

representation hearing report GLA/3109a/03

18 September 2018

Newcombe House

Notting Hill Gate and Kensington Church Street

in the Royal Borough of Kensington & Chelsea

planning application no. PP/17/05782

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”).

The proposal

Demolition of existing buildings and redevelopment to provide office, 55 residential units, retail uses, and a flexible surgery/office use, across six buildings (ranging from ground plus two storeys to ground plus 17 storeys), with two-storey basement together with landscaping to provide a new public square, ancillary parking and associated works.

The applicant

The applicant is **Notting Hill Gate KCS Limited** and the architect is **Urban Sense Consultant Architects**.

Recommendation summary

The Mayor, acting as Local Planning Authority for the purpose of determining this application,

- i. grants conditional planning permission in respect of application PP/17/05782 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 Assistant Director - Planning and the Executive Director of Development, Enterprise and Environment to issue the planning permission and agree, add, delete or vary, the final detailed wording of the conditions and informatives as required, and authority to negotiate, agree the final wording, and sign and execute, the section 106 legal agreement;
- iii. delegates authority to the Assistant Director – Planning 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 Assistant Director - Planning and Executive Director of Development, Enterprise and Environment to refuse planning permission, if by 18 December 2018, 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, Kensington and Chelsea Council;
- vi. notes that Kensington and Chelsea Council would be responsible for the enforcement of the conditions attached to the planning permission.

Drawing numbers and documents

Existing plans	Existing drawings
1059 P-SITE-XX (0-) 001 Existing Site Location Plan	1059 P-SITE-XX (0-)203 Existing Site Section 03
1059 P-SITE-XX (0-)100.1 Existing Site Plan Ground Floor	1059 P-SITE-XX (0-)204 Existing Site Section 04
1059 P-SITE-XX (0-)101 Existing Site Plan 1st Floor	1059 P-SITE-XX (0-)205 Existing Site Section 05
1059 P-SITE-XX (0-)102 Existing Site Plan 2nd & 3rd Floor	1059 P-SITE-XX (0-)302 Existing Site Elevation East
1059 P-SITE-XX (0-)103 Existing Site Plan 4th Floor	1059 P-SITE-XX (0-)303 Existing Site Elevation South
1059 P-SITE-XX (0-)104 Existing Site Plan 5th-11th	1059 P-SITE-XX (0-)105 Existing Site Plan Roof Plant
1059 P-SITE-XX (0-)106 Existing Site Plan Roof	
Proposed drawings	
Site plans	
1059 P-SITE-AA (0-)001 Proposed Location Plan	1059 P-SITE-AA (0-)002 Proposed Site Plan
1059 P-SITE-AA (0-)011 Proposed -1 Level Site Plan	1059 P-SITE-AA (0-)021 Proposed -2 Level Site Plan
1059 P-SITE-AA (0-)100 Proposed Ground Floor Site Plan	1059 P-SITE-AA (0-)101 Proposed 1st Floor Site Plan
1059 P-SITE-AA (0-)102 Proposed 2nd Floor Site Plan	1059 P-SITE-AA (0-)103 Proposed 3rd Floor Site Plan
1059 P-SITE-AA (0-)104 Proposed 4th Floor Site Plan	1059 P-SITE-AA (0-)105 Proposed 5th Floor Site Plan
1059 P-SITE-AA (0-)114 Proposed 6th Floor Site Plan	1059 P-SITE-AA (0-)106 Proposed 7th - 11th Floor Site Plan
1059 P-SITE-AA (0-)107 Proposed 12th Floor Site Plan	1059 P-SITE-AA (0-)108 Proposed 13th Floor Site Plan
1059 P-SITE-AA (0-)109 Proposed 14th Floor Site Plan	1059 P-SITE-AA (0-)110 Proposed 15th Floor Site Plan
1059 P-SITE-AA (0-)111 Proposed 16th Floor Site Plan	1059 P-SITE-AA (0-)112 Proposed 17th Floor Site Plan

1059 P-SITE-AA (0-)113 Proposed Roof Site Plan	
Elevations	
1059 P-SITE-AA (0-)301 Proposed North Site Elevation	1059 P-SITE-AA (0-)302 Proposed East Site Elevation
1059 P-SITE-AA (0-)303 Proposed South Site Elevation	1059 P-SITE-AA (0-)304 Proposed West Site Elevation
Floor Plans	
1059 P-KCS1-AA (0-)100 Proposed KCS1 Ground Floor & -1 Floor	1059 P-KCS1-AA (0-)101 Proposed KCS1 First - Third Floor
1059 P-KCS1-AA (0-)102 Proposed KCS1 4th Floor & Roof	1059 P-KCS2-AA (0-)100 Proposed KCS2 Ground Floor & - 1 Floor
1059 P-KCS2-AA (0-)101 Proposed KCS2 First - Third Floor	1059 P-KCS2-AA (0-)102 Proposed KCS2 Roof Services - Roof
1059 P-WPB1-AA (0-)100 Proposed WPB1 Ground Floor & -1 Floor	1059 P-WPB1-AA (0-)101 Proposed WPB1 1st Floor - Roof
1059 P-WPB2-AA (0-)100 Proposed WPB2 Ground Floor & -1 Floor	1059 P-WPB2-AA (0-)101 Proposed WPB2 1st Floor & 2nd Floor
1059 P-WPB2-AA (0-)102 Proposed WPB2 Roof	1059 P-CB-AA (0-) 011 Proposed CB, NHG & WPB3 -1 Floor
1059 P-CB-AA (0-)100 Proposed CB, NHG & WPB3 Ground Floor	1059 P-CB-AA (0-)101 Proposed CB, NHG & WPB3 1st Floor
1059 P-CB-AA (0-)102 Proposed CB, NHG & WPB3 2nd Floor	1059 P-CB-AA (0-)103 Proposed CB, NHG & WPB3 3rd Floor
1059 P-CB-AA (0-)104 Proposed CB, NHG & WPB3 4th Floor	1059 P-CB-AA (0-)105 Proposed CB, NHG & WPB3 5th Floor
1059 P-CB-AA (0-)111 Proposed CB, NHG & WPB3 6th Floor	1059 P-CB-AA (0-)112 Proposed CB, NHG & WPB3 7th Floor
1059 P-CB-AA (0-)106 Proposed CB, NHG & WPB3 8th-11th Floor	1059 P-CB-AA (0-)107 Proposed CB, NHG & WPB3 12th & 13th Floor
1059 P-CB-AA (0-)108 Proposed CB, NHG & WPB3 14th & 15th Floor	1059 P-CB-AA (0-)109 Proposed CB, NHG & WPB3 16th & 17th Floor
1059 P-CB-AA (0-)110 Proposed CB, NHG & WPB3 Roof	
Elevations and sections	

1059 P-SITE-AA (0-)201 Proposed Site Section 1	1059 P-SITE-AA (0-)202 Proposed Site Section 2
1059 P-SITE-AA (0-)203 Proposed Site Section 3	1059 P-SITE-AA (0-)204 Proposed Site Section 4
1059 P-SITE-AA (0-)205 Proposed Site Section 5	1059 P-SITE-AA (0-)206 Proposed Site Section 6
1059 P-KCS1-AA (0-)301 Proposed KCS1 East Elevation	1059 P-KCS1-AA (0-)302 Proposed KCS1 North & South Elevation
1059 P-KCS1-AA (0-)303 Proposed KCS1 West Elevation	1059 P-KCS2-AA (0-)201 Proposed KCS2 Section 1 & 2
1059 P-KCS2-AA (0-)301 Proposed KCS2 East Elevation	1059 P-KCS2-AA (0-)302 Proposed KCS2 North & South Elevation
1059 P-KCS2-AA (0-)303 Proposed KCS2 West Elevation	1059 P-WPB1-AA (0-)301 Proposed WPB1 East Elevation
1059 P-WPB1-AA (0-)302 Proposed WPB1 West Elevation	1059 P-WPB2-AA (0-)200 Proposed WPB2 Section 1 & 2
1059 P-WPB2-AA (0-)201 Proposed WPB2 Section 3	1059 P-WPB2-AA (0-)300 Proposed WPB2 East & West Elevation
1059 P-WPB2-AA (0-)301 Proposed WPB2 North & South Elevation	1059 P-WPB3-AA (0-)301 Proposed WPB3 North & East Elevation
1059 P-WPB3-AA (0-)302 Proposed WPB3 South & West Elevation	1059 P-CB-AA (0-)201 Proposed CB, NHG & WPB3 Section 1
1059 P-CB-AA (0-)202 Proposed CB, NHG & WPB3 Section 2	1059 P-CB-AA (0-)203 Proposed CB, NHG & WPB3 Section 3
1059 P-CB-AA (0-)301 Proposed CB, NHG & WPB3 North Elevation	1059 P-CB-AA (0-)302 Proposed CB, NHG & WPB3 East Elevation
1059 P-CB-AA (0-)303 Proposed CB, NHG & WPB3 South Elevation	1059 P-CB-AA (0-)304 Proposed CB, NHG & WPB3 West Elevation
1059 P-CB-AA (4-)400 Proposed CB Winter Garden Elevations & Plans	1059 P-CB-AA (4-)401 Proposed CB Winter Garden Section CB1 & CB2
1059 P-CB-AA (4-)402 Proposed CB Winter Garden Section CB3 & CB4	1059 P-KCS1-AA (4-)400 Proposed KCS1 Winter Garden Bay West Elevation
1059 P-KCS1-AA (4-)401 Proposed KCS1 Winter Garden Bay Section 1,2	1059 P-KCS1-AA (4-)402 Proposed KCS1 Corner Bay South, East Elevation
1059 P-KCS1-AA (4-)403 Proposed KCS1 Corner Bay Sections 1, 2 & 3	1059 P-WPB2-AA (4-)400 Proposed WPB2 Cube Corner Bay Elevations & Plan

1059 P-WPB2-AA (4-)401 Proposed WPB2 Cube Corner Bay Sections	1059 P-KCS1-AA (0-)201 Proposed KCS1 & WPB1 Section 1
1059 P-KCS1-AA (0-)202 Proposed KCS1 & WPB1 Section 2	1059 P-KCS1-AA (0-)203 Proposed KCS1 & WPB1 Section 3
Landscape drawings	
0586.SK16 B Building WPB3 Intensive Garden Level G+6	0586.SK17 An Intensive Garden Level 14
0586.SK26 Building KCS1 Outline Planting to Play Area	
Supporting documents	
Planning application form and certificates	Energy Strategy (and Addendum)
Cover letter	Transport Assessment (and Addendum)
CIL Additional Information Form	Landscape Strategy (and Addendum)
Design and Access statement (and Addendum)	Basement Construction Method Statement
Demolition Plans	Delivery Servicing Plan
Access Statement	Interim Workplace Travel Plan
Statement of Community Involvement	Interim Residential Travel Plan
Updated Financial Viability Assessment	Bat Survey Report and Initial Ecological Appraisal
Revised Daylight, Sunlight and Overshadowing Report	Townscape and Visual Impact Assessment (and Addendum)
Technical Report Summary – Addenda to Planning Submission	Revised Air Quality Report
Fire Safety Strategy (and Addendum)	Sustainability Statement (and Addendum)
Revised Pedestrian Level Wind Microclimate Assessment	Planning Statement (and Addendum)
Archaeological Desk Based Assessment	Archaeological Evaluation
Flood Risk Statement	Construction Traffic Management Plan
Drainage Statement	Environmental Noise and Vibration Strategy (and Addendum)
Historic Buildings and Conservation Areas Assessment	MEP Servicing Strategy (and Addendum)

Facade Engineering, Access and Maintenance Report (and Addendum)	Structures Planning (and Addendum)
Architecture	Cumulative Effects Report (and Addendum)

Introduction

1 Having assumed authority to determine this planning application, this report sets out the matters that the Mayor must consider in determining whether to grant or refuse planning permission and to guide his decision making 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 circumstances of this application and relevant national, strategic and local planning policy, relevant supplementary planning guidance and all material planning considerations. He has also had regard to Kensington and Chelsea Council's planning committee report dated 31 January 2018, the draft decision notice setting out three reasons for refusal and all consultation responses and representations made on the case both to him directly and to Kensington and Chelsea Council. The below reasons set out why this application is acceptable in planning policy terms:

- I. The principle of intensifying uses on this site within the highly accessible Notting Hill District Centre through a residential-led, mixed use development is supported and is consistent with both strategic and local policy. The proposal would provide much needed housing in a borough that has consistently failed to meet the overall targets for the provision of additional homes and affordable units. The proposed development would also provide modern, flexible office floorspace. It would result in an uplift in small-scale retail units. It provides a modern GP surgery. It includes the creation of a new public square that can accommodate the local farmers' market. It also results in the provision of step-free and stair-free access to the south bound District and Circle line at Notting Hill Gate London Underground station. The proposed development is therefore supported in land use terms because it accords with the relevant policies within the National Planning Policy Framework (2018) (NPPF), London Plan Policies 2.15, 3.1, 3.3, 3.4, 3.16, 3.17, 4.1, 4.2, 4.3, 4.7, 4.8; draft London Plan Policies SD6, E1, E7, E9, GG1, GG2, S1, S2 SD6 and T3; and, Kensington and Chelsea Consolidated Local Plan Polices CK1, CT1(k), CF1, CF2, CF3, CF4, CF5, CP16 and CV16.
- II. The scheme would provide 55 residential units, of which 23 would be affordable (35% by habitable room, 42% by unit), equating to 27% net uplift in affordable housing by habitable room given the replacement of existing affordable housing on the site. The scheme would also further deliver 10 off-site units. The housing proposed is of a high quality. Overall, the scheme would contribute to housing delivery targets for Kensington and Chelsea. The proposed level of affordable housing meets the requirements of the London Plan, draft London Plan and Mayor's Affordable Housing & Viability SPG. An early implementation viability review mechanism would be triggered, should an agreed level of progress not be made within 24 months of planning permission being granted, and would secure additional affordable rented units if viable. A late review mechanism would also be secured and triggered when 75% of the proposed residential units have been let or sold. 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); draft London Plan Policies and the Mayor's Affordable

Housing & Viability SPG (2017); draft London Plan Policies GG4, D4, D5, D6, H1, H5, H6, H7 and Kensington and Chelsea Consolidated Local Plan Policies CH1, CH2a, CH2p and CH3.

- III. The design and layout principles are well-considered. The massing and layout responds to the site's constraints and sensitivities including the character of the wider Conservation Areas and Listed Buildings in proximity. The proposed tall building replaces the existing tall building, in a similar location on the site, and would provide a distinctive and high-quality landmark for Notting Hill. The scheme provides for well-defined public and private spaces, amenity and play spaces, and landscaping elements that respond to the proposed distinctive character areas of the site. The identified harm to significance of nearby designated heritage assets would be less than substantial and would be clearly outweighed by the public benefits of the scheme, namely new affordable and market housing, improved public realm, delivery of an appropriate mix of uses and step free access to the London Underground station. The proposals adhere to the principles of designing out crime. As such the proposal complies with Policies 3.5, 3.6, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8 and 7.13 of the London Plan; draft London Plan Policies GG6, D1, D2, D4, D7, D8, D10, D11, D13, HC1 and G5, Kensington and Chelsea Consolidated Local Plan Policies CL1, CL2, CL3, CL4 and CL11, and the Notting Hill Gate SPD (2015).
- IV. The proposed development enhances inclusive access and would comply with the relevant inclusive design housing standards. As such, the scheme complies with London Plan Policies 3.8, 7.1, 7.2, 7.5, 7.6; draft London Plan Policies GG1, D3, D5, the Accessible London SPG (2014) and Kensington and Chelsea Consolidated Local Plan Policy CH2b.
- V. 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 energy hierarchy. The development would deliver sustainable urban drainage, ecology and urban greening benefits over the existing situation at the site. The environmental impacts of the development, in terms of wind microclimate, minimising exposure to poor air quality, addressing contaminated land and waste management, are acceptable considering the proposed mitigation measures. As such the scheme complies with the policies contained with Chapter 5 and Policies 7.7, 7.14 and 7.19 of the London Plan; draft London Plan policies GG3, G4, G5, G6, G7, SI1, SI2, SI3, SI4, SI5, SI7, SI8, SI12, SI13, Sustainable Design and Construction SPG, Kensington and Chelsea Consolidated Local Plan Policies CE1, CE2, CE3, CE4, CE5 and CE7.
- VI. The development proposals would have an acceptable impact on neighbouring amenity. Few neighbouring residential properties would experience any noticeable reductions to their daylight and sunlight and where losses occur, the impacts would not have an unacceptable impact on residential amenity. The proposals would not unacceptably reduce privacy to neighbouring residential properties and issues of noise and disturbance would be adequately mitigated through planning conditions. As such the proposed development complies with London Plan Policies 7.6, 7.7, 7.14 and 7.15; draft London Plan Policies D2 and D4, and Kensington and Chelsea Consolidated Local Plan Policies CE6 and CL5.
- VII. The proposal for a mixed-use development in this highly accessible location would reduce the need to travel, particularly by car, and this is reflected in the low parking ratio of the scheme which is supported by strategic and local planning policy. The quantum of proposed car parking is acceptable subject to a suitable framework of controls including a car parking management plan, provisions for restricting resident parking permits for new residents, electric vehicle charging points and travel plan. The proposal strikes an appropriate balance between promoting new development and encouraging cycling, walking and public transport use, providing appropriate mitigation as required. In addition, the proposal would deliver step

free access to the District and Circle inner rail platform at Notting Hill Gate London Underground station, which would also provide stair-free access to the Central line. As such the proposed development complies with the policies contained within Chapter 6 of the London Plan; the policies contained within Chapter 10 of the draft London Plan, and Kensington and Chelsea Consolidated Local Plan Policies CT1 and CT2.

