issues at West Cromwell Road/Warwick Road junction and TfL and GLA officers consider that this improvement should be prioritised on this occasion.

406 The development is located adjacent to a bus stop on Warwick Avenue and is located within walking distance of a number of other high frequency bus services. The TA predicts 18 in/ 34 out trips to the site to be made by bus in the AM peak, which can be accommodated on the wider strategic public transport network.

407 In terms of vehicle trips, the traffic generation for the proposed development, when compared to the 2017 consented development is lower. The TA expects a net impact of -11 in/ 13 out trips in the AM Peak hour and -12 in/-12 out in the PM peak. Subject to the aforementioned Healthy Streets junction upgrade, the vehicle trips can be accommodated on the strategic road network and would therefore comply with London Plan Policy 6.3 and Mayor's intend to publish London Plan Policy T4. It was also noted in the May 2019 RBKC officer's report to committee that the impact of the proposed development in terms of trip generation would be less than the previously consented scheme and no objection was raised in respect of RBKC Local Plan Policy CT1.

#### Car parking

408 The residential scheme originally included 78 general car parking spaces for 462 residential units which, following further discussion with the applicant, has been reduced to 31 disabled user spaces. This level of parking meets the adopted London Plan Policy 6.13, which requires significantly less than one space per unit in areas of good public transport access, and demonstrates the commitment of the proposal to promote sustainable travel. The proposal also meets Mayor's intend to publish London Plan Policies T6.1 and T6.3, which expect car-free development to be the starting point for all new developments in high PTAL areas, with the exception of Purple Badge provision. Whilst RBKC officers considered the original proposed car parking ratio of 0.18 spaces per unit to be acceptable in principle it was noted in the May 2019 officer's report to committee that the parking quantum and layout would be at the expense of acceptable access to the cycle parking stores, or a future pedestrian/ cycle connection through to the Earl's Court masterplan. The reduction in car parking and further refinements to the parking layout have enabled improvements to the cycle storage (which is discussed in more detail from paragraph X of this report) and also facilitated potential future pedestrian/ cycle access to Earls Court. Furthermore, the current proposed car parking does not conflict with the provisions of RBKC Local Plan Policy CT1 which requires car parking in new residential development to be at or below car parking standards.

409 Mayor's intend to publish London Plan Policy T6.1G expects 3% of residential units to be provided with an accessible parking space from the outset, with provision for a further 7% of units being provided on plan if demand arises. The 31 spaces proposed amounts to approximately 7%. A commitment in the Parking Design Management Plan should be made to provide up to 10% of units with accessible spaces in the future. Accessible spaces should be allocated on a short term lease, based on residence's needs.



410 A total of 8 car club spaces are proposed, the final number of spaces and management of these, alongside all other parking matters, should be secured through a Parking Design and Management Plan (PDMP) document. This should be provided prior to occupation, secured by condition, and agreed in consultation with TfL.

411 To meet Mayor's intend to publish London Plan Policy T6.3, all parking spaces should have active charging infrastructure for 20% of parking spaces with a further 80% of spaces having passive provision for electric vehicle charging, this would need to be secured by condition. All residential units should be sold with a permit free obligation, prohibiting residents from having the ability to obtain a council parking permit which would need to be secured within the s106 agreement. This ensures they cannot park on local roads and aims to limit parking pressures in the area.

#### Retail and other uses

412 The current Tesco foodstore will remain unchanged as part of this application, yet the vast majority of the store's associated car parking (299 out of the current 315 spaces) would be retained as part of this proposal, as required through the site's lease agreement with Tesco Ltd. A condition should be sought restricting the number of Tesco car parking spaces to 299 following construction. Nevertheless, the applicant has confirmed a reduction of 15 foodstore car parking spaces, which is welcomed and in line with the overall site's aim to promote active travel. The remaining spaces are expected to be managed by a PDMP, to ensure appropriate usage and effective use of space on this site.

413 For the other proposed uses on site, there are 2 accessible visitor parking bays proposed for the leisure usage, 5 motorcycle bays, and a maintenance vehicle parking space. Details of how these spaces are to be managed should be clearly set out within the PDMP. RBKC's officer's report to committee in May 2019 suggested 8 motorcycle bays should be provided which would equate to 10% of the provision of car parking, in accordance with RBKC's Transport and Street's SPD. Given that the quantum of car parking has been subsequently reduced, and as car-free parking should be the start point for new development, according to Mayor's intend to publish London Plan Policy T6.1, the quantum of 5 spaces is considered acceptable in this instance.