Recommendation

3 That the Mayor acting as Local Planning Authority, grants planning permission in respect of application PP/17/05782, subject to prior completion of a section 106 legal agreement, and the inclusion of planning conditions and informatives, as summarised below. The detailed wording of conditions and informatives will be set out in an appendix to this report.

4 That the Mayor delegates authority to the Assistant Director – Planning and the Director of Development, Enterprise and Environment to issue the planning permission and agree, add, delete or vary the final wording of the conditions and informatives as required.

5 That the Mayor agrees that the Assistant Director of Planning and the Director of Development and Environment, be given delegated authority to negotiate and complete the s106 legal agreement, the principles of which have been agreed with the applicant as set out in the heads of terms detailed below.

6 That the Mayor delegates authority to the Assistant Director – Planning and the Director of Development, Enterprise and Environment to refuse planning permission if, by 18 December 2018 the s106 legal agreement has not been completed

7 That the Mayor notes the approval of details pursuant to conditions imposed on the planning permission would be submitted to, and determined by, Kensington and Chelsea Council (the “Council”).

8 That the Mayor notes that the Council would be responsible for the enforcement of the conditions attached to the permission.

Section 106 Legal agreement and conditions

9 The following heads of terms have been agreed as a basis for the planning obligations to be contained within the S016 legal agreement.

- Affordable housing: Twenty-three affordable homes (35% by habitable room, 42% by units) comprising 4 intermediate rent homes in building WPB1, 4 intermediate rent homes in building KCS1 and 15 social rent/London Affordable Rent homes in building KCS2. The provision of 10x2 bed affordable rented residential units offsite, each with at least two habitable rooms and nomination rights granted to the Council.
- Viability Review: Two-stage Viability Review Mechanism with trigger points set in accordance with the Mayor’s Affordable Housing and Viability SPG and draft London Plan;
- Medical Centre: Provision of a Medical Centre of at least 952 sq.m. (GIA), constructed to shell and core standard and fit out to a specification approved by the NHS with a minimum spend of £1.5m;
- Step-free Access: Provision of a step-free access route between street level to the southbound (inner rail) platform of the District & Circle lines prior to first occupation. The definition of step-free access provided by TfL is: *the provision of lifts, ramps and/or other infrastructure that allow independent access for persons with restricted mobility to follow a*

route (or routes) between street and platform levels without the need to use stairs or escalators. Compliant access between the platform and train should also be provided where practicable;

- Public square: Provision of a Public Square (including maintenance), with permanent pedestrian and cycle access to the public subject to permitted closures; details of the steps to be taken to encourage a Farmers' Market to be held in the public square;
- Retail: Submission of a Small Independent Retail Units Marketing Strategy to the Council;
- Highway works: Delivery of works to public realm and highways adjacent to the development site;
- Other transport: Safeguard area for Cycle Hire Docking Station, with a lease granted at peppercorn rent to TfL; provision of car club membership; permit free covenant;
- Public access: Provide dedicated public access over new areas of footway around the site.
- Construction training: Submission of construction training and construction plan to the Council; and,
- Local procurement: Compliance with Local Procurement Code.

Financial contributions

- Construction training - £295,071;
- Cycle Hire - £200,000 to TfL to facilitate new docking station;
- Construction Traffic Management Plan - £2,800;
- Legible London signage - £3,017;
- Office Travel Plan Monitoring - £1,000 (Index Linked);
- Demolition Traffic Management Plan Assessment: £2,800 (Index Linked);
- Carbon offsetting - £124,959;
- Public Art – £100,000 - £150,000, with a Public Art Strategy; and,
- Section 106 financial and non-financial monitoring - £500.

Conditions to be secured ¹

1. Time limit
2. Compliance with approved drawings
3. Use of flat roofs
4. Hours of operation
5. Material samples
6. Detailed drawings
7. Surface water drainage
8. Landscaping, public realm, play space and boundary treatments
9. Cycle parking
10. Electric vehicle charging points
11. Noise fixed plant
12. Noise, vibration and air quality - internal residential environment
13. External lighting
14. Sustainability (BREEAM) standards for non-residential elements
15. Compliance with energy strategy
16. Accessible and adaptable dwellings

¹ 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

17. Secured by Design
18. Air quality - boilers
19. Air quality – CHP
20. Restriction on site clearance
21. Biodiversity enhancement plan
22. Contaminated land site investigation
23. Piling Method Statement / foundation design
24. Construction Environment Management Plan
25. Site waste management plan
26. Operational waste management and recycling strategy
27. Wind mitigation measures
28. Water efficiency measures
29. Considerate Constructors Scheme
30. Retention of architect
31. Travel plan
32. Protection of trees

Informatives

1. Contamination
2. Refuse collection
3. Highway works (design)
4. Highway works (construction)
5. Highway works (cost undertaking)
6. Street furniture
7. On-street waiting and loading restrictions
8. Adoptable standards
9. Parking ramp gradients
10. Highway costs
11. Stopping up of highways
12. Fire safety
13. Thames Water
14. Hours of construction

Publication protocol

10 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’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/newcombe-house-public-hearing>

Site description

11 The 0.52-hectare application site, identified in Figure 1 below, is bounded by Notting Hill Gate to the north, Kensington Church Street to the east, Kensington Place to the south, and the Circle and District line and a London Underground Limited substation to the west. The site currently contains several linked blocks, a surface car park of 61 spaces to the rear of the buildings, Newcombe Street and part of Uxbridge Street. The surface car park, which is situated between Newcombe Street and the western boundary of the site is also used by a farmers’ market.

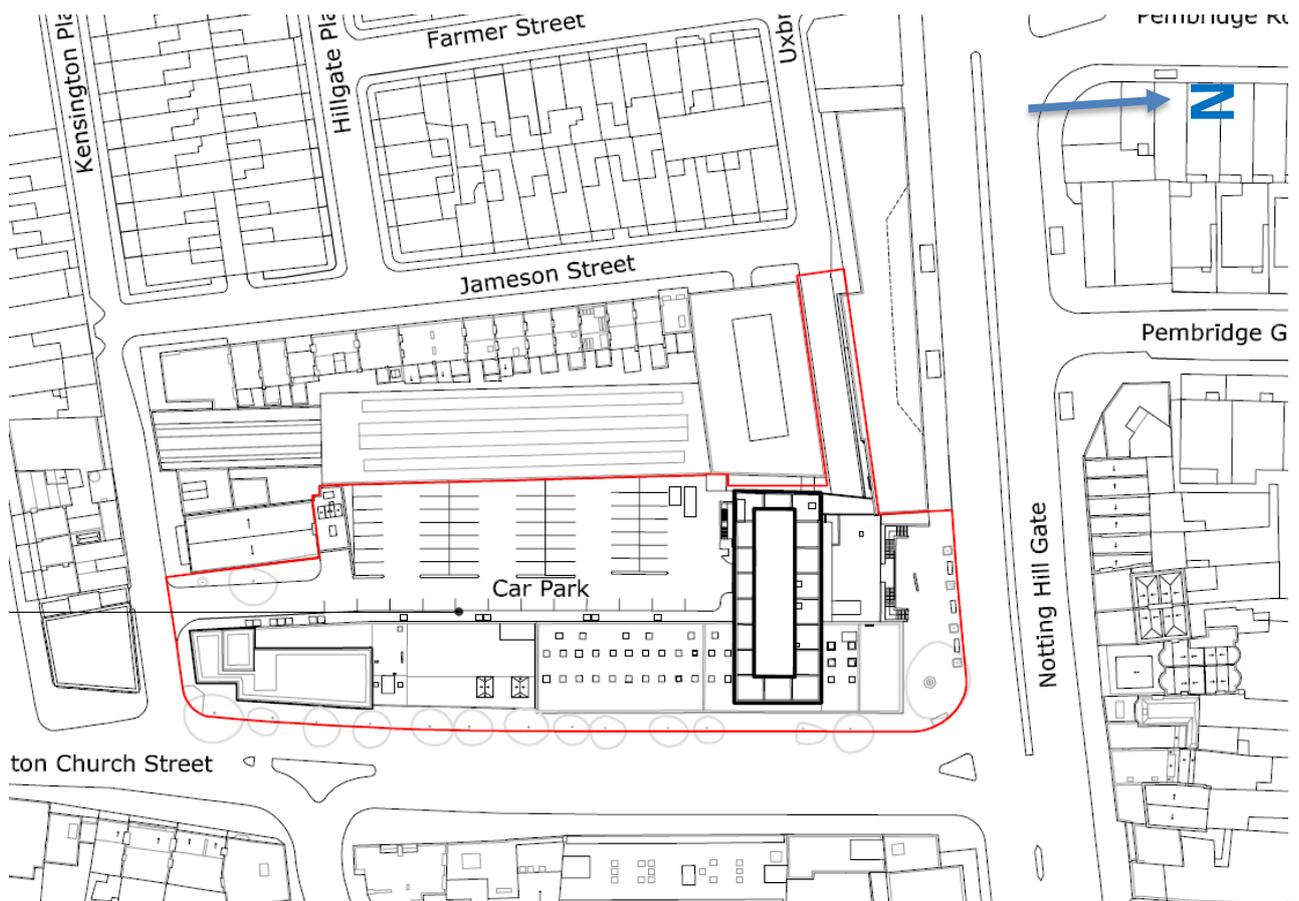


Figure 1: Existing location plan (1659 P-SITE-XX (0-)-001)

12 There are a number of buildings on the site (which for the most part are in poor condition and not listed), including:

- Newcombe House, a 12-storey office building, with plant above, set back from Notting Hill Gate behind a podium accessed by concrete stairs from Notting Hill Gate;
- 207-237 Kensington Church Street, a 1-2 storey linear block of shops and restaurants; and,
- Royston Court (161-199 Kensington Church Street), a 5-storey building with ground floor retail situated on the corner of Kensington Place and comprising 20 vacant residential studio flats, owned by Notting Hill Genesis and previously used as bedsit accommodation for rough sleepers.

13 Notting Hill Gate is designated as a district shopping centre in the London Plan and is primarily commercial in character, with a mixture of building types, heights and styles. Dating from the late 1950s, the buildings and open space on the site are part of a larger post-war urban intervention that involved the widening of the roadways along, and immediately adjacent, to Notting Hill Gate. It also included the redevelopment of stretches of street frontage buildings running from the Czech Embassy adjacent to Kensington Palace Gardens to the east through to Campden Hill Towers in the west. The scheme, however, was not entirely comprehensive, sitting alongside sections of historic fabric on either side of the road.

14 The architecture encompasses robust pre-cast concrete and glass buildings, decorated by roughcast concrete infill panels and pieces of public art or occasional back-painted coloured glass panels. The building composition is a typical mix of mainly low and medium blocks with a singular taller element, Newcombe House at 12 storeys, which sits above its podium. The building along with the residential Campden Hill Towers, is one of two high-rise buildings within Notting Hill Gate. The

19-storey (plus roof plant) Campden Hill Towers, is situated diagonally opposite Newcombe House and is orientated side-on to the main road. Both towers are from the same period and by the same architects, Cotton Ballard and Blow; and landmark, the main commercial core of the town centre.

15 The site is within a wider context of traditional streets and buildings that dates mainly from the mid to late Victorian period, with some Edwardian and early 20th Century buildings. The wider area has a distinct domestic scale and character, with the 2 to 3-storey and more artisan character of Notting Hill Village to the immediate south contrasting with the 3 to 4-storey residential terraces of Ladbrooke and Pembridge, and the grander townhouses and villas of Kensington Palace Gardens to the east and Holland Park further to the west.

16 The site is within an area of archaeological importance, but not in a conservation area. The surrounding townscape, however, is largely designated as a heritage asset, dominated by the conservation areas of Kensington, Ladbrooke, Pembridge and Kensington Palace Gardens. The surrounding area also contains many statutorily listed buildings, including the adjacent underground station and nearby Grade II Listed Gate and Coronet cinemas and the Grade II terraced housing of Pembridge Gardens and Square. The Grade I listed Kensington Palace and its Grade I registered gardens, located to the east of the site, is in proximity. Both Newcombe House and Campden Hill Towers are visible above the tree-line in the backdrop of Kensington Palace.

17 The nearest section of the Strategic Road Network (SRN) (Notting Hill Gate) bounds the site, whilst the Transport for London Road Network (TLRN) is 1.5 kilometres away (A3220 Holland Park). The site is served by eight high frequency bus routes with stops adjacent or within 200 metres on Notting Hill Gate and Kensington Church Street. The entrance to Notting Hill Gate London Underground station is approximately 50 metres from the site. Accordingly, the site records a Public Transport Accessibility Level (PTAL) range of 6a to 6b (on a scale of 1a to 6b) which is considered excellent.

Details of the proposal

18 The application submitted to Kensington & Chelsea Council sought full planning permission for the demolition of the existing buildings, and the redevelopment of the site to provide a residential-led scheme involving the erection of six new buildings ranging in height from 3 to 18 storeys, comprising a mixture of uses including: 46 residential units (Use Class C3); 4,390 sq.m. office (Use Class B1a); 2,871 sq.m. retail (Use Class A1-A3); 904 sq.m. of GP surgery floorspace (Use Class D2); and, associated parking and servicing. The proposed number of residential units included nine social rented residential units, equating to 17.3% by habitable room and 19.6% by unit.

19 The proposal comprised three and four storey buildings fronting onto Kensington Church Street and around a new public square, with a new pedestrian link between Kensington Place, Notting Hill Gate and Uxbridge Street through the site. The 18-storey building was sited close to the Notting Hill Gate/Kensington Church Street junction. The basement area would have facilitated the provision of step-free access to the adjacent District and Circle Line platforms; and space was also set aside on Uxbridge Street for a cycle hire docking station. Residential and non-residential parking was also proposed, totalling 30 spaces.

20 Following the Mayor's decision to call in the application, acting as local planning authority for the purposes of determining it, the applicant has made amendments to the scheme, which were subject to public consultation between 11 July and 30 August 2018. These amendments are as follows:

- an increase in the number of homes from 46 to 55, and alterations to the housing mix;

- an increase in the proportion of affordable homes from 17% by habitable room (20% by unit) to 35% by habitable room (42% by unit);
- an increase in office floorspace of c. 414 sq.m. GEA, to a total of c. 5,306 sq.m.;
- the addition of one storey to Kensington Church Street Building 1 in C3 residential use, from four storeys to five;
- the addition of two storeys to West Perimeter Building 3 in B1 office use, from five storeys to seven storeys;
- alterations to the layouts of Kensington Church Street Buildings 1 and 2, and West Perimeter Buildings 1 and 3, with associated changes to the facades;
- minor alterations to the façade of the Corner Building on levels 4, 5 and 6, which respond to the revised massing of West Perimeter Building 3;
- minor alterations to the services strategy for West Perimeter Building 2; and,
- an increase in cycle parking from 220 to 265.