414 The 60 car parking spaces associated with the existing Notting Hill Housing Association units would be retained and are not part of the development proposals.

#### Coach parking

415 The site historically housed a basement 36 bay coach and lorry parking facility. Although the facility has not been in use for some time, the proposals would mean that this would permanently removed from the site. London Plan Policy T6.8, good access for coaches and associated facilities should be retained in Central London. Furthermore, London Plan SPG '*Land for Transport Functions*' states that if a site currently being used for permanent coach parking facilities is to be redeveloped, a suitable alternative site should be provided and RBKC Local Plan Policy CT1 also seeks to resist the loss of off-street coach parking.

416 As such, as secured by the previous extant consent for the site, a contribution of £110,000 would need to be secured within the s106 agreement in order to mitigate the loss of this parking with a view to funding coach park mapping at alternative location(s) in Central London.

## Cycling

### Cycle parking provision

417 New development should take every opportunity to overcome the barriers to cycling and the provision of good quality, well located cycle parking is a critical part of this. It is therefore welcomed that 872 long-stay residential spaces are proposed, which is above the requirements in Policy 6.9 of the London Plan and Mayor's intend to publish London Plan Policy T5. This number has been increased following discussions with the applicant in August 2019. The provision for non-residential flexible floorspace (leisure, community, offices and commercial space) also meet Mayor's intend to publish London Plan cycle parking standards, as detailed in table X below.

Table 17: Cycle parking provision

Cycle Parking	Proposed		London Plan (in line with RBKC)		Mayor's intend to publish London Plan	
	long-stay	short-stay	long-stay	short-stay	long-stay	short-stay
Residential	872	12	748	12	834	13
Non-resi (leisure, community, offices and commercial space)	62	30	11-16	4-13	21-31	4-22

418 The provision of end of journey facilities for staff, such as showers and lockers, should also be secured by condition within the PDMP, and meet the requirements in the London Cycle Design Standards. It is expected that designs cater for all types of cycles with 5% of spaces suitable for larger bikes. The applicant has provided amended cycle storage plans which appear to be in compliance with the requirements of the LCDS, the final details of this should be secured by condition and approved by TfL.

419 One year's free cycle hire memberships would also need to be secured for each of the future dwellings and secured within the s106 agreement and provided on first occupation of the residential units.

420 Subject to the above conditions and obligations being secured, it is considered that on balance the application meets the policy requirements for on-site cycling infrastructure contained in London Plan Policy 6.9 and Mayor's intend to publish London Plan Policy T5.

### Delivery and servicing

421 All delivery and servicing is to take place off the TLRN with the majority of deliveries being directed to the basement for both the residential and non-residential uses. Access to this area will be from Fenelon Place, which is the current practice for foodstore deliveries. This meets Mayor's intend to publish London Plan Policy T7. A concierge service will manage residential deliveries and servicing, via the podium level, and commercial servicing will be via the basement, organised through private refuse collection.

422 Building 7 has frontage to Beckford Close and will be serviced on-street. Delivery vehicles will use the existing carriageway as well as the existing turning area at the southern end of the Close. Beckford Close is managed by a private parking management company and it is expected that the double yellow lines on Beckford Close would be enforced in the same manner as they would on the public highway. This allows for reasonable loading activity but prohibits parking; signage is in place to inform drivers that parking on the road could result in a financial penalty. The proposal adheres to RBKC guidance in terms of collection where the distance that a refuse vehicle has to reverse should not generally exceed its own length and where large wheeled bins are to be used, the refuse storage area is sited within 10 metres of the back of the vehicle. The measures proposed ensure that the development can be serviced from Beckford Close without detriment to existing residents or operations.

423 The Delivery and Servicing Plan (DSP) was prepared as part of the original submission in January 2019 and is acceptable in principle, however, an updated DSP should be prepared prior to site occupation, which should be secured and enforced through condition.

#### Delivery, construction and travel planning

424 The Construction Traffic Management Plan (CTMP) details the proposed construction arrangements over a four year build programme. The CTMP was produced in January 2019 and should be a live document that is updated once final timeframes are known. The construction access is proposed via three Gates; Gate 1 is the Northern Access Route from Earls Court, Gate 2 is a private road off Warwick Road, and Gate 3 is a temporary layby on West Cromwell Road. The proposed access arrangements are acceptable in principle. However, a Construction Logistics Plan (CLP) should be prepared in line with TfL guidance. Both plans should be secured by condition and approved by the TfL Network Impact team, in conjunction with RBKC, prior to construction works starting on site, alongside the relevant monitoring fee for RBKC as set out in the draft s106 agreement. It is noted that all construction accesses are directly from the TLRN and the applicant should note that final sign off of the CLP is likely to be subject to highway modelling and TfL may require mitigation, including restrictions on peak hour movements and daily vehicle caps.

425 A draft Residential Travel Plan has been prepared. The final travel plan should include commitment to providing the aforementioned cycle hire memberships for all units in the Residential Welcome Pack, as an incentive to promote cycling. This Plan should be approved by RBKC in conjunction with TfL prior to occupation. It should be secured by planning obligation, alongside the relevant monitoring fee for the Council as set out in the draft S106 agreement.

#### **Conclusion of transport matters**

426 This site will make a positive contribution to improving the safety of all users of the Warwick Road/ West Cromwell Road junction. In addition, the site will deliver an improvement from the existing situation in terms of Healthy Streets by enhancing the footway of West Cromwell Road, by adding soft landscaping and redesigning the plaza in front of the Tesco and by reducing the severance between the site and West Cromwell Road. The site layout encourages permeability and north-south connections. The applicant would be required under the terms of a s106 obligation to explore the potential for converting the existing right of way through the site to Earls Court to a pedestrian/ cycle route once no longer required by the adjoining land owners.

427 The site is well positioned to access a range of bus and London Underground services, as such, it is suitable for high trip generating uses. A review of the submitted trip generation concludes that the net vehicle trips can be accommodated on the strategic road network, subject to the aforementioned Healthy Streets junction upgrade scheme coming forward to support active travel, improved road safety and reduce vehicle dominance.

428 The residential development provides 31 Purple Badge car parking spaces only, and provides high-quality cycle parking and cycle hire memberships which together, promote sustainable travel to/from the site. In addition, a reduction of 15 Tesco car parking spaces are proposed, highlighting the developments commitment to encouraging active healthy travel, and improved air quality for the local community.

429 Subject to the satisfactory completion of the s106 agreement and necessary planning conditions being attached to any permission, on balance, the application conforms with the London Plan, Mayor's intend to publish London Plan, MTS policies and aims and RBKC Local Plan and Transport and Streets SPD.

## **Impact on social infrastructure**

430 London Plan Policy 3.16 and Policy S1 of the Mayor's intend to publish London Plan support the provision of adequate social infrastructure as part of new developments and states that facilities should be accessible by walking, cycling and public transport. London Plan Policy 3.18 and Policy S3 of the Mayor's intend to publish London Plan supports the provision of childcare facilities to meet growing demand. As identified in the land use principles section of this report, RBKC Local Plan Policy CA5 site allocation, requires the provision of a leisure, social and community uses on 100/100A West Cromwell Road site including a sports hall and swimming pool. Furthermore, Policy CK1 supports the development of new social and community uses which predominantly serve or which provide significant benefits to, borough residents.

431 As part of the public consultation on the application and subsequent revisions, a number of objections made on the issue of capacity of local social infrastructure (particularly school and health facilities) and the impact of the application, with objectors also concerned that, the originally proposed leisure facilities were insufficient.

432 The applicant's updated Environmental Statement (ES) has modelled the impact of the development on social infrastructure in the area, including primary and secondary schools and healthcare facilities, taking into account the existing and future levels of demand and capacity and cumulative effects associated with other extant planning permissions expected to be brought forwards in the area. This assessment takes into account the Council's existing programme for providing new and expanded primary and secondary schools capacity in the area to 2024.

### Primary and secondary schools

433 According to the applicant's ES, the development is expected to generate approximately 972 residents. In terms of child yield and the impact on local schools, the applicant's ES using GLA's Population Yield calculator to estimate that the child yield of the scheme which includes 74 under 5s, 55 children between ages 5-11 and 34 children ages 12+.