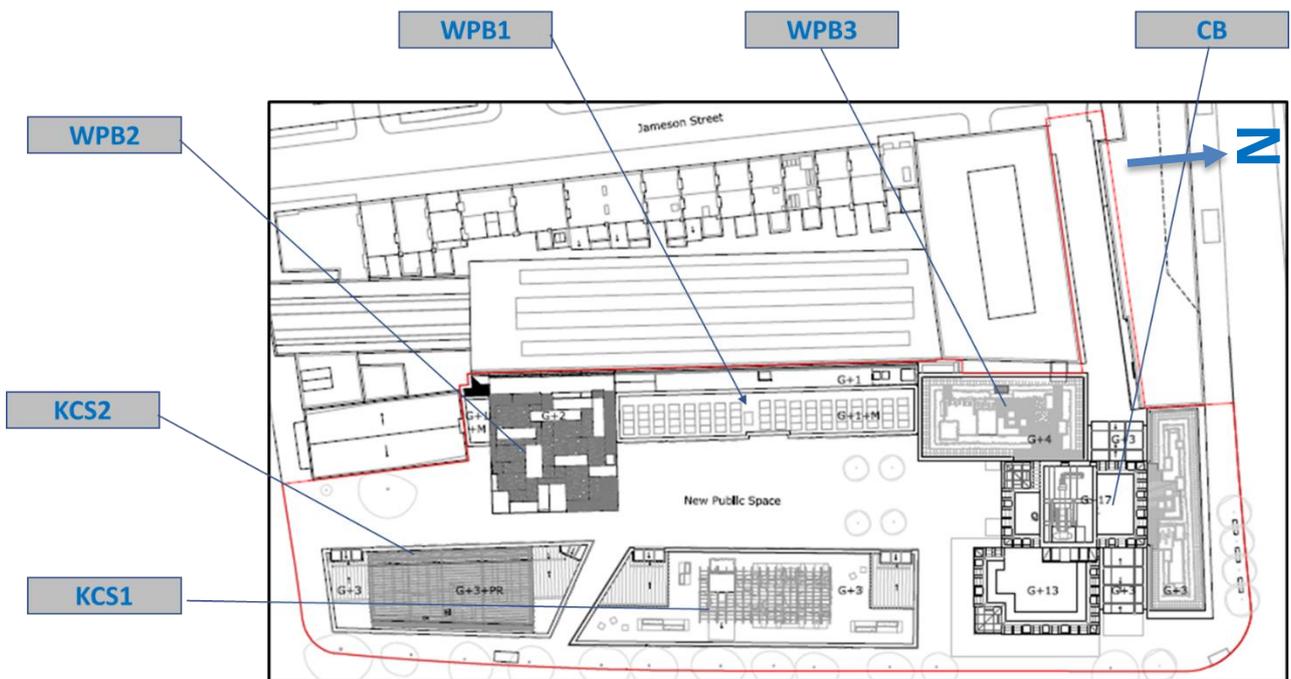


Figure 2: Site plan (1059 P-SITE-AA (0-)002)

21 As shown in Figure 2, above, the development would comprise six buildings. The Corner Building (CB) is at the northern end of the site and would consist of two distinct parts: Notting Hill Gate and the East Form and Central Form. The Notting Hill Gate component would front on to Notting Hill Gate and would be four storeys in height, with retail uses at the ground floor level and office accommodation above. The East and Central Forms would be the taller elements of the proposed development at 14 and 18 storeys respectively. The tower (Central Form) would contain retail uses, office and residential entrances at the ground floor level. East Form, would contain office space and private residential units from fourth floor to the eighteenth floor.

22 The western edge of the site would be occupied by the West Perimeter Building 1 (WPB1), West Perimeter Building 2/Cube (WPB2) and West Perimeter Building 3 (WPB3). WPB1 would be a 3-storey mixed-use building with four retail units at ground floor and four affordable duplex residential units at first and second floor. Located south of WPB1, the WPB2 would also be three storeys and

would contain office accommodation at all floors and support services at basement level. WPB3 would be the most northern of the west perimeter building and the tallest at seven storeys. The height of this building has been increased by two storeys since the Mayor’s decision to take over the application. The proposed building would sit immediately south of Uxbridge Street and behind David Game House; it would include a retail unit, surgery entrance lobby, services and a vehicle lift at ground floor level. The first, second and third floors would accommodate office floorspace and the remaining floors (4th to 6th) would provide space for a GP surgery.

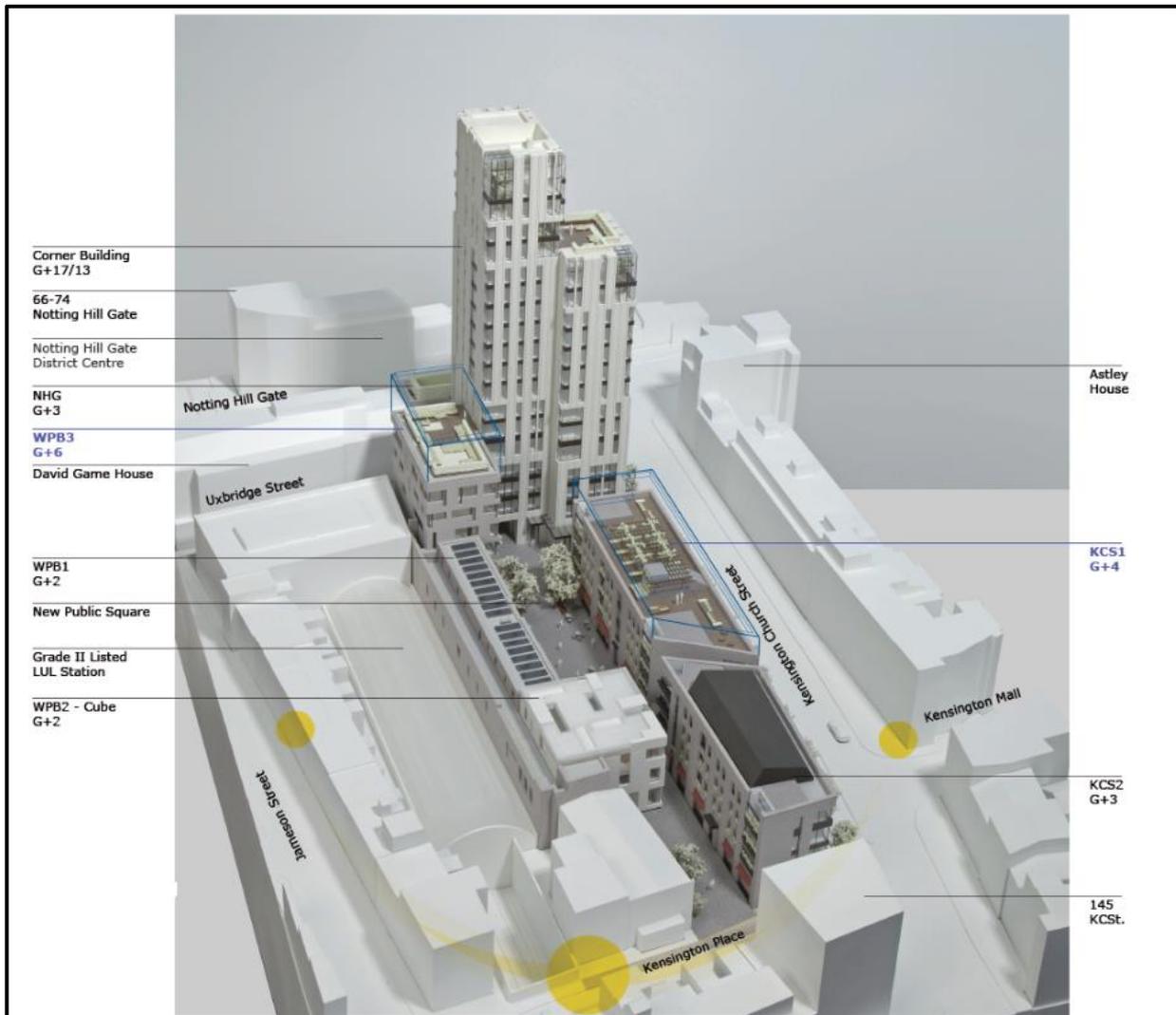


Figure 3: proposed aerial view, with additional massing outlined in blue.

23 Kensington Church Street Building 1 (KCS1) and Kensington Church Street Building 2 (KCS2) are proposed to the south of the East Form and would be five storeys and four storeys respectively. KCS1 would be immediately south of the East Form and its proposed height is an increase of one storey since the Mayor’s decision to take over the application. Both KCS1 and KCS2 would provide retail uses at ground floor and residential use above. A communal private amenity space, including children play space, would also be provided on the fourth floor of KCS1.

24 The proposed development involves the provision of a 2-storey basement across most of the site, apart from the northern boundary of the site to accommodate existing LUL infrastructure. Basement level -1 would provide ancillary storage space for the commercial units at ground floor level and a communal amenity space beneath KCS1. The lower level would provide a basement car park comprising 25 residential parking spaces and 5 spaces for use by the health facility as well as cycle

storage facilities. The basement plans demonstrate an area to facilitate installation of a lift from the southbound/eastbound Circle and District line platform to the TfL ticket hall under Notting Hill Gate.

25 The public square would be situated in the centre of the site and would only be accessible by pedestrians and emergency vehicles. Pedestrian routes from Notting Hill Gate, Kensington Church Street, Kensington Place and Uxbridge Street into the public square would also be provided.

26 As part of the redevelopment proposals, the applicant would provide step-free access to the adjacent Notting Hill Gate London Underground station. This would entail the leasing of land necessary to undertake these works, along with a financial contribution, to be secured through the S106 agreement.

27 The scheme proposes 25 car parking spaces at basement level -2, 6 of which would be for Blue Badge users. An additional five car parking spaces are proposed for the GP surgery use. Entry to the car parking would be via car lifts and these would be installed at either end of Newcombe Street and Uxbridge Street to access and egress respectively. Regarding cycle parking, 204 long-stay and 61 short-stay spaces are proposed and would also be located at basement level -2.

Relevant planning history

28 Several component parts of the application site, including the use of the car park for a farmers' market, small scale alterations and use of the second floor of Newcombe House, have been the subject of planning applications in the past.

29 The relevant planning history is for a similar proposal, which GLA officers provided pre-application advice on between February 2013 and August 2015 and supported the principle of a mixed-use development, including re-provision of office space, retail and residential uses as outlined in the pre-application note D&P/3109. The application was subsequently referred to the former Mayor in January 2016, and an initial consultation report (reference number D&P/3109) was issued on 28 January 2016, which supported the principle of development, but requested that outstanding strategic planning concerns relating to affordable housing, housing, urban design, climate change and transport be addressed. The application did not propose any on site affordable housing and the Financial Viability Assessment that accompanied the scheme concluded that it would only be viable to provide four on-site units, or 8.9%. On 17 March 2016, against officer recommendation, Kensington & Chelsea Council Planning Committee decided that it was minded to refuse planning permission and on 15 April 2016 it advised the former Mayor of this decision. The minutes from the Council's Planning Committee and draft decision notice cited the following reasons for refusal:

- 1) *The height of the tall building would be significantly taller than the existing building and the surrounding townscape. The architecture of the proposed tall building would be of insufficient high design quality and would not have a wholly positive impact on the townscape. It would result in harm to the setting of nearby listed buildings and conservation areas, including important local views and would result in substantial harm to those heritage assets. The proposals are contrary to policies of the London Plan, in particular policies 7.4, 7.6 and 7.7, and Local Plan policies CL1, CL2, CL3, CL4, CL11 and CL12. The public benefits would be insufficient to outweigh those harms.*
- 2) *The proposals result in the loss of social rented floorspace within the Royal Borough, contrary to policies of the London Plan, in particular policy 3.14, and the Local Plan, in particular policy CH3.*
- 3) *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 London Plan, in particular policies 3.12 and 3.16, the Local Plan, in particular policy C1, CT1 and CH2.

30 GLA officers in the final report (reference number D&P/3109/02), though contending that the scheme accorded with the London Plan policies in respect of tall buildings, design, housing, affordable housing and transport, concluded that there were no sound planning reasons for the Mayor to intervene. A payment in lieu of £7,060,549 (or £9,601,685 if the health centre reverted to office use) for off-site affordable housing was secured. On 25 April 2016, the Mayor informed Kensington & Chelsea Council that he was content to allow the Council to determine the case itself.

31 The applicant appealed the Council's decision and the appeal was dismissed by the Planning Inspectorate for reasons set out in its decision, APP/K5600/W/16/3149585, dated 12 June 2017. The Inspector cited the loss of social housing and the failure to re-provide any affordable housing on-site as the determinative issue, especially as the loss was not justified on the grounds of viability.

32 Planning permission has been recently granted for applications on nearby sites, including:

- the re-development of 145 Kensington Church Street for a mixed-use development, involving the erection of a 5-storey building (PP/16/02615);
- re-cladding and installation of additional floors at 92-120 Notting Hill Gate (United House), bringing the maximum height of the building to six storeys (PP/16/05299);
- alterations and extensions to the neighbouring 47-69 Notting Hill Gate (David Game House), resulting in an increase in the height of the building to five storeys (PP/16/05236);
- re-cladding and extensions at 66-70 and 72-74 Notting Hill Gate (The Book Warehouse), involving the increase of the height of the building to five storeys (PP/15/05730); and,
- re-cladding and installation of an additional floor at 15-35 Notting Hill Gate (Astley House), resulting in an increase in the height of the building to five storeys (PP/16/05212).

Current application

33 On 29 August 2017, a pre-planning application meeting was held with GLA officers, which focused on strategic level London Plan issues for a mixed-use residential redevelopment of the site, involving the demolition of the existing buildings and the erection of buildings up to 18 storeys containing a mixed of residential and commercial uses, comprising approximately 46 residential units. The meeting was attended by Planning Officers from Kensington and Chelsea Council.

34 Stage 1: On 15 September 2017, Kensington and Chelsea Council notified the Mayor of London that a planning application had been submitted that was of potential strategic importance, referring it under Category 1C to the Order:

- 1C(c) *“Development which comprises or includes the erection of a building that is more than 30 metres high and is outside the City of London.”*

35 On 29 November 2017, the Mayor considered a GLA planning report reference: D&P/3109a/01. This report advised Kensington and Chelsea Council that whilst the principle of the development was supported in strategic planning terms, the application did not fully comply with the London Plan and issues around climate change and transport should be addressed. Overall the redevelopment of the site was supported and considered to be compliant with the London Plan as

the development would constitute residential-led mixed use redevelopment in the Town Centre. The approach to the design and layout was supported.

36 On 31 January 2018, Kensington and Chelsea Council's planning committee resolved to refuse planning permission for the application, against officers' recommendation, and on 14 March 2018 Kensington and Chelsea Council advised the Mayor of this decision. The Council's draft decision notice includes the following reasons for refusal:

1. The height of the tall building would be significantly taller than the existing building and the surrounding townscape at a very high land point in the borough. The architecture of the proposed tall building would be of insufficient high design quality and would not have a wholly positive impact on the townscape. It would result in harm to the setting of nearby listed buildings and conservation areas, including important local views and when moving around the conservation areas experiencing them as a whole. This would result in substantial harm to those heritage assets, to which the Council attaches considerable importance and weight. The proposals are contrary to policies of the London Plan, in particular policies 7.4, 7.6 and 7.7, and the Consolidated Local Plan, in particular policies CL1, CL2, CL3, CL4, CL11 and CL12, and the Notting Hill Gate SPD. The public benefits would be insufficient to outweigh those harms.
2. Although slightly more affordable housing floorspace is proposed than currently exists, the proposals would result in the loss of social rented homes within the borough and the Council is not satisfied that the approach to developing the site provides the maximum reasonable amount of affordable housing, contrary to policies of the London Plan, in particular policies 3.12 and 3.14, and the Consolidated Local Plan, in particular policies CH2 and CH3.
3. In the absence of agreed obligations under section 106 of the Town and Country Planning Act 1990 and provisions under section 16 of the Greater London Council (General Powers) Act 1974 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 London Plan, in particular policies 3.12 and 3.16, and the Consolidated Local Plan, in particular policies C1, CT1 and CH2.

37 Stage 2: On 26 March 2018, the Mayor considered a GLA planning report reference D&P/3109a/02. The report concluded that having regard to the details of the application, the development is of such a nature and scale that it would have a significant impact on the implementation of the London Plan, and there are 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 this recommendation.

38 Since the Mayor issued this direction, GLA officers have worked with the applicant to secure a revised minimum affordable housing offer of 35% by habitable room (42% by unit). Revised plans were submitted by the applicant on 10 July 2018 and are discussed below.

Re-consultation on amended scheme: A 51-day re-consultation was carried out by the Mayor. On 11 July 2018, interested parties were notified on proposed amendments by the applicant to plans and documents, with a deadline date of 10 August 2018 for the submission of representations. However, on 31 July 2018 interested parties were notified of an extension of the consultation period to 30 August 2018.

39 Site visit: The Mayor will undertake an accompanied site visit in advance of the Representation Hearing with GLA and TfL officers, representatives of the Council, and the applicant team.

Relevant legislation, policies and guidance

40 This application for planning permission must be determined by the Mayor in accordance with the requirement of s.70(2) of the Town and Country Planning Act 1990 and s.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. The development plan for this purpose comprises the 2016 London Plan (consolidated with alterations since 2011), Kensington & Chelsea Consolidated Local Plan (2015) and Saved Unitary Development Plan.

41 On 1 December 2017, the Mayor published his draft London Plan for public consultation, which closed on 2 March 2018. On 13 August 2018, the Mayor published a version of the draft Plan that includes his minor suggested changes. This must be taken into account, but the weight attached to the draft Plan must reflect its stage of preparation, in accordance with the guidance set out within the NPPF paragraph 48.

42 On 23 July 2018, Kensington & Chelsea Council published the Local Plan Partial Review Main Modifications - July 2018 (LPPR) for consultation. Consultation will close on 17 September 2018. This must be considered, but the weight attached to the draft documents must reflect their stage of preparation in accordance with the guidance set out within the NPPF.

43 The Mayor is also required to have regard to national planning policy in the form of the NPPF. In addition, the guidance set out in the NPPG as well as supplementary planning documents and, depending on their state of advancement, emerging elements of the development plan and other planning policies must be taken into account.