434 The ES concludes that the development would result in the need for 63 primary and 27 secondary school places. Given the existing school capacity in the area and development of a new primary school to the north of the site, the school place demand can be adequately met and therefore would be a negligible impact on the secondary and primary school provision in the local area.

### Healthcare

435 The ES includes an assessment of the impact on health facilities and calculates that the scheme would generate demand for 0.54 GP services, based on the HUDU<sup>7</sup> guidance of 1,800 patients per GP. The ES concludes that there is capacity locally to meet this additional healthcare demand, with local GPs operating below this HUDU standard.

#### Conclusion – impact on social infrastructure

436 The delivery of a new public leisure facility and pool would be of significant benefit to both future residents and existing local residents. In terms of the impact of the development on other social infrastructure such as schools and healthcare, the demand would be met entirely by the existing capacity of local facilities in line with London Plan Policy 3.16 and Policy S1 and S3 of the Mayor’s intend to publish London Plan, and RBKC Local Plan Policy CA5 and CK1.

### **Mitigating the impact of the development through planning obligations**

437 Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a section 106 planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are statutory tests.

438 The NPPF states that “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”

439 At the regional level, London Plan Policy 8.2 sets out the Mayor’s priorities for planning obligations, and states that affordable housing; supporting the funding of Crossrail where this is appropriate; and other public transport improvements should be given the highest importance.

440 RBKC Local Plan Policy C1 seeks the use of planning obligations and other funding mechanisms to support the delivery of infrastructure facilities and services to meet needs generated by new development and mitigate the impacts. RBKC’s Planning Contributions SPD (2019) provides further guidance on how the Council will secure planning obligations, where these are necessary to mitigate the impacts of development.

441 Pursuant to the consideration within the previous sections of this report, and in line with the policy context set out above, GLA officers propose to secure several planning obligations required to appropriately mitigate the impact of this development, which are set out in full at paragraph 4 and 5 of this report. In doing so, the pooling restriction in regulation 123 of the CIL Regulations 2010 has been considered and GLA officers are confident that none of the obligations in the Section 106 agreement will be affected as they either will not be spent on “infrastructure” as defined in the regulations or will be sufficiently narrowly described in the s106 agreement. A full list of the obligations is provided below. Where appropriate, GLA officers have provided an additional commentary below to support the consideration within this report and to inform the detailed drafting of a Section 106 legal agreement.

#### Affordable housing

442 As discussed in the housing section of this report, 77 affordable rent units would be secured at London Affordable Rent benchmark levels and 109 units provided at Discounted LLR

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<sup>7</sup> London Healthy Urban Development Unit Planning Contributions Model

levels. Details of affordable housing definitions, fit out, accessible and adaptable units, transfer/lease to a Registered Provider, rent levels for the affordable rented and discounted LLR units and the retention of the affordable units at the proposed rent levels, would be set out in the Section 106 agreement.

### Transport

443 The following transport obligations would be secured by legal agreement:

- West Cromwell Road / Warwick Road TfL healthy streets scheme contribution within 12 months of commencement of the development<sup>8</sup> to mitigate against the likely impact from the increase in trips associated with the development;
- West Cromwell Road / Warwick Road TfL healthy streets scheme feasibility study contribution to the GLA prior to the start of enabling works<sup>9</sup> for the development;
- Legible London contribution to the GLA six months prior to first occupation of the development to mitigate against the uplift in pedestrian trips and assist wayfinding;
- Coach Parking Facilities Contribution to the GLA six months prior to anticipated first occupation of the development to mitigate the loss of the coach parking facility;
- Travel Plan monitoring contribution to the Council prior to anticipated first occupation of the development to encourage sustainable travel in accordance with RBKC Planning Contributions SPD;
- Demolition and Enabling Works Traffic Management Plan contribution(s) to the Council prior to the commencement of each phase of the demolition and enabling works in accordance with the RBKC Planning Contributions SPD;
- Construction Traffic Management Plan contribution to the Council prior to the commencement of any demolition or enabling works in accordance with the RBKC Planning Contributions SPD;
- Permit free obligation to ensure that residents of the development do not disenfranchise existing residents by parking in the surrounding roads;
- Use reasonable endeavours to secure necessary consents for the provision of a pedestrian and cycle link between the site and Earls Court via the Northern Access Route in the event the Northern Access Route is not required for construction access to Earls Court in the interests of maximizing future pedestrian / cycle permeability; and
- and a one year free cycle hire membership to be provided to each dwelling on first occupation of each dwelling to mitigate against the likely impact from the increase in trips associated with the development.