44 The principal planning considerations which arise in the context of the current application are: land use principles (mixed-use development, town centres, residential, retail and office uses, social infrastructure, accessible transport); housing (including delivery of affordable housing, tenure, mix, density, quality, play space); urban design and heritage (including urban design, views, the historic environment, listed buildings and archaeology); inclusive design; neighbouring amenity impacts (including privacy/overlooking, light pollution and noise/disturbance); trees; natural environment; sustainable development (including climate change mitigation and adaptation, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage); other environmental considerations (including air quality, contaminated land and waste management); transport, including parking provision; and, mitigating the impact of development through planning obligations. The relevant planning policies and guidance at the national, regional and local levels are as follows:

National planning policy and guidance

45 The NPPF provides the Government's overarching planning policy, key to which, is a presumption in favour of sustainable development. The NPPF in defining sustainable development sets out three facets of 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 our natural, built and historic environment. The relevant components of the NPPF are:

- 2. Achieving sustainable development;

- 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;
- 15. Conserving and enhancing the natural environment; and,
- 16. Conserving and enhancing the historic environment.

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

Spatial Development Plan policy and guidance

47 The London Plan 2016 is the Spatial Development Strategy for Greater London. It forms part of the statutory development plan for the purposes of s70(2) of the 1990 Act and s.38(6) of the 2004 Act.

48 The NPPF paragraph 213 explains that “due weight” should be given to existing policies in development plans “according to their degree of consistency with this Framework.” Thus, the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given to them.

The London Plan (2016):

- Policy 1.1 Delivering the strategic vision and objectives for London;
- Policy 2.1 London in its global, European and United Kingdom context;
- Policy 2.9 Inner London;
- Policy 2.15 Town centres;
- 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 3.8 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 3.14 Existing Housing;
- Policy 3.16 Protection and enhancement of social infrastructure;
- Policy 3.17 Health and social care facilities;
- Policy 4.1 Developing London’s economy;
- Policy 4.2 Offices;
- Policy 4.3 Mixed use development and offices;
- Policy 4.7 Retail and town centre development;

- Policy 4.8 Supporting a successful and diverse retail sector and related facilities and services;
- Policy 4.9 Small shops;
- 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 5.5 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 6.4 Enhancing London's transport connectivity;
- 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 6.14 Freight;
- 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 7.14 Improving air quality;
- Policy 7.15 Reducing noise and enhancing soundscapes;
- Policy 7.21 Trees and woodlands;
- Policy 8.2 Planning obligations; and,
- Policy 8.3 Community Infrastructure Levy.

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

- Mayor's Housing Strategy (May 2018);

- Mayor’s Environment Strategy (May 2018);
- Mayor’s Transport Strategy (March 2018);
- Affordable Housing and Viability SPG (August 2017);
- Housing SPG (March 2016, as amended);
- Crossrail Funding 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);
- Town Centres SPG (July 2014);
- Character and Context (June 2014);
- Sustainable Design and Construction SPG (April 2014); and,
- Shaping Neighbourhoods: play and informal recreation SPG (September 2012).

Draft London Plan (2017)

50 On 13 August 2018 the Mayor published a version of the draft Plan that includes his minor suggested changes. This must be taken into account in the determination, but the weight attached to the draft Plan must reflect that approach set out in the NPPF paragraph 48. This provides that planning decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF.

51 The following policies 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 SD6 Town centres;
- Policy SD7 Town centre network;
- Policy SD8 Town centres: development principles and Development Plan Documents;
- Policy SD9 Town centres: Local partnerships and implementation;
- Policy SD10 Strategic and local regeneration;
- Policy D1 London’s form and characteristics;
- Policy D2 Delivering good design;
- Policy D3 Inclusive design;
- Policy D4 Housing quality and standards;
- Policy D5 Accessible housing;
- Policy D6 Optimising housing density;
- Policy D7 Public realm;
- Policy D8 Tall Buildings;
- Policy D9 Basements;
- Policy D10 Safety, security and resilience to emergency;
- Policy D11 Fire Safety;
- Policy D13 Noise;
- Policy H1 Increasing housing supply;

- Policy H3 Monitoring housing targets;
- Policy H5 Delivering affordable housing;
- Policy H6 Threshold approach to applications;
- Policy H7 Affordable housing tenure;
- Policy H10 Redevelopment of existing housing and estate regeneration;
- Policy H12 Housing size mix;
- Policy S1 Developing London’s social infrastructure;
- Policy S2 Health and social care facilities;
- Policy S4 Play and informal recreation;
- Policy E1 Offices;
- 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 G5 Urban greening;
- Policy G6 Biodiversity and access to nature;
- Policy G7 Trees and woodland;
- Policy S11 Improving air quality;
- Policy S12 Minimising greenhouse gas emissions;
- Policy S13 Energy infrastructure;
- Policy S14 Managing heat risk;
- Policy S15 Water infrastructure;
- Policy S17 Reducing waste and promoting a circular economy;
- Policy S112 Flood Risk Management;
- Policy S113 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 T6.3 Retail 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.

Local planning policy and guidance

52 Kensington & Chelsea’s Consolidated Local Plan (2015) and Saved Policies of the Unitary Development Plan (2002), provide the local policy approach for the Borough. The relevant policies are:

- Policy CE1 Climate change;
- Policy CE2 Flooding;
- Policy CE3 Waste;
- Policy CE4 Biodiversity;

- Policy CE5 Air Quality;
- Policy CE6 Noise and Vibration;
- Policy CE7 Contaminated Land;
- Policy CF1 Location of New Shop Uses;
- Policy CF2 Retail development within Town Centres;
- Policy CF3 Diversity of uses within Town Centres;
- Policy CF4 Street Markets;
- Policy CF5 Location of Business Uses;
- Policy CF9 Temporary Sleeping Accommodation;
- Policy CK1 Social and Community Uses;
- Policy CL1 Context and Character;
- Policy CL2 Design Quality;
- Policy CL3 Heritage Assets - Conservation Areas and Historic Spaces;
- Policy CL4 Heritage Assets - Listed Buildings, Scheduled Ancient Monuments and Archaeology;
- Policy CL5 Living Conditions;
- Policy CL7 Basements;
- Policy CL10 Shopfronts;
- Policy CL11 Views;
- Policy CL12 Building Heights;
- Policy CP16 Notting Hill Gate;
- Policy CR1 Street Network;
- Policy CR2 Three-dimensional Street Form;
- Policy CR3 Street and Outdoor Life;
- Policy CR4 Streetscape;
- Policy CR5 Parks, Gardens, Open Spaces and Waterways;
- Policy CR6 Trees and landscape;
- Policy CR7 Servicing;
- Policy CT1 Improving alternatives to car use; and,
- Policy CT2 New and enhanced rail infrastructure.

56 As explained above, “due weight” should be given to these existing policies according to their degree of consistency with the NPPF.

Supplementary planning guidance (SPG) and supplementary planning documents (SPD)

57 The following adopted SPDs and SPG are also relevant to the proposal:

- Notting Hill Gate SPD, (Kensington and Chelsea Council, 2015);
- Transport and Streets SPD, (Kensington and Chelsea Council, 2016);
- Trees and Development SPD, (Kensington and Chelsea Council, 2010);
- Building Height SPD, (Kensington and Chelsea Council, 2010);
- Basements SPD, (Kensington and Chelsea Council, 2016);
- Noise SPD, (Kensington and Chelsea Council, 2009);
- Planning Obligations SPD, (Kensington and Chelsea Council, 2010);
- Shopfront Design Guidelines SPD, (Kensington and Chelsea Council, 2011);
- Access Design Guide SPD, (Kensington and Chelsea Council, 2010); and,
- Air Quality SPD, (Kensington and Chelsea Council, 2009).
- Public Art SPG, (Kensington and Chelsea Council, 2008);

- The Streetscape Guide, (Kensington and Chelsea Council, 2012);
- Kensington Conservation Area Appraisal, (Kensington and Chelsea Council, 2017);
- Kensington Palace Conservation Area Proposals Statement, (Kensington and Chelsea Council, 1997);
- Pembridge Conservation Area Appraisal, (Kensington and Chelsea Council, 2017);
- Ladbroke Conservation Area Appraisal, (Kensington and Chelsea Council, 2015);

Other relevant documents

58 The Council is currently undertaking a partial review of the Consolidated Local Plan and the extant policies of the Unitary Development Plan. The review proposes amendments to some policies including: housing; climate change; flooding & drainage; waste; air quality; planning contributions for public art & open space; archaeology; and, infrastructure & planning contributions. Consultation on the 'Local Plan Partial Review Main Modifications – July 2018' (LPPR) commenced on 23 July 2018. The policies in this draft plan are capable of being a material consideration to planning decisions; but the weight to be given to this draft Plan must be determined having regard to the guidance given in the NPPF, as referred to above. The policies will gain more weight as they move through the examination process to adoption. At this stage, moderate weight is to be given to this draft plan.

Kensington and Chelsea Community Infrastructure Levy

59 London borough councils are permitted to introduce Community Infrastructure Levy (CIL) charges which are payable in addition to the Mayor's CIL (which sets a charging rate of £50 per sq.m. in the Royal Borough of Kensington & Chelsea). Kensington & Chelsea Council's CIL came into effect on 6 April 2015. The Kensington & Chelsea CIL charging schedule for "Zone C" of the borough (where the application proposal is located) sets a rate of £430 per sq.m. for housing. There is a nil charge for all other uses.

Response to consultation

60 As part of the planning process Kensington and Chelsea Council has carried out statutory consultation on the application. The application was advertised by site and press notices, and 2,033 nearby owners/occupiers were directly notified. The consultation also included all relevant statutory bodies.

61 All consultation responses received in response to Kensington and Chelsea Council's local consultation process, and any other representations received by Kensington and Chelsea 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 had all consultation responses made available to him in either electronic or hard copy.

62 In addition, the Mayor has carried out consultation on revised plans submitted after him taking over the application, and comments received are outlined below.

Statutory consultee responses to Kensington and Chelsea Council

63 Greater London Authority (including Transport for London): The Mayor's consultation stage comments (GLA report ref: D&P/3109a/01) and the Mayor's stage II decision (GLA report ref: GLA/3109a/02) are set out in those reports and summarised in the 'Relevant case history' section above.

64 Transport for London: Commented as part of the stage 1 and 2 reporting above and provided a separate detailed response to Kensington and Chelsea Council, setting out issues in relation to step-free access, vehicle parking, cycle parking, cycle hire, public realm, electric vehicle charging points, travel planning, delivery and servicing and construction and traffic management. Specific issues relating to the step-free access, concerns about the proposal's impact on bus operations and the quantum of car parking were set out, along with a few suggested conditions and s106 obligations. The detailed consideration of these points is set out in the Transport section below.

65 Historic England: Concluded that there are several views that the existing Newcombe House is to a greater or lesser extent detrimental to the setting of the Conservation Areas, and therefore the better-quality materials and articulation of the proposal would be an improvement on the existing situation in most cases. Regarding Kensington Palace and Kensington Palace Gardens, however, they concluded that though the harm to the appreciation and enjoyment of both heritage assets would be less than substantial, there is concern that the introduction of even a modest intrusion into the setting of the listed building could become a precedent for further erosion; and recommended that RBKC should ensure that the public benefits being put forward are convincing, outweigh the extent of the harm and are secured and delivered if it is believed they justify the harm.

66 Historic England (Greater London Archaeological Advisory Service): No objection.

67 Lead Local Flood Authority: No objection, subject to conditions.

68 Thames Water: No objection, subject to informatives relating to a piling method statement, Groundwater Risk Management, flow rates and diversion of a Thames Water main that crosses the development site.

69 London Underground: Fully supported the application and considered that that the proposed step-free access would deliver significant transport improvements.

70 Natural England: No comment.

71 Environment Agency: No comment.

72 Neighbouring borough City of Westminster: No objection. Highlighted the heritage importance of those parts of Westminster closest to the development to the east in the Bayswater area, and reminded RBKC of its statutory duties in determining applications involving impacts upon heritage assets.

Individual neighbourhood responses

73 At the time of reporting the application to its planning committee, Kensington and Chelsea Council reported that it had received 727 letters of objection, 177 of support and 21 with general comments. Included in the list of objectors were Hillgate Villas Residents' Association, Westbourne Park Villas Residents' Association, Bayswater Residents' Association, Hawksdown House School, Bethesda Baptist Church, Essex Unitarian Church and Skyline Campaign. Kensington Society, Campden Hill Residents' Association, Pembridge Villas Surgery, Westbourne Grove Medical Centre, London Farmers Market, and NHS West London Clinical Commissioning Group submitted letters in support of the proposed development. All responses were provided to the GLA after the decision to take over the application and have been made available to the Mayor in advance of the hearing.

74 The main concerns and issues raised in objection to the proposals can be summarised as follows:

Design, character and appearance

- Poor design and lacks architectural merit
- Harm to the significance of nearby listed buildings as a result of development within the setting of those buildings.
- Out of character with the low-rise houses of the surrounding conservation area.
- Disrespectful encroachment on space surrounding the Bethesda chapel.
- Building will be a death trap.

Impact on residential amenity

- Loss of daylight/sunlight.
- Potential wind shear issues due to height of tower.
- Impact of construction noise, vibration and traffic.
- Over-looking and loss of privacy.

Impact on local area and environment

- Negatively impact tourism and farmers' market.
- Development will drive up market rents.
- Increased air pollution.
- Possible damage to sewage and water pipes and subsidence in the adjoining streets.
- Loss of an important street tree.

Transport impacts

- There will be an increase in cars and congestion due to the increased population of the block.
- Constant noise and vibration from more cars entering the car park at all hours.
- Inadequate vehicular access and service provisions.
- Underground parking defies London policy.

Land use and specific proposals

- Lack of affordable homes in the proposal.
- Lack of community benefits.
- The flats would likely be bought as investments by overseas buyers which would be left empty and would not contribute to the vibrancy of the area.
- Provision of social housing is below the Mayor of London's target of 35% for a major development.
- Affordable housing element being incorporated into the scheme when it should have been provided elsewhere in the vicinity.
- A 2-storey basement is contrary to local policy.

75 The responses in support outlined the need for a modern GP surgery, affordable housing and the redevelopment of a site that is an eyesore. Other areas of support included an enhancement to the area and important views around Notting Hill Gate; boosts economic activity and the aesthetics of the skyline.

Other responses to the Council, including non-statutory consultees, residents' groups and elected members

76 Internal consultees: Borough officers have provided comments in relation to urban design, heritage, drainage and flooding, air quality, contaminated land, noise, street lighting, refuse and recycling, highways and arboriculture. The points raised have been considered in the body of the

report. In addition, concerns raised have been considered and are reflected and addressed in the suggested conditions and planning obligations.

77 London Fire and Emergency Planning Authority: No comments received.

78 Council for British Archaeology: No comments received.

79 Victorian Society: No comments.

80 Campden Hill Residents' Association: On balance, supports the application subject to conditions preventing any future reduction in the number of social rented units and the resolution of concerns raised in relation to vehicular access, materials and detailing.

81 Kensington Society: Supports the application given its public benefits.

82 Ladbroke Association: Supports the application given the proposed public benefits.

83 Pembridge Association: Supports the application given its public benefits.

84 Hillgate Village Residents' Association: Objects to the massing, height, design and level of affordable housing provision.

85 Westbourne Park Villas Residents' Association: Welcomes the demolition of the existing building; however, finds the proposed replacement should offer less affordable units than the existing structure, and considerably less than the Mayor of London's suggested 35%.

86 Bayswater Residents' Association: Objects because of the height and overdevelopment on the site.

87 London Farmers Market: Supports the application, noting that the proposed scheme offers the best opportunity to secure the long-term future for the farmers market in the area.

88 NHS West London Clinical Commissioning Group: Supports the application and the provision of a new GP surgery.

89 The Royal Parks: Objects to the height of the development but does not want to unduly impact any development that may regenerate area or allow affordable residential housing.

90 Council for British Archaeology: No comments received.

91 Councillor David Champion: As a major application, it should go to Committee for a decision and not be decided under delegated authority.

92 Councillor Catherine Faulks: Detailed account of the many objections, especially from the Hillgate Village must be taken, and the provision of the GP surgery and 10 further 2-bedroom homes within the borough is secured through planning condition.

93 Councillor Robert Freeman: Objected to the scheme because of the proposed height and its impact on nearby heritage assets, no social housing and just a small number of 'affordable' units, inadequacy of the provision of step-free access and lack of clarity regarding the GP surgery proposed.

Representations made to the Mayor of London

94 Prior to the Mayor's Stage 2 decision, the Mayor received a direct representation dated 21 February 2018 from the NHS West London, Clinical Commissioning Group in support of the application.

Re-consultation exercise

95 The Mayor took over the planning application for his own determination on 26 March 2018. Since that time, a re-consultation exercise commenced on 11 July 2018 for 31 days in relation to revisions to the scheme that had been updated since the original consultation exercise was undertaken. However, a decision was taken to extend the latest consultation period for a further 20 days to 30 August 2018. On 31 July 2018 consultees were informed of this extension. A total of 2,592 letters/emails of notification were distributed to local addresses, as well as notification sent out to statutory and non-statutory consultees. A press notice was posted in the 13 July 2018 and 3 August 2018 editions of the Kensington & Chelsea Gazette and site notices were erected. The erection of the site notices and posting of the press notices were arranged by the Council on behalf of the Mayor.