### Other obligations

- Carbon offset contribution to the Council prior to the implementation of the development to ensure compliance with London Plan energy policy;

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<sup>8</sup> The definition of commencement for the purposes of the s106 is in the process of being agreed but is likely to be triggered by construction works above the podium (i.e. excluding preparatory and enabling works)

<sup>9</sup> Enabling works is defined as strengthening works within the existing podium structure

- Construction phase skills and training contribution to the Council prior to the implementation of the development in accordance with the RBKC Planning Contributions SPD;
- End user employment and training contribution to the Council prior to the implementation of development [TBC] in accordance with the RBKC Planning Contributions SPD;
- Library facilities contribution to the Council prior to implementation of the development [TBC] in accordance with the RBKC Planning Contributions SPD;
- If payable, parks and open spaces contribution to the Council's prior to the implementation of the development [TBC] in accordance with the RBKC Planning Contributions SPD;
- Air quality contribution to the Council prior to the implementation of the development in accordance with the RBKC Planning Contributions SPD;
- Public art to be provided within the development prior to the occupation of the development in accordance with a strategy approved by the Council six months prior to the anticipated occupation of the development in accordance with the RBKC Planning Contributions SPD;
- The provision of a Community Leisure Centre prior to occupation of 85% [TBC] of the dwellings and secure the operation and management of the Community Leisure Centre in accordance with the Local Plan site allocation;
- Local procurement schedule in respect of the construction period to the Council prior to the start of enabling work in accordance with the RBKC Planning Contributions SPD s;
- Training, employment and business strategy to be submitted to the Council prior to the commencement of the enabling works of the development and thereafter comply with the approved strategy in accordance with the RBKC Planning Contributions SPD;
- Securing public access across the podium in the interests of maximising the permeability of the site; and
- Section 106 monitoring fee, dispute resolution provisions and provisions for repayment of unspent financial contributions.

## **Legal considerations**

444 Under the arrangements set out in Article 7 of the Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Mayor is the Local Planning Authority (LPA) for the purposes of determining this planning application ref: PP/19/00781

445 Section 35 of the Greater London Authority Act 2007 inserts section 2F into the Town and Country Planning Act 1990 a requirement that for applications the Mayor takes over, the Mayor must give the applicants and the LPA the opportunity to make oral representations at a hearing. He is also required to publish a document setting out:

- who else may make oral representations;
- the procedures to be followed at the hearing; and,
- arrangements for identifying information, which must be agreed by persons making representations.



446 The details of the above are set out in the Mayor's Procedure for Representation Hearings which reflects, as far as is practicable, current best practice for speaking at planning committee amongst borough councils.

447 In carrying out his duties in relation to the determination of this application, the Mayor must have regard to a number of statutory provisions. Listed below are some of the most important provisions for this application.

448 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that in dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to the application;
- b) Any local finance considerations, so far as material to the application; and
- c) Any other material consideration.

449 Section 70(4) defines "local finance consideration" as:

- a) A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- b) Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

450 In this context "grants" might include the Government's "New Homes Bonus" - a grant paid by Central Government to local councils for increasing the number of homes and their use.

451 These issues are material planning considerations when determining planning applications or planning appeals.

452 Furthermore, in determining any planning application and connected application, the Mayor is required by section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the application in accordance with the Development Plan (i.e. the London Plan and the adopted Local Plan) unless material considerations indicate otherwise.

453 Other guidance, which has been formally adopted by RBKC and the GLA (e.g. Supplementary Planning Documents and Supplementary Planning Guidance), will also be material considerations of some weight (where relevant). Those that are relevant to this application are detailed in this Representation Hearing report.

454 Officers are satisfied that the current report to the Mayor has had regard to the relevant provision of the Development Plan. The proposed section 106 package has been set out and complies with the relevant statutory tests, adequately mitigates the impact of the development and provides necessary infrastructure improvements.

455 As regards Community Infrastructure Levy (CIL) considerations, the Mayoral CIL payment associated with this development have been estimated to be up to £3,996,550, whilst the RBKC CIL payment is estimated to be £7,310,829. These figures do not yet take into account any social housing relief which might be applicable.

456 In accordance with his statutory duty in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Mayor shall have special regard to the desirability of preserving Listed Buildings, their settings and any features of special architectural or historic interest which they possess. These matters have been addressed within earlier sections of the report.

457 Where the Mayor takes over an application, he becomes responsible for the section 106 legal agreement, although he is required to consult the relevant borough(s). In this instance, there have been a series of lawyer led meetings to discuss the section 106 content, and it has progressed on a number of key issues, whilst others remain outstanding at this point in time. Both the Mayor and the borough are given powers to enforce planning obligations.

458 When determining these planning applications, the Mayor is under a duty to take account of the provisions of the Human Rights Act 1998 as they relate to the development proposal and the conflicting interests of the applicants and any third party affected by, or opposing, the application, in reaching his decision. Planning decisions on the use of land can only be taken in line with the Town and Country Planning Acts and decided in accordance with the development plan unless material considerations indicate otherwise.

459 The key Articles to be aware of include the following:

- (a) Article 6 - Right to a fair trial: In the determination of his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- (b) Article 8 - Right to respect for private and family life: Everyone has the right to respect for his private and family life, his home and his correspondence.
- (c) Article 1 of the First Protocol - Protection of property: Every person is entitled to the peaceful enjoyment of his possessions.

460 It should be noted, however, that most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted i.e. necessary to do so to give effect to the Town and Country Planning Acts and in the interests of such matters as public safety, national economic well-being and protection of health, amenity of the community etc. In this case this Representation Hearing report sets out how this application accords with the Development Plan.

461 Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a section 106 planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are now statutory tests.

462 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Mayor as Local Planning Authority), that the Mayor as a public authority shall amongst other duties have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

463 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

464 Officers are satisfied that the application material and officers' assessment has taken into account the equality and human rights issues referred to above. Particular matters of consideration have included provision of accessible housing and parking bays, the provision of affordable and family housing and the protection of neighbouring residential amenity.

## Conclusion and planning balance

465 As detailed above Section 38(6) of the Planning and Compensation Act 2004 requires matters to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

466 When assessing the planning application, the Mayor is required to give full consideration to the provisions of the Development Plan and all other material considerations. He is also required to consider the likely significant environmental effects of the development and be satisfied that the importance of the predicted effects and the scope for reducing them, are perfectly understood.

467 When considering the proposals, GLA officers have applied the approach required in section 16 of the NPPF and had regard to the statutory duties relevant to the protection of heritage assets.

468 In preparing this report, officers have taken into account the likely environmental impacts and effects of the development and identified appropriate mitigation actions to be taken to reduce any adverse effects. In particular, careful consideration has been given to the proposed conditions and planning obligations which would have the effect of mitigating the impact of the development.

469 This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, and has found that the proposed development is acceptable in terms of land use principles (including mixed use development, employment and residential uses); housing (including delivery of affordable housing, tenure, mix, density, quality); design (including urban design, public realm, play space); historic environment; inclusive design; residential amenity (including daylight and sunlight, overshadowing, privacy/overlooking; noise/disturbance); sustainable development (including climate change mitigation and adaptation, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage); other environmental issues (including air quality, wind, contaminated land and waste management); transport, including parking provision and socio-economic issues, including the impact on social infrastructure; and; mitigating the impact of development through planning obligations and conditions. When considered overall the development complies with the development plan and there are no material considerations which indicate that planning permission should not thereby be granted.

470 Accordingly, the recommendations set out at the beginning of this report are proposed.

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for further information, contact GLA Planning Unit (Development Management Team):

**Debbie Jackson, Director, Built Environment**

020 7983 5800 email: [Debbie.jackson@london.gov.uk](mailto:Debbie.jackson@london.gov.uk)

**John Finlayson, Head of Development Management**

020 7084 2632 email: [john.finlayson@london.gov.uk](mailto:john.finlayson@london.gov.uk)

**Allison Flight, Deputy Head of Development Management**

020 7084 2820 email [alison.flight@london.gov.uk](mailto:alison.flight@london.gov.uk)

**Richard Green, Special Projects**

020 7983 1237 email: [richard.green@london.gov.uk](mailto:richard.green@london.gov.uk)

**Hannah Thomas, Principal Strategic Planner (case officer)**

020 7983 4281 email: [Hannah.thomas@london.gov.uk](mailto:Hannah.thomas@london.gov.uk)

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