96 Responses: At the time of preparing this report, the Mayor and/or GLA officers have received 483 emails or letters (439 responses in objection, 41 in support and three general responses) as a result of the re-consultation exercise. Most of the objections reiterate concerns raised with the Council at the initial consultation stage, as detailed above. These responses have been made available to the Mayor and have been taken into account in this report. Responses have been received from the following individuals and groups, reiterating the comments and objections to the application that have been raised previously:

- Hillgate Village Residents' Association
- Councillor Catherine Faulks
- Councillor Robert Freeman
- Bayswater Residents' Group

97 In summary, the issues raised in objection to the revised scheme are:

- height, scale, density and visual impact;
- could set a precedent for other towers in the area;
- overshadowing, loss of light and loss of privacy;
- poor appearance and design;
- lack of affordable housing, and affordability;
- Council and residents should be listened to;
- impact on car parking nearby and increased traffic;
- no need for affordable housing in the development;
- sustainability concerns and impact of construction activity;
- noise pollution;
- flats will be for investment, seldom occupied and will not address housing shortage;
- air quality impact;
- building should be renovated; and,

- revisions do not respond to the concerns raised by residents previously.

98 In terms of support, the responses reiterate those comments previously expressed, namely the provision of a modern GP surgery, affordable housing and the redevelopment of a site that is in a poor condition. The Kensington Society and Ladbroke Association, London Farmers' Market and the NHS West London, Clinical Commissioning Group reiterated their support for the proposed development. The general responses include: a request for the return of the farmers' market; queries in relation to penalties/safeguards to dissuade developers from extending the duration of the construction time, site access and completion of the project; and, a request that the Mayor ensures that any development sets a principled precedent for London-wide regeneration.

99 Natural England: Responded with no objection.

100 City of Westminster: Responded reiterating no objection.

101 Historic England: No response.

102 The Royal Parks: Responded reiterating their objection to the proposal on the grounds that the tower would have an impact on the Grade I Listed Kensington Gardens, as it would be visible above the tree canopies from many viewpoints within Kensington Gardens and impinge upon the open sky space around the Gardens. This would be detrimental to its setting.

103 Gardens Trust: The Trust was not consulted previously; raises no objection to the proposed development.

104 Emma Dent Coad MP: Responded with an objection to the proposed development because of the level of affordable housing, design, inadequacy of the step-free access and non-compliance with RBKC and London Plan Policies.

105 Campden Hill Residents' Association (CHRA): Responded with an objection to the proposed scheme on the basis that although the proposed benefits are not insignificant, they would not outweigh the serious and long-term damage that would be caused to Notting Hill Gate because of the extra bulk, and height and architectural design of the tower.

106 Save Britain's Heritage: Responded with an objection on the basis that the development does not respect the character and appearance of the area and would cause substantial harm to the setting of listed buildings in Pembridge Gardens and Kensington Palace Gardens and likely to cause substantial harm to Royal Parks Conservation Area as an intrusive backdrop to the Kensington Palace.

107 The Georgian Group: Raised concerns about the impact of the proposed development on the adjacent Bethesda Chapel and the robustness of the applicant's assessment of potential damage to nearby structures. The Group suggests that to protect the fabric of the historic building and to ensure that the congregation can continue to meet throughout the duration of the works, the applicant should commit to a full survey of the building to determine an accurate assessment of risk and should commit to the building's timely repair in the event of damage (with timeframes stated). In the case of damage beyond initial projections, an agreed plan for the temporary relocation of the congregation should be developed.

108 An objection to the scheme was received from the Royal Borough of Kensington and Chelsea. The Council, against officer recommendation, objects for the following reasons:

- Harm to townscape and setting of heritage assets: The tall building would appear within the views of many nearby heritage assets, including the panoramic view out of Kensington

Gardens (Grade I registered historic park and garden and conservation area in RBKC and WCC) and on the wider backdrop to the Royal Palace. The cumulative effect of harmful impact on the conservation areas, listed buildings and the registered park and garden would be substantial. The elevational designs of the tall building are overly fragmented and lack a sufficiently strong compositional quality or identity. The tall building would not have a wholly positive impact. The tall building would be more visible within the surrounding townscape, with resultant harm to the setting of grade II listed buildings, the grade I listed Kensington Palace and its registered gardens, and some views within surrounding conservation areas. The harm would be substantial and significant weight must be accorded to these impacts which include the listed properties of Kensington Palace Gardens and Kensington Palace Conservation Area, and the listed properties of Pembridge Gardens and cumulatively to Pembridge Conservation Area. In addition, the increased height to WPB3 would not respond to the prevailing building heights as it would be tall and bulky and would disrupt the local townscape and, along with the tall building, causes substantial harm to the setting.

- **Affordable housing:** The proposed development would result in the loss of existing residential accommodation in Royston Court, which contains 20 bedsit units (1,071 sq.m. GEA) and previously accommodated former rough sleepers. Local policy requires the Council to ensure that there is a net increase in residential accommodation by resisting the net loss of both social rented and intermediate affordable housing floorspace and units. Whilst the existing floorspace of Royston Court would be replaced and exceeded by 167 sqm (GEA), the proposed scheme does not meet local policy requirements regarding the re-provision of unit numbers as there would be a loss of five social rented homes. In terms of the overall level of affordable housing proposed, local policy requires development to provide affordable housing at 50% by floor area (on site, unless exceptional circumstances exist) on residential floorspace more than 800 sq.m. (GEA). The scheme would provide 23 affordable homes (2,641 sq.m. (GEA), which amounts to 24.9% by floor area and a net uplift of 14.8% of the overall residential floorspace. Local policy also requires schemes such as the one proposed to demonstrate through a viability assessment that the maximum reasonable amount of affordable housing is being provided or that exceptional site circumstances or other public benefits exist to justify the reduced affordable housing provision. The Council is not satisfied that the approach to developing the site provides the maximum reasonable amount of affordable housing.

Representations summary

109 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.

110 The key issues raised by the consultation responses, and the various other representations received, are addressed within the planning issues section of this report, and, where appropriate, through the proposed planning conditions, planning obligations and/or informatives outlined in the recommendation section of this report.

Planning issues

111 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 town centres, social infrastructure, mixed use development, retail and office uses, and residential uses);
- Housing (including delivery of affordable housing, tenure, mix, density, quality);
- Urban design and heritage (including urban design, public realm, play space, views, the setting of listed buildings and conservation areas and archaeology);
- 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, contaminated land and waste management); basements development.
- Transport, including parking provision; and,
- Mitigating the impact of development through planning obligations and conditions.

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

Land use principles

113 The principle of redevelopment must be considered in the context of the London Plan, draft London Plan and borough policies, as well as the NPPF, together with other policies relating to mixed-use development, housing, social infrastructure, transport, office and retail uses. The NPPF identifies a set of core land-use planning principles which should underpin both plan-making and decision-taking. Those core land use planning principles of relevance to the application site are that planning should:

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), if it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas; and
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

114 Paragraph 85 of the NPPF makes clear that the role of town centres as the heart of local communities should be supported by planning decisions and policies. As previously indicated, the site is within Notting Hill Gate District Centre. Annex 2 of the London Plan provides some guidance in respect of London's Town Centre network and for Notting Hill Gate confirms the town centre as a medium growth district centre which predicts moderate levels of demand for retail, leisure or office floorspace and with physical and public transport capacity to provide it. London Plan Policy 2.15 and draft London Plan Policy SD6 seek to ensure that, beyond the Central Activities Zone (CAZ), centres within the town centre network remain the focus for commercial development and intensification, including residential-led development. Both policies require development proposals in town centres to sustain and enhance the vitality and viability of the centre and accommodate economic and/or housing growth through intensification.

115 Kensington and Chelsea CLP Policies CF1, CF2, CF3, CF4 and CF5 recognise the importance of diverse economic activity to the vitality and viability of the borough's town centres; and the protection and enhancement of various activities including retail, offices and street markets is emphasised within policy. Moreover, the Council's CLP Policies CP16 and CV16 seek to strengthen the Notting Hill Gate District Centre with improved shops and restaurants, along with improved pedestrian links and street environment. There is also an aspiration for the Centre to remain a major office location and for the redevelopment of Newcombe House to play a role in achieving this as well as being a catalyst for the wider regeneration of the area. Within the Council's Notting Hill Gate SPD (NHGSPD), the site is identified as having the potential to accommodate a mixed-use development comprising new office space, ground floor retail and residential on the upper floors, along with step-free access to the District and Circle Line platforms and improved public realm.

116 The proposed development would deliver housing (including affordable housing), modern GP surgery, retail and office floorspace and step-free access, as well as public realm improvements that could accommodate a popular farmers' market. The proposed scheme would therefore further enhance the vitality and viability of the town centre and accord with London Plan Policy 2.15, the Mayor's Town Centres SPG and the Council's CLP Policies CP16, CV16, CF1, CF2, CF3, CF4 and CF5 and the NHG SPD.

117 The site is a highly accessible, underutilised site within a District Centre and as such, a residential-led, mixed use development on the site is considered to be consistent with the up to date aims of national, strategic and local current and emerging planning policy. Specific land use considerations are outlined further below.

Housing

118 The London Plan and draft London Plan identify the optimisation of land as a key part of the strategy for delivering additional homes in London. London Plan Policy 3.3 provides explicit strategic support for the provision of housing within London and sets a target for the Council to deliver a minimum of 7,330 homes in the Plan period 2015-2025. In monitoring delivery against this target, Kensington & Chelsea is expected to deliver an annual target of a minimum of 733 net additional homes per year. The draft London Plan sets a reduced ten-year target of 4,880, with an assigned annual target of a minimum of 488 net additional homes per year. Table 1 below sets out delivery against the RBKC targets during the financial years 2013-2017.

Table 1: Delivery against London Plan net housing target and London Plan affordable housing target

net delivery	2013-2014	2014-2015	2015-2016	2016-2017	total	net delivery %
homes target	585	584	733	733	2,635	62% of target
homes delivered	451	911	114	153	1,629	
affordable homes target	200	200	293	293	986	34% of target
affordable homes delivered	46	196	67	23	332	

Source: London Development Database.

119 Based on the information in Table 1, the delivery of new homes and affordable units within the borough is substantially below target levels set out in the London Plan; and the Borough has consistently failed to meet the overall targets for additional homes and affordable units. Applying the target for affordable housing sought in the London Plan, the delivery of new affordable homes also falls considerably short. Regarding approvals, Table 2 below demonstrates that although the Council has approved 281 homes more than their total target for the period 2013-2014 to 2017-2018, only 9.5% of the homes approved are affordable homes, with zero affordable homes approved during the financial year 2017/2018.

Table 2: Performance against London Plan housing target and London Plan affordable housing target in terms of planning approvals

net approvals	FY2013	FY2014	FY2015	FY2016	FY2017	total	performance against target
homes target	585	584	733	733	733	2,635	115% of target (+281 units)
homes approvals	1,107	1,156	94	348	211	2,916	
affordable homes target	200	200	293	293	293	986	28% of target (-705 units)
affordable homes approvals	156	90	26	9	0	281	

Source: London Development Database.

120 The proposed scheme includes the provision of 55 new residential units (including 23 affordable units), which is a net increase of 35 residential units on the site. The proposed quantum of affordable units equals 66% of the total number of affordable units approved in the borough over the last three financial years.

121 The principle of a housing-led redevelopment of this site, to include 55 new homes, is therefore supported and would assist in remedying the above under-delivery in line with London Plan Policy. The housing element of the proposed development is discussed in further detail in paragraphs 141-189 of this report.

Provision of step-free access

122 London Plan Policy 3.1 makes clear that expanding opportunities and meeting the needs of all Londoners is essential to confronting inequality across London. To achieve this, Policy 3.1 underlines the importance of addressing the barriers to meeting the needs of specific groups and communities, including persons with mobility problems. In addressing equality and inclusiveness as it relates to transport infrastructure, London Plan Policy 6.1 encourages the provision of step-free access as part of an integrated approach to development and transport. Draft London Plan Policy GG1 states that in building strong and inclusive communities the movement of all Londoners, including older people, disabled people and people with young children should be supported by those involved in planning and development. This should be done by creating a welcoming environment that everyone can use confidently, independently, and with choice and dignity, avoiding separation or segregation. Table 10.1 – Indicative list of transport schemes, under draft London Plan Policy T3, includes step-free London Underground stations.

123 As mentioned previously, the provision of step-free access (SFA) to the Notting Hill Gate London Underground station is identified as one of the opportunities available for the redevelopment of the site. In addition, Kensington and Chelsea CLP Policy CT1(k) aims to ensure that, through collaboration with partners, step-free access is delivered at Underground and rail stations in the borough.

124 Notting Hill Gate (NHG) London Underground station forms a strategically important interchange both with the Central line and local bus services at street level. However, there is no SFA at this station, which serves the District Line and Circle Line. The station is heavily used, with the latest statistics showing that 44,599 customers use the eastbound/southbound platform weekly.

125 The proposed development includes the provision of SFA at the adjacent NHG London Underground station. Fully funded by the applicant, this SFA would be delivered from street level to the southbound/eastbound platform of the Circle Line and District Line, through two new lifts and walkways. In addition, there is the possibility of the provision of SFA to the northbound/westbound platform coming forward as part of any future development on the adjacent David Game House site. Even on their own, the proposed improvements would enable a wide range of people with mobility difficulties, including those who are physically or visually disabled, parents/ carers with young children (especially in a buggy or pram) and those with heavy and awkward luggage, to use the Underground safely and conveniently without having to use stairs or an escalator.

126 The provision of SFA at the station would therefore enable passengers to travel to other stations on the District Line & Circle Line, which are also step-free. In addition, the scheme would also provide stair-free access to the Central Line through the provision of a lift from street to ticket hall level, which would benefit passengers who struggle to use stairs but can use escalators. The escalators would directly serve the platforms, which is often not the case as many stations have a further flight of stairs after the foot of the escalators to reach the platforms. This would assist many people with mobility difficulties and would provide them with a direct link to all the Central Line stations, which are either step or stair-free from Greenford in the west to Epping in the east.

127 As such, the provision of step-free access to Notting Hill Gate London Underground station is strongly supported in line with London and local planning policies and its delivery would be secured in the Section 106 agreement.

Provision of medical facility

128 London Plan Policies 3.16 and 3.17, and draft London Plan Policies S1 and S2 support the provision of high quality health care facilities, especially in areas of under-provision or where there are needs. In delivering such facilities, both the London Plan and draft London Plan encourage boroughs to work with the local NHS and other organisations in assessing need and securing locations for provision. Locally, Policy CK1 of the Kensington and Chelsea CLP seeks to enhance social and community facilities; and the NHG SPD identifies the provision of a new primary healthcare centre for Notting Hill Gate as one of its development guidelines.

129 The proposal includes the provision of a modern GP surgery in a location that has been identified in the NHG SPD as in need of a primary health care centre and is supported by the NHS West London Clinical Commissioning Group under which the planning and commissioning of health facilities in the Notting Hill Gate vicinity falls. Two existing practices, located in proximity of the borough boundary between RBKC and City of Westminster have been identified to relocate to the proposed health facility. At present, both practices provide services to residents beyond RBKC, with a proportion of the residents in Westminster; and the existing premises provide challenges in relation to space and layout. The proposed surgery forms part of the NHS West London Clinical Commissioning Group's strategic delivery service plan. It has been designed in consultation with the NHS and would be fitted out to NHS-approved specifications, with capacity to accommodate nine GPs and serve up to 18,000 patients. A range of multi-disciplinary services including mental health and wellbeing would be provided.

130 Although there would be no increase in the number of GP surgeries, the proposed facilities would provide the range and quantum of facilities required to improve access to primary care, integrated health and social care professionals to a wider population. The proposed provision of a new modern GP surgery is therefore strongly supported in line with London Plan Policies 3.16 and 3.17, the Mayor's Social Infrastructure SPG, draft London Plan Policies S1 and S2, and Kensington and Chelsea CLP Policy CK1.

Retail use

131 London Plan Policy 4.7 promotes the provision of retail activity within town centres, which is at a scale appropriate to the role, function and catchment area of the town centre; whilst Policy 4.8 encourages diverse retail sectors such as farmers' markets and convenience shopping in District and local centres. Both policies identify the presence of retail activity as crucial to enhancing the vitality and viability of town centres. Support for, and the recognition of retail activity to the vitality and viability of town centres is also expressed in draft London Plan Policy E9.

132 Similarly, Kensington and Chelsea CLP Policy CF2 seeks to promote the provision of retail development in town centres at a scale appropriate to the position of the centre within the retail hierarchy. CLP Policy CF2 also requires a range of shop unit sizes in new major retail development and resists the amalgamation of shop units. Moreover, the protection, promotion and enhancement of a diverse range of shops is seen as key to securing the viability and vitality of town centres as set out CLP Policy CF3; and CLP Policy CF4 seeks to ensure that street markets continue to be a vibrant component of retail activity in the borough.

133 The scheme would deliver 2,638 sq.m. (GIA) of retail (A1/A3 Use Class), which is an increase of 69 sq.m. (GIA) on the existing quantum of retail floorspace. The proposed units vary in size and could accommodate a range of occupiers, with a focus on smaller retail units. Four of the commercial units would be restaurant/café use (Class A3) and these would be sited on the Kensington Church Street frontage, interspersed with retail units (Class A1) as complimentary town centre uses. A retail marketing strategy, to ensure that appropriate retailers are targeted, would be secured through the Section 106 agreement. In addition to the retail units, the scheme would re-provide a public square, which has been designed to accommodate the local farmers' market that currently utilises the existing car park. Arrangements have been put in place for a temporary relocation of the market during construction and its return will be secured in the Section 106 agreement, as well as the terms and conditions governing the use of the public square by the farmers' market.

134 The proposed retail uses are diverse and would represent an overall improvement to the function and vitality of Notting Hill Gate and is therefore supported in line with London Plan Policies 4.7 and 4.8, draft London Plan Policy E9 and Kensington and Chelsea CLP Policies CF2, CF3 and CF4.

Offices

135 The renewal and modernisation of existing offices located in viable locations is encouraged in London Plan Policy 4.2. Further to this, Policy 4.2 supports mixed-use development and redevelopment involving different types and sizes of office provision to improve the competitiveness of London. London Plan Policy 4.3 also supports the provision of offices as part of mixed use development, within town centre locations. Similarly, draft London Plan Policy E1 promotes the enhancement of London's competitiveness and the provision of diverse office spaces, with a focus on town centres for new development.

136 Kensington and Chelsea CLP Policy CF5a(ii) protects medium sized offices in higher order town centres unless *"the office is within a town centre and is being replaced by a shop or shop floorspace, by a social and community use which predominantly serves, or which provides significant benefits to, borough residents; or by another (not residential) town centre use where this allows the expansion of an adjoining premises"*.

137 The scheme proposes 4,765 sq.m. (GIA) of office accommodation across the 1st-3rd floors within the West Perimeter Building 3 and the Corner Building; and at ground to 2nd floor within Cube-West Perimeter This equates to a loss of 441 sq.m. (GIA) in comparison to the existing office provision on-site; but is an increase of 375 sq.m. (GIA) since the Mayor called in the application. Given the improved quality and flexibility of the proposed office floorspace, this loss is acceptable

in line with London Plan Policy 4.2 and 4.3 and draft London Plan Policy E1. The provision of a health facility (a social and community use) would offset the loss of office floorspace and is, therefore, acceptable under Kensington and Chelsea CLP Policy CF5.

Social infrastructure and funding

138 London Plan Policy 3.16 requires boroughs to ensure that adequate social infrastructure provision is made to support new developments. Kensington and Chelsea CLP Policies CK1 and C1 seek the use of planning obligations and funding mechanisms to support the delivery of infrastructure facilities and services to meet needs generated by new development and mitigate the impacts. Since the introduction of the borough's community infrastructure levy (CIL), CIL receipts from new development are expected to take the place of traditional individual S106 contributions towards the provision of necessary additional social infrastructure such as school places and leisure facilities. The Borough CIL receipt from this development is expected to be up to £2,459,479. Site specific works, such as highway infrastructure, landscaping and public realm and contributions to open space to mitigate the impacts of the development, are secured via the s106 agreement, as set out in paragraphs 306-315 below.

Principle of development conclusion

139 In view of the site's location within the highly accessible Notting Hill District Centre, the strategic priority afforded to housing in the London Plan and the categorisation of the site in local policy as being suitable for redevelopment, the principle of intensifying uses on this site is strongly supported. The application includes uplift in residential units, including affordable dwellings; modern, flexible, office floorspace; uplift in small-scale retail units; a modern GP surgery; a new public square that could be used by the local farmers' market; and, step-free access to the south bound District and Circle line and stair-free to the Central line.

140 A residential-led, mixed use development on the site is compliant with the NPPF and consistent with the aims of strategic and local planning policy, including London Plan Policies 2.15, 3.1, 3.3, 3.4, 3.16, 3.17, 4.1, 4.2, 4.3, 4.7, 4.8; draft London Plan Policies E1, E7, E9 GG1, GG2, S1, S2 SD6 and T3; and, Kensington and Chelsea Consolidated Local Plan Policies CK1, CT1(k), CF1, CF2, CF3, CF4, CF5, CP16 and CV16.

Housing

Re-provision of existing housing

141 London Plan Policy 3.14 and the Mayor's Affordable Housing and Viability SPG both make clear that in the redevelopment of sites any loss of affordable housing must be replaced by better accommodation, and at least an equivalent amount of affordable floorspace. Draft London Plan Policy H10 sets out an expectation that any replacement homes be provided on a like-for-like basis at the same or similar rent levels. At the local level, Kensington and Chelsea CLP Policy CH3b notes that the Council will resist the net loss of both social rented and intermediate affordable housing floorspace and units throughout the borough.

142 There are 20 vacant, affordable studio units in Royston Court that previously provided social rented accommodation for rough sleepers. The total floorspace of the existing units is 955 sq.m. (GIA) and comprises 20 habitable rooms. The 15 social rented units proposed would amount to 1,094 sq.m. (GIA) of floorspace, which equates to uplift of 139 sq.m. (GIA). The number of social rented units and habitable rooms have increased from 9 to 15 and 27 to 33 respectively since the call-in, through the intervention of GLA officers. In view of the increase in the social rented floorspace (and number of habitable rooms) and the significant improvement in the residential

quality of the accommodation proposed, the re-provision of the existing social rented units accords with London Plan Policy 3.14 and draft London Plan Policy H10. The applicant has also agreed to provide a further ten affordable rented units off-site, with at least 20 habitable rooms, through the refurbishment of street properties within London.

143 The reduction in the number of social rented units from 20 to 15, however, is contrary to Kensington and Chelsea CLP Policy CH3b. Nevertheless, as mentioned above, given the significant improvement in the residential quality of the proposed units and uplift in habitable rooms and floorspace, and increase in the number of persons that can be housed, it is considered that the proposed development results in an enhancement to the social rented housing provided on this site to the extent that this outweighs the loss of units. Thus, the conflict with Kensington and Chelsea CLP Policy CH3b is, on balance, outweighed by the overall improvement in affordable housing provision proposed. The Council's officers concurred with this view.

144 It is understood that 15 of the previous tenants voluntarily surrendered their tenancies and were re-housed within the borough; one tenant also surrendered their tenancy and relocated to Stockport; two tenants passed away; and, the other two were evicted for rent arrears. It is further understood that tenancy terms remain for the tenants re-housed within the borough as per their agreement whilst at Royston Court, with rents remaining at social rent levels. In addition, all the tenants re-housed received Home & Loss Disturbance payments in line with statutory obligations.

Affordable housing and financial viability

145 London Plan Policy 3.11 states that the Mayor will, and boroughs and other relevant agencies and partners 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. Policy H5 of the draft London Plan expands on this and sets a clear strategic target of 50% of all new homes delivered across London to be affordable.

146 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. Negotiations on sites should take account of their individual circumstances including development viability, resources available from registered providers (including public subsidy), the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements.

147 In August 2017 the Mayor published his Affordable Housing and Viability Supplementary Planning Guidance (SPG) which sets out his preferred approach to the delivery of affordable housing, introducing a Fast Track Route for applications that deliver at least 35% affordable housing (by habitable room) on site, without public subsidy, subject to tenure and increasing this further with grant funding. The document also sets out detailed guidance to the form, content and transparency of viability assessments and the requirements for review mechanisms. The threshold approach to affordable housing is also set out in draft London Plan policies H6 and H7. The Mayor also launched in November 2016 a new Affordable Homes Funding Programme for the period of 2016-21, which introduced new affordable products, rent benchmarks and grant rates.

148 Draft London Plan Policy H7 and the Affordable Housing and Viability Supplementary Planning Guidance (SPG), however, also identify schemes that are unsuitable for the Fast Track Route. Such schemes include the demolition of existing dwellings, applications which propose affordable housing off-site or a cash in lieu contribution and schemes claiming vacant building credit. As the proposed redevelopment of the site includes the demolition of existing affordable housing units, in line with the above policies the scheme does not qualify for the Fast Track Route and must be assessed via the Viability Tested Route. An assessment of the scheme's viability and justification for the proposed level of affordable units is set out later in this report.

149 London Plan Policy 3.11 also sets a preferred tenure split of 60% social and affordable rent and 40% for intermediate rent or sale. It goes on to state that that priority should be accorded to the provision of affordable family housing. Policy H7 of the draft London Plan and the Mayor's Affordable Housing and Viability SPG sets out a preferred tenure split of at least 30% low cost rent (social or affordable rent significantly less than 80% of market rent), at least 30% intermediate (with London Living Rent and shared ownership being the default products), and the remaining 40% to be determined by the Local Planning Authority.

150 Locally, Policy CH2i of the Kensington and Chelsea CLP requires developments to provide affordable housing at 50% (by floor area) on developments delivering more than 800 sq.m. gross external area (GEA) of residential floorspace. Moreover, in accordance with Kensington and Chelsea CLP Policy CH2k, this housing must be provided on-site where the proposed residential floorspace exceeds 1,200 sq.m. of GEA, unless exceptional circumstances exist. In instances where a scheme involving more than 800 sq.m. of residential floorspace does not provide 50% of the residential floorspace as affordable housing, CLP Policy CH2p makes clear the submission of a viability assessment is required to demonstrate that the maximum reasonable amount of affordable housing is being provided. Additionally, the exceptional site circumstances or other public benefits must be demonstrated to justify any reduction in affordable housing from that which policy requires to be provided.

151 Although, as explained above, only moderate weight can be attached to the Council's draft Local Plan Partial Review, it should be noted that it is proposed to amend Policy CH2 to reduce the provision of affordable housing from 50% to 35% by floor area on residential floorspace providing 650 sq.m. or more of gross residential floorspace (GIA).

152 In terms of affordable tenure mix, Kensington and Chelsea Policy CH2q requires developments in Campden Ward, where the application site is located, to include a minimum of 85% social rented housing; whilst Policy CH2r prescribes that intermediate housing should be provided at the 'usefully affordable' point. The Council's draft LPPR is proposing a 50-50 split between social rented and intermediate housing tenure.

153 When the Mayor considered this application at Stage 1, the application proposed 9 social rented units, equating to 17% of the scheme on a habitable room basis; this percentage included the re-provided 20 existing affordable habitable rooms. When those 20 habitable rooms were deducted, the level of affordable housing was only a 5.1% uplift in affordable habitable rooms. At Stage 2, the Mayor made clear that all options for increasing on-site affordable housing must be explored. After the Mayor's decision to take over the application in March 2018, GLA officers have worked with the applicant to secure additional affordable housing.

154 Since Stage 2, the proposal has been revised from 46 to 55 homes (an uplift of 9 units), and the affordable housing offer increased to 35% by habitable room (42% by unit). When the 20 habitable rooms representing the existing quantum are deducted, however, the proposed level of affordable housing is 27% net uplift by habitable room.

155 The changes to the provision of affordable housing from the first application in 2016 to date is set out in Table 3 below.

Table 3: affordable housing history

tenure	previous application (January 2016)	recent application (Stage I) (September 2017)	revised proposal (July 2018)
private	46	37	32
social rented	0	9	15
intermediate	0	0	8
total affordable units	0	9 (17% by hab. room/5.1% net)	23 (35% by hab. room/27% net)
total	46	46	55
Notes	Considered by the previous Mayor at Stage I (January 2016) and Stage II (April 2016)	Considered by the Mayor at Stage I (November 2017) and Stage II (March 2018)	Current proposal

156 As previously mentioned, schemes involving the demolition of existing dwellings must be assessed via the Viability Tested Route. In view of the amendments, namely the increase in residential units and office floorspace, the application is accompanied by an updated financial viability assessment. GLA officers have robustly scrutinised the applicant's revised viability assessment prepared and confirm that it has been prepared in compliance with the Affordable Housing and Viability SPG and draft London Plan. GLA officers have interrogated the viability assessment, which demonstrates that the maximum level of affordable housing is being provided and that the provision of grant funding would not materially increase the level of affordable provision.

157 The proposed tenure split is 51% (affordable rent)/ 49% (intermediate) by habitable room, which accords with the draft London Plan and Mayor's SPG tenure split requirement; however, it does not comply with the Council's expected target split in Kensington and Chelsea CLP Policy CH2q, which requires a minimum of 85% social/affordable rent in the Campden Ward. However, it should be noted that Policy CH2a makes clear that the required mix of tenures, home sizes and types should reflect the varying needs of the borough, considering the characteristics of the site, and current evidence in relation to housing need. The borough's current housing evidence is contained in its Strategic Housing Market Assessment (SHMA) 2015 and, whilst not yet adopted, the Council's draft LPPR is proposing a revised tenure split of 50:50 between social rent/affordable rent and intermediate products, which the scheme responds to. It is noted that Council officers are supportive of the tenure split and this was not cited as a basis for refusal by the Council.

158 The resultant tenure split should also be viewed in the context of the overall uplift in affordable accommodation that has been secured since the Mayor took over this application, with on-site affordable housing increasing from nine units to 23 units, including an additional six affordable rented units and six affordable rented habitable rooms. Moreover, the proposed tenure split introduces intermediate rent, hence diversifying the previously mono-tenured provision and better capturing the emerging London Plan and local policies on providing mixed tenure residential developments. The affordable rented units would be let at London Affordable Rent or social rents which are significantly below 80% of local market rent and the intermediate units would be discounted below London Living Rent levels. Therefore, in view of the above, the proposed tenure mix is considered acceptable.

159 This affordable housing commitment would be secured in the S106 agreement and comprises the following:

Table 4: affordable housing mix

affordable units	number of units	number of hab. room	% by unit	% by hab. room
social/ London Affordable Rent	15	33	65%	51%
intermediate rent	8	32	35%	49%
total (% of scheme)	23	65	42%	35%

160 As discussed in paragraph 142 above, the applicant has also confirmed that they would commit via S106 to delivering ten additional affordable dwellings, with at least 20 habitable rooms. These units would be provided through the refurbishment of existing street properties across London and the nomination rights to these units would be granted to the Council at London Housing Allowance cap rents or equivalent affordable rent levels. These units have not been factored into the net 27% affordable housing provision secured., but would provide genuinely affordable housing for RBKC residents, albeit outside of the borough.

Affordability

161 The draft London Plan and Mayor’s Affordable Housing & Viability SPG make clear that in determining tenure, homes are to be genuinely affordable. For the low-cost rent element, whilst a local planning authority may specify rental levels they consider to be genuinely affordable, the Mayor expects this to be significantly less than 80% of market rent. For intermediate products for rent, these should be London Living Rent and accord with the London Plan Annual Monitoring Report (AMR) affordability criteria. Registered Providers have the flexibility to let homes at lower rents if they choose to do so. Registered Providers are also expected to actively encourage London Living Rent tenants into home ownership, including assessing the ability and inclination of prospective tenants to save, and offering tenants the right to purchase their London Living Rent home on a shared ownership basis.

162 The affordable rented housing would be let at London Affordable Rent levels and equivalent to social rents, which are set annually by the Mayor at amounts significantly less than 80% market rent. The rents are set out in the below table, with market rents provided for comparison; and are therefore considered to be genuinely affordable and accord with the Mayor’s SPG and Policy H7 of the draft London Plan.

Table 5: comparison of proposed affordable rents against market rents

unit type	London Affordable Rent (2017-2018 benchmark)/week	market rents (derived from London Rents Map)/week	London affordable rent as % of market rent/week
1-bed	£144.26	£424	34%
2-bed	£152.73	£607	25%

163 Regarding the intermediate rent units, these would be let at discounted London Living Rent (LLR) levels. The GLA has calculated ward-level caps for London Living Rent homes based on one-third of median gross household income for the local borough. However, it has been necessary to secure a further discount to ensure that these units are genuinely affordable in line with the Mayor’s criteria. The rents are set out in the below table, with market rents provided for comparison; and are therefore considered to be genuinely affordable and accord with the Mayor’s SPG and Policy H7 of the draft London Plan.

Table 6: comparison of proposed discounted LLR against benchmark and market rents

Unit type	London Living Rent (2018-2019 benchmark)/week	Proposed discounted rent/week	Market rents (derived from London Rents Map)/week	Proposed rent as % of market rent/week
1-bed	£327.30	£323.07	£424	76%
3-bed	£399.92	£323.07	£1100	29%

164 The income thresholds for the intermediate rent units would be restricted to households with a maximum household income of £60,000, without sufficient current savings to purchase a home in the local area, in line with the Mayor’s Affordable Housing & Viability SPG.

Conclusion on affordable housing and financial viability

165 In response to concerns raised by the Mayor at both consultation stage and Stage 2, GLA officers have worked with the applicant to increase affordable housing provision. Given that the proposal includes the demolition of existing housing, the application has been considered under the Viability Tested Route. GLA officers have robustly scrutinised the applicant’s viability assessment and confirm that the maximum level of affordable housing is being provided. Whilst the tenure split to be secured does not meet the expected tenure split set out in Kensington and Chelsea CLP Policy CH2q, it is recognised that CLP Policy CH2a provides for a flexible approach to tenure mix based on the characteristics of the site, and the split is in line with emerging policy. On this basis, the affordable housing provision complies with NPPF policy, as well as London Plan and Kensington and Chelsea CLP policies that require the maximum level of affordable housing to be delivered on-site.

166 Given the increase in the number of social rented/affordable rent habitable rooms, the diversification of the affordable housing offer with the introduction of an intermediate product, the uplift in affordable housing secured, the robustness of the financial viability assessment submitted with the application and the Council’s emerging policy on tenure split, the application can be considered acceptable in line with London Plan and Kensington and Chelsea CLP policies.

167 Details of the affordable housing would be secured in the Section 106 agreement, should permission be granted. This would include details of affordable housing definitions, fit out, transfer/lease to a Registered Provider, the income thresholds for the intermediate rent and rent levels for the affordable rented units. The rents and income levels specified within the S106 agreement would ensure that the affordable homes are genuinely affordable. Details of the 10x2-bedroom units proposed to be delivered off-site will also be secured in the Section 106 agreement.

Review mechanisms

168 Draft London Plan Policy H6 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.

169 In August 2017 the Mayor published his Affordable Housing and Viability Supplementary Planning Guidance. This must now be read subject to the decision in R(McCarthy & Stone) v. Mayor of London, in which the High Court granted a declaration that references in the SPG to late stage review were unlawful, to the extent that late stage review is recommended in all cases, irrespective of the time which is likely to be taken before a scheme is built out.

170 As set out earlier in this report, the scheme does not qualify for the Fast Track Route as established in the Draft London Plan and Mayor’s SPG given that it involves the demolition of existing dwellings. As such, in line with the draft London Plan Policy H6, an early implementation and a late stage review would be secured in the Section 106 agreement. The early implementation review would be triggered if the development has not been substantially implemented within two years of the date of consent; and the late stage review would be triggered once 75% of the residential units are sold or let.

171 Further details of both review mechanisms, including definitions, trigger points and allocation of any additional uplift in viability of the scheme would be secured in the Section 106 agreement, should permission be granted.

Housing mix

172 As amended, the application would deliver 55 residential, comprising 32 market sale, 15 social/affordable rent and 8 intermediate rent units. The details of the housing mix are set out below in Table 7.

Table 7: proposed housing mix

unit type	market sale	London Affordable rent	London living rent	total	percentage
1-bed	5	12	2	19	35%
2-bed	6	3	-	9	16%
3-bed	18	-	6	24	44%
4-bed	3	-	-	3	5%
total	32	15	8	55	100%

173 London Plan Policy 3.8, draft London Plan Policy H12 and the Mayor’s Housing SPG promote housing choice in terms of the mix of housing sizes and types, taking account of the housing requirements of diverse groups and the changing roles of different sectors in meeting these. London Plan Policy 3.11 and draft London Plan Policy H12 state that priority should be accorded to the provision of affordable family housing.

174 As stated previously, Kensington and Chelsea CLP Policy CH2a requires a mix of tenures that reflect the varying needs of the borough and current evidence in relation to housing need. Paragraph 35.3.10 of the Kensington and Chelsea CLP identifies housing with four bedrooms or more as the largest shortage within the social rented tenure; a high demand for one and two-bedroom intermediate units; and a greater need for units with three, four or more bedrooms in relation to market housing. The Kensington and Chelsea CLP recognises that it would be unrealistic to expect these proportions to be adhered to in each case; but in the private market and social rented sectors the need for as high a proportion of large dwellings is emphasised. Paragraph 35.3.11 of the CLP, however, also underscores that the exact mix of houses of any scheme will also

be determined by other factors such as the characteristics of the site, including its location, size and built context.

175 The evidence base on local housing requirements in the borough has been updated with the publication of the SHMA 2015, which sets out a breakdown by bedroom size of the objectively assessed need (OAN) for all types of housing. The evidence is of a 50/50 split between smaller (1-2 bedrooms) and larger (3-4+ bedrooms) units. The proposed mix of 51% one and two-bedroom units and 49% 3-4-bedroom units is in line with the SHMA 2015 and therefore complies with Kensington and Chelsea CLP Policy CH2a. It is noted that there are no family-sized London Affordable rent units; however, in the context of maximising the delivery of affordable units and the site constraints, in view of its town centre location, this is considered acceptable.

Housing quality and residential standards

Density

176 London Plan Policy 3.4 and draft London Plan Policy D6 seek to optimise the potential of sites, having regard to local context, design principles, public transport accessibility and capacity of existing and future transport services. The higher the density of a development, the greater the level of design scrutiny that is required, particularly qualitative aspects of the development design, as described in draft London Plan Policies D2 and D4.

177 Policy CL1 of the Kensington and Chelsea CLP emphasises the importance of respecting the existing context, character and appearance in undertaking development. Policy CL1 further states that development should contribute positively to the townscape through the architecture and urban form, whilst sensitively optimising the density of development. Paragraph 34.3.7 of the Kensington and Chelsea CLP in addressing density makes clear that the density matrix in the London Plan should be considered as part of the design process.

178 The site has a public transport accessibility level (PTAL) of 6a/6b and is classified as urban in character. Based on a PTAL rating of 6a/6b, the London Plan density matrix (Table 3.2 in support of London Plan Policy 3.4) suggests a residential density of between 200-700 habitable rooms or 45-260 units per hectare for this site. Additionally, the threshold set for design scrutiny in draft London Plan Policy D6(C) is 405 units per hectare for sites with a PTAL of 6.

179 Based on the net residential site area of 0.28 hectares, the net residential density would be 198 units per hectare and 665 habitable rooms per hectare. This is within the guideline density range in the London Plan (200-700 habitable rooms and 45-260 units per hectare), and below the threshold for design scrutiny as set out in draft London Plan Policy D6.

Standard of accommodation

180 Policy 3.5 within the London Plan and Policy D4 of the draft London Plan seek to ensure that housing developments are of the highest quality internally, externally, and in relation to their context and to the wider environment. London Plan Table 3.3 and draft London Plan Table 3.1, which supports this policy, sets out minimum space standards for dwellings. The Mayor's Housing SPG builds on this approach and provides further detailed guidance on key residential design standards including unit to core ratios, and the need for developments to minimise north facing single aspect dwellings.

181 Paragraph 35.3.13 of the Kensington and Chelsea CLP states that London Plan Policy 3.5 and the accompanying Table 3.3, will inform the borough's space standards requirements. Policy CH3 of the Council's draft LPPR reiterates this position, stating that new developments must meet

the space and access standards set out in the London Plan. In addition, Policy CH3 of the Council's draft LPPR requires residential developments to provide outdoor amenity.

182 Internal and external space standards: All units will meet the London Plan, draft London Plan, Mayor's Housing SPG and Kensington and Chelsea CLP internal space standards, and 2.5 metres floor-to-ceiling heights will be achieved. All units would have access to private outdoor amenity areas in the form of terraces, intensive outdoor gardens or winter gardens, which meet the Mayor's Housing SPG external space standards. In addition, a communal amenity space on the fifth floor of the Kensington Church Street Building 1 (55 sq.m.) and an internal space at basement level amounting to 120 sq.m. are proposed.

183 Layout, aspect and daylight: There are no single aspect north facing units and 82% of the units are dual or triple aspect. In terms of units per core, there would be a maximum of five units per core, with dual lifts except for KCS2. This accords with the Mayor's Housing SPG standard. The applicant's internal daylight and sunlight assessment demonstrates that apart from one living room/kitchen, all the bedrooms and living rooms/kitchens meet the minimum Average Daylight Factor (ADF) recommended by the Building Research Establishment's guidelines (which form the industry standard for assessing appropriate natural lighting levels).

184 Noise: London Plan Policy 7.15, draft London Plan Policy D13 and Kensington and Chelsea CLP Policy CL5 seek to ensure an acceptable environment in new residential developments regarding noise. There is potential for the proposed development to be exposed to noise and vibration from the adjacent London Underground station and the surrounding roads. The applicant has carried out a noise assessment, which has identified that with suitable mitigation measures, including acoustic glazing, screening and an appropriate ventilation strategy, an acceptable internal level of noise can be achieved. A condition is recommended to be imposed requiring the applicant to submit for approval detailed design for the noise insulation of the building facades, and to incorporate these measures into the final build. In terms of vibration, the applicant's assessment concludes that the impact of passing trains would not adversely impact on future occupiers, as vibration isolation would be incorporated where necessary. The plant and machinery and commercial uses proposed as part of the scheme are also unlikely to unduly impact on residential amenity, subject to conditions requiring detailed specification of equipment and internal sound insulation measures between floors to be used for commercial activity and residential floors across all the buildings that would contain a mix of residential and commercial uses.

185 Outlook and privacy: Under Kensington and Chelsea CLP Policy CL5, the Council requires reasonable visual privacy for existing occupants and for occupants of new development affected by new schemes. Paragraph 34.3.38 of Kensington and Chelsea CLP states that when considering privacy, about 18 metres between opposite habitable rooms lessens inter-visibility to a degree acceptable to most people. Paragraph 34.3.38 further states that there are many situations in the borough where distances are less. The Mayor's Housing SPG notes that "in the past, planning guidance for privacy has been concerned with achieving visual separation between dwellings by setting a minimum distance of 18- 21 metres between habitable rooms. Whilst these can still be useful yardsticks for visual privacy, adhering rigidly to these measures can limit the variety of urban spaces and housing types in the city, and can sometimes unnecessarily restrict density."

186 The proposal has a minimum separation distance of 15 metres between the habitable rooms in KCS1 and WPB1, which would be on opposite ends of the public square. Whilst the separation distance is a tighter relationship than the 18-21 metres suggested in the guidance, given the orientation of the buildings and the urban context officers considered this to be acceptable. The Council's officers assessed the proposal and concluded that the proposal did not give rise to an adverse window to window relationship. Council officers, however, did raise concerns about KCS1 and the GP surgery in WPB3; however, these rooms are not directly opposite each other and are at different levels.

187 In summary, the scheme would deliver high quality residential accommodation, and the standard of the units is in broad compliance with London Plan policy and guidance, and Kensington and Chelsea CLP policies. The Council's assessment of the application concluded that an acceptable residential environment would be created and GLA officers concur with this assessment.

Open space and play space

188 London Plan Policy 3.5 and draft London Plan Policies D4 and D7 set out expectations in relation to quality and design of housing developments, to include public, communal and open spaces. Policy 3.6 of the London Plan and draft London Plan Policy S4 require developments that include housing to make provision for play and informal recreation, based on the expected child population generated by the scheme and an assessment of future needs. Guidance on the application of this policy is set out in the 'Shaping Neighbourhoods: Children and Young People's Play and Informal Recreation SPG'. This sets a benchmark of 10 square metres of useable child play space to be provided per child, with under-five's play space provided on-site as a minimum (within 100 metres walking distance from a residential unit). Provision for 5-11-year olds should be provided within 400 metres of residential units and provision for over-12s should be provided within 800 metres. Locally, the Kensington and Chelsea CLP Policy CH2o seeks to ensure developments deliver equivalent amenity in relation to a variety of factors including proximity to open space and play space; and CLP Policy CR5f expects the provision of on-site external play space based on expected child occupancy.

189 The development proposes a number of amenity spaces amounting to 1,870 sq.m., including a public square at ground level of approximately 876 sq.m., with an additional 316 sq.m. of connecting lanes. The total play space provision would be a minimum of 90 sq.m. to meet the requirements for under 5s play space. This would be provided within two separate spaces within Kensington Church Street Building 1 (KCSB1): on the fourth floor and at -1 level. Both spaces will be linked by an elevator. Subject to a condition requiring the details of this play space to be approved, the scheme would make satisfactory on-site provision for the under-fives in accordance with the Mayor's SPG. Older children would be able to also use the space as well as the public square and Kensington Gardens is located within less than 400 metres of the site. As such, the proposal complies with London Plan and Kensington and Chelsea CLP policy on play space and open space.

Urban design and heritage

190 The NPPF (at paragraph 124) states that good design is a key aspect of sustainable development and creates improved places for living and working, which helps make development acceptable to communities. Paragraph 131 states that, in determining applications, great weight should be given to outstanding designs which help raise the standard of design more generally in the area. In achieving the Mayor's vision and objectives relating to neighbourhoods and architecture, Chapter 7 of the London Plan and Chapter 3 of the draft London Plan sets out a series of policies about the places and spaces in which Londoners live, work and visit. In relation to the London Plan Policy 7.1 sets some overarching design principles for development in London as does Policy D2 of the draft London Plan.

191 Other relevant design policies in Chapter 7 include specific design requirements relating to: inclusive design (London Plan Policy 7.2/ draft London Plan Policies D3 and D5); designing out crime (London Plan Policy 7.3/ draft London Plan Policy D10); local character (London Plan Policy 7.4/ draft London Plan Policy D1); public realm (London Plan Policy 7.5/ draft London Plan Policy D7); architecture (London Plan Policy 7.6 and draft London Plan Policy D2); tall and large scale buildings (London Plan Policy 7.7 and draft London Plan Policy D8) and heritage assets (London

Plan Policies 7.8 and 7.9 and draft London Policies HC1 and HC3). These are discussed more specifically below.

192 Locally, Kensington and Chelsea's CLP Policy CL1 requires all development to respect the existing character, appearance and context of their surroundings, ensuring that any available opportunities to improve the quality and character of buildings and the location are utilised. CLP Policy CL2 focuses on design quality and requires that all developments are of the highest urban and architectural design quality to improve the quality and character of buildings in the area. CLP Policy CL12 articulates the Council's approach to managing the heights of new buildings proposed in developments and emphasises the requirement for new buildings to respect the setting of the borough's valued townscapes and landscapes, through appropriate building heights. Additionally, the Borough's Building Height Supplementary Planning Document (BHSPD) sets out building heights, particularly in relation to tall buildings, within the borough, and defines tall buildings as buildings that are more than one and a half times or more the height of their context. However, paragraph 34.3.103 of the Kensington and Chelsea CLP states that district landmarks are significantly taller than the immediate townscape and are typically up to four times higher than surrounding buildings. This is reiterated in the BHSPD, which also identifies sensitive or inappropriate areas for tall buildings within the borough.

193 Regarding heritage, Kensington and Chelsea CLP Policies CL3 and CL4 both require developments to preserve, protect and, where appropriate, enhance the significance, appearance, character and setting of the heritage asset itself, and the surrounding historic environment. Additionally, CLP Policy CL11 sets out the Council's requirements for development to protect and enhance gaps, vies, vistas and the skyline.

194 The scheme has been considered in detail at pre-application stage, during the initial Stage 1 consideration by the Mayor, and by the Council's planning officers (who recommended approval) in reporting the application to Committee. As set out in paragraph 35, Kensington and Chelsea's first reason for refusal specifically addresses design, notably that because of the height of the tallest element, the location and the insufficiency of the design quality, the proposed buildings would not enhance the quality of the built environment and would cause harm to the significance of a range of designated heritage assets.

Layout

195 The use of a series of perimeter blocks (namely the 3-storey West Perimeter 1 and West Perimeter 2 buildings, the 7-storey West Perimeter Building 3, 4-storey Kensington Church Street Building, the 5-storey Kensington Church Street Building 1 and the Corner Building at part 14 and part 18 storeys) around a public square would be an improvement to the existing layout of the site. Whilst maintaining active frontages along Kensington Church Street, Notting Hill Gate and Kensington Place, the introduction of three buildings along the western boundary of the site would activate Newcombe Street and should encourage the use of Uxbridge Street, which connects to Notting Hill Gate. The Corner Building facing on to Notting Hill Gate, would infill the existing public plaza on Notting Hill Gate, which is described as lacking in quality in the Local Plan. This perimeter building would be stepped down in height and re-establish the common building line with the adjacent David Game House and improve the enclosure of the street. The visual impact of the proposal and its response to policy on tall buildings is discussed in more detail in the relevant section below; however, the height of and location of the tallest building adjacent to the station is considered an appropriate design response by both GLA and Council officers and provides a rational and well-considered layout to the development.

196 The proposed public square would be a welcome contribution towards public realm and would accommodate a range of uses, including the farmers' market that currently takes place on the existing car park. The square would be accessed through a variety of legible routes from Notting

Hill Gate, Kensington Church Street and Kensington Place, and would be framed by a mix of office, retail and residential core entrances. The use of dual aspect retail units and inclusion of through lobbies for the residential entrances is a particularly positive feature, which should maximise activity both to the surrounding streets and the new public square. The addition of east-west routes across the site would significantly improve its permeability.

Landscaping

197 The scheme provides a good level of planting for an urban development in line with the objectives of London Plan Policy 5.10 and draft London Plan Policy G5, including tree planting and raised planters within the public spaces. Most of the existing trees have been identified for retention, with four new London Plane trees proposed for the footpath of Notting Hill Gate in front of the development to replace the existing cabbage palms and the London Plane tree on Notting Hill Gate by the corner of Kensington Church Street. Intensive gardens at levels 5 and 14 of the Corner Building, and climber planting along the blank wall of the London Underground building on Uxbridge Street are also proposed. Appropriate provision is also made for street furniture, including lighting, seating and visitor's cycle storage. Subject to details of planting, hard surface treatments and street furniture, which would be secured by condition, this would ensure a high-quality setting for the buildings proposed.

198 Given the underground infrastructure below the footpath along Notting Hill Gate, the proposed tree planting and footway surfacing would be included in the Section 278 secured by the Section 106 agreement. The planting here would help to address air quality and urban greening objectives. The impact of the development on trees is addressed in more detail in paragraphs 3282-285 below.

Summary of layout

199 The proposed building layout and landscaping proposals optimise the development capacity of the site whilst responding well to its constraints and the aspirations and objectives outlined in the Notting Hill Gate SPD and Kensington and Chelsea CLP Policies CV16 and CP16, notably providing a public square, active frontage, urban greening and improving access to the station. The proposed site layout is therefore supported in line with the policy context set out above.

Height and massing

Tall buildings policy

200 Given the application site's adjacency to the Kensington Conservation Area and proximity to other conservation areas, the site is classified as being within a buffer zone considered highly sensitive for tall buildings in the BHSPD. As set out above, a building which is more than one and a half times its local context is considered a tall building; notwithstanding, district landmark buildings are generally up to four times higher than the surrounding buildings

201 London Plan Policy 7.7 and draft London Plan Policy D8 set out the strategic policy regarding tall buildings and establish that the Mayor will promote the development of tall buildings where they create attractive landmarks enhancing London's character, and help to provide a catalyst for regeneration where they are acceptable in terms of design and impact on their surroundings. The Central Activities Zone, Opportunity Areas and highly accessible town centres have been identified in Policy 7.7 as locations that may be suitable for tall buildings.

202 As stated earlier, CLP Policies CL1, CL2, CL11 and CL12 and the BHSPD set out the Borough's requirements for new buildings, including appropriate building heights which must

respect the setting of valued townscapes and landscapes within the borough. Regarding the context of the application site, generally, the building heights within the District Centre vary from one to six storeys; and as demonstrated earlier in this report, the most recent planning applications in proximity of the application site have involved an increase in the height of the building to five or six storeys. The location of these permissions is either on Notting Hill Gate or on Kensington Church Street. Notwithstanding the general building heights in the area, Newcombe House and the nearby Campden Hill Towers are exceptions at 12 and 19 storeys (plus roof plant) respectively and are described in paragraph 16.1.5 of the Kensington and Chelsea CLP and the Notting Hill Gate SPD as tall buildings. Policy CV16 of the Kensington and Chelsea CLP seeks to strengthen Notting Hill Gate as a District Centre; and at paragraph 16.3.9 of the CLP, Newcombe House is described as an eyesore and identified by the Council for redevelopment as a catalyst for the regeneration of the wider area. It is further stated that the Council will adopt flexible planning standards to achieve the redevelopment of the site. The Notting Hill Gate SPD makes clear there is the possibility of the Council allowing an increase in the height of the building as part of any redevelopment proposal, acknowledging that it is unlikely for any development to materialise without the retention of a tall building.

203 Newcombe House also currently landmarks the Notting Hill Gate London Underground station and the junction, and the vision of the Council is to retain a landmark building on this site as the indicative layout in Figure 11 of the SPD depicts. In view of its location and height in relation to its surroundings it can be considered a district landmark in line with local policy, which defines such landmarks as buildings up to four times the height of the local context and as indicated earlier in this report, the emerging height strategy in and around the Notting Hill Gate London Underground station is trending towards five to six storeys based on recent consented schemes.

204 The principle of a tall building on this site is therefore acceptable in principle. The suitability of a taller replacement building is subject to the quality of the architecture, scale of overall benefits and impact on views.

Tall building and massing analysis

205 As previously stated, the proposed scheme involves the erection of six buildings ranging in height from 3 to 18 storeys, with the tallest being the Corner Building comprised of two distinct elements the Notting Hill Gate and the part 14/part 18-storey Corner Building (tower). The Council's reason for refusal cited that the proposal was contrary to London Plan Policy 7.7 and CLP Policies CL1, CL2, CL3, CL4, CL11 and CL12, and the Notting Hill Gate SPD. It should be noted that this position was in relation to the height, architecture and design quality of the Corner Building only. The local policies cited, as indicated earlier in this report, pertain to character, design, preservation and enhancement of heritage assets, protection and enhancement of views, and building heights. As such, the height of the tower proposed within this application needs to be considered carefully having regard to its potential townscape and visual impact. Policy CL12 states that the Council will "*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.*"

206 The massing strategy for the site has been carefully considered in line with the above policies. The proposed positioning of the Corner Building as a landmark building to the north of the site, then stepping down in height as it fronts onto Notting Hill Gate would reflect the current approach. Similarly, the other buildings south of the tower are stepped down to respond to the lower buildings within the Kensington Conservation Area to the west and the buildings along Kensington Church Street with KCS1 and KCS2 responding well to the buildings on both sides of the street, including those directly opposite the site. In this respect, the massing strategy responds appropriately to the sensitivities of the site.

207 It is recognised that the proposed tower would be taller than the existing Newcombe House building; however, local policy on district landmark buildings does provide some basis for the proposed height of the tower given the site's current and envisaged role as one suitable for such a building. As such, the height of the tower proposed within this application needs to be considered carefully having regard to its townscape and visual impact. The existing 19-storey (plus roof plant) Campden Hill Tower must also be considered, given its prominence within the local townscape.

208 The impact of the tall building on the local townscape, heritage assets and views from open spaces has been fully considered within the applicant's Townscape and Visual Impact Assessment (TVIA). The TVIA has used Accurate Visual Representations (AVRs) to assess the proposal's impact on the following key townscape and heritage receptors:

- Townscape Receptors – Notting Hill Gate; Kensington Church Street.
- Heritage Receptors (Conservation Areas) – Ladbroke Conservation Area; Pembridge Conservation Area; Kensington Conservation Area; Kensington Palace Conservation Area; and Royal Parks Conservation Area.
- Heritage Receptors (Listed Buildings) – Notting Hill Gate London Underground Station; The Gate Cinema; Coronet Cinema; 23 Kensington Place; 128, 132, 134, 136 and 138 Kensington Church Street; Second Church of Christ Scientist; 24 Kensington Palace Gardens; Kensington Palace Gardens residences; 18 and 19 Kensington Palace Gardens; Entrance Arch from Linden Gardens, Linden Mews; 4 to 34 Pembridge Gardens; Cabman's Shelter; Kensington Temple; 3-13 Campden Hill Square; 14 Campden Hill Square; and, 15 Campden Hill Square.

209 Officers are satisfied that the applicant's TVIA has presented accurate views from all relevant vantage points to enable a full assessment of the proposals and their impact.

210 In terms of the visual impact of the height and massing on the identified townscape and visual receptors, the proposal would have a noticeable impact on certain views within the local townscape. However, the significance of the degree of change does not necessarily indicate that the proposal is harmful. In this case, the proposal would involve the redevelopment of an inefficiently utilised town centre mixed-use site (already occupied by a district scale building that is identified as an eyesore in local policy), with a scheme of high quality architecture, which will improve the quality of the townscape, provide new public realm of a high quality, and could be the catalyst for the wider regeneration of Notting Hill Gate as envisioned in the Kensington and Chelsea CLP and the Notting Hill Gate SPD.

211 As stated above, the tower would act as a landmark, in line with the aspiration of the NHG SPD, marking the District Centre and the Notting Hill Gate London Underground stations with distinctive and high-quality building. Such as is the case with the existing Newcombe House, and in some instances Campden Hill Tower, the tall building would be visible from several townscape views and within the setting of surrounding Conservation Areas and other heritage assets. However, in most instances, the upper element of the tower would appear in a form that is more slender than Newcombe House and the muted stone material more recessive to the heritage assets. In those cases where the tower appears bulkier, the variation in height from 14 to 18 storeys gives the impression of two separate buildings, which reduces the visual impact. Additionally, in many cases the townscape would also be enhanced by the higher quality of architecture proposed and sympathetic use of materials. In a few distant and immediate views, the proposed tall building would counterbalance the dominance of the overly bulky and distracting Campden Hill Tower.

212 The tall building is also consistent with the criteria set out in London Plan Policy 7.7 and draft London Plan D8. The site is well located for public transport and would have an acceptable massing and relationship to the surroundings, and as Newcombe House is currently doing, the tall

building would landmark the station and junction, assist in wayfinding to the underground station and the farmers' market and enhance the skyline through high quality architecture (discussed below) and use of materials. An improved level of active frontage will be provided on the ground floor at Notting Hill Gate and re-provided at Kensington Church Street and an appropriate level introduced on Newcombe Street, as well as new routes and spaces to enhance the permeability of the site and improving connectivity to the Underground station. Moreover, the scheme would provide modern employment, medical and retail space, public realm (to also accommodate a popular local farmers' market) and step-free access to the adjacent Notting Hill Gate London Underground station, as well as affordable housing which has been significantly increased and diversified since the Council's committee decision albeit without increasing the height of the tower. In accordance with the technical assessments discussed in the relevant sections of this report and subject to mitigation recommended through conditions, the development would not impact adversely in terms of microclimate, wind turbulence, overshadowing or noise.

Summary of height and massing

213 To summarise, the height and massing of the scheme is considered appropriate on this site as the replacement tall building is in a similar position to the existing approach. The massing of the proposal responds sensitively to the proximity of the conservation areas by reducing the scale to the south and west on the site's boundary with conservation areas and to the east given the residential properties on the opposite side of the street. Notwithstanding the increase in height of two of the lower blocks, the tall building would appear as a slender form with a lower element. The high quality of the architecture and the distinctive form of the tall building would create a landmark residential-led development, and this combined with the new public realm and permeability created by the proposals would contribute positively towards place making and regeneration. The Council's officers have on two previous occasions concluded that the proposed height is acceptable and have reiterated this position in their report to the Council's committee in response to the recent amendments to the application in their capacity as a consultee. This was also the conclusion of the Planning Inspectorate in its decision dated 12 June 2017, reference number APP/K5600/W/16/3149585. GLA officers concur with this assessment.

214 A condition is recommended to be imposed requiring the submission of detailed design and architectural quality, which is considered below. Subject to this, the principle of height and massing is acceptable in line with the policy context set out above. The impact on heritage is considered separately in paragraphs 214-237 below.

Detailed design and architecture

215 Three distinct architectural treatments are proposed, and the design rationale remains the same following the recent amendments to increase the height of KCS1 and WPB3. The perimeter buildings would have a regular rhythm of fenestration, responding to surrounding townhouses, and would be mainly textured brick with dark metal windows. The WPB2/Cube would only be visible in glimpsed views from outside the site and would be more sculptural in form, utilising a smooth white cladding material and deep reveals. The Corner Building (the tower) would incorporate a 'slip form' approach to its massing, with deep vertical shadow lines and large glazed winter gardens on the upper corners to break down the massing further.

216 The Council in refusing the scheme identified the design quality and architecture of the proposed tall building as insufficient. It should be noted, however, that in considering the tall building's facade design, the Planning Inspector contended that there was a "structured pattern" to the variation in the arrangement of glass and stone. The Inspector considered that the arrangement has a "pleasing rhythm which could be both interesting and cohesive". The Inspector concluded, in contrast to the Council's Architectural Appraisal Panel, that the tall building "would be far more

engaging to the eye than the dull repetition to the fenestration of Newcombe House while maintaining integrity”.

217 Planning conditions will ensure that a high quality of detailing and materials will be used in the completed development and retention of the scheme architects in the construction process. Council officers concluded that the design and architecture of the proposal, which has not materially changed with the amendments submitted, was acceptable, and GLA officers concur with this assessment.

Fire safety

218 In the interests of fire safety and to ensure the safety of all building users, Policy D11 of the draft London Plan seeks to ensure that development proposals achieve the highest standards of fire safety.

219 The applicant has submitted a fire statement prepared by a suitably qualified third-party assessor, which demonstrates that all features and materials would comply with Part B of the Building Regulations. A ‘defend in place’ evacuation strategy would be employed for the residential elements. Fully sprinklered, the scheme would be equipped with firefighting lifts in the Corner Building and West Perimeter Building 3, enhanced automatic fire and alarm detection in all areas, and evacuation lifts in every building. Additionally, a 45-cubic metre wet riser tank comprising water and pumps would be provided in the 18-storey tower.

220 Regarding smoke, a mechanical smoke ventilation system, with appropriate volumetric smoke extraction rates, would be installed in the 18-storey Corner Building to ensure the common corridor and stair would be clear in the event of a fire.

221 The fire evacuation strategy put forward would ensure safe evacuation of the building if needed. The submitted fire statement demonstrates that the proposal would deliver the highest standard of fire safety in accordance with draft London Plan Policy D11.

Designing out crime

222 Policy 7.3 of the London Plan and draft London Plan D10 seeks to ensure that measures to design out crime are integral to development proposals and considered early in the design process. Several criteria are set out in this policy regarding reducing opportunities for criminal behaviour and contributing to a sense of security without being overbearing or intimidating. Kensington and Chelsea CLP Policies CL1 and CL2 emphasise the need for all development to be designed to minimise crime.

223 The scheme has carefully considered the interaction of the buildings with the public realm; streets have continuous frontages to pavements and roads, with residential properties and habitable rooms overlooking shared communal spaces to ensure passive surveillance.

224 A condition is recommended to be imposed to ensure that the scheme achieves Secured by Design accreditation. As such, the proposals are acceptable with respect to designing out crime and comply with London Plan Policy 7.3 and Kensington and Chelsea CLP Policies CL1 and CL2.

Conclusion on urban design

225 The Council resolved to refuse the application on the grounds of excessive height, scale and massing, with resultant adverse impact on the surrounding townscape, visual amenity and the historic environment. This decision was reached contrary to officer recommendation, which was the second time Council officers recommended approval of the scheme at 18 storeys. As such and

having regard to the above assessment, the height of the proposed tower is not considered to result in harm to the surrounding townscape, visual amenity or historic environment. Additionally, the public benefits of the scheme previously proposed have not changed, with the affordable housing offer having been significantly increased and diversified with intermediate rent tenure now included, which further weighs in favour of approving the application.

226 GLA officers consider that the design of the scheme is well-considered, responds to the development principles set out in the London Plan, draft London Plan, Policies CV16 and CP16 of the Kensington and Chelsea CLP and the NHG SPD. It achieves a high quality of place making and the massing strategy responds to the site characteristics and the existing and emerging context. The tall building, although higher than the existing tall building on the site, is well designed and justified in the context of the relevant criteria set out in the Kensington and Chelsea CLP, NHG SPD and the London Plan. The quality of the design, architecture and materials will ensure a distinctive and high-quality development which will contribute positively to the regeneration of Notting Hill Gate, which is the aim of local policy. The development will thus comply with the relevant development plan policies set out in paragraphs 180-183 above.

Heritage

227 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out certain statutory duties to which a planning decision maker must have regard. In relation to listed buildings section 66 of the act 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*”.

228 Pursuant to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, planning decisions must also give special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas which may be affected by the proposed development.

229 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. 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.

230 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. The NPPF emphasises that great weight should be given to the conservation of heritage assets (and the more important the asset, the greater the weight should be). 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), should require clear and convincing justification.

231 Criterion D of Policy 7.8 of the London Plan states “Development affecting heritage assets and their setting should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail”. The supportive text explains that development that affects the setting of heritage assets should be of the highest quality of architecture and design and respond positively to local context and character. This is also stated in Policy HC1 of the draft London Plan. Criterion E states that new development should make provision for the protection of archaeological resources, landscapes and significant memorials.

232 Kensington and Chelsea CLP Policies CL3 and CL4 promote the conservation of the historic significance of Kensington and Chelsea’s heritage assets, their setting and the wider historic environment. Under CLP Policy CL3, the Council will:

- a. require development to preserve or enhance the character or appearance of the conservation area and protect the special architectural or historic interest of the area and its setting;
- b. resist the change of use of any building where the current use contributes to the character of the surrounding area and to its sense of place; and,
- c. resist substantial demolition in conservation areas.

233 Similarly, the Council under CLP Policy CL4 will:

- a. require all development and any works for alterations or extensions related to listed buildings, scheduled ancient monuments and sites of archaeological interest, to preserve the heritage significance of the building, monument or site or their setting or any features of special architectural or historic interest; heritage significance of the building, monument or site or their setting or any features of special architectural or historic interest;
- b. resist the change of use of a listed building that would materially harm its character;
- d. require any work to a listed building to sustain the significance of the heritage asset and as such strongly encourage any works to a listed building to be carried out in a correct, scholarly manner by appropriate specialists; and,
- e. require desk-based assessments and where necessary archaeological field evaluation before development proposals are determined, where development is proposed on sites of archaeological significance or potential.

234 The site is not in a Conservation Area nor are any of the buildings on the site listed. It is, however, within the vicinity of Pembridge Conservation Area (to the north-east), Ladbroke Conservation Area (to the north-west), Kensington Conservation Area (to the south and east), and Kensington Palace Conservation Area to the east. The Royal Parks Conservation Area, which is immediately east of the Kensington Palace Conservation Area and within the neighbouring City of Westminster, is less than 450 metres away. Figure 4 below shows the Pembridge, Ladbroke, Kensington, and Kensington Palace Conservation Areas, and Figure 5 sets out the listed buildings near to the site. The Grade I listed Kensington Gardens is also in proximity of the site. The site lies within an area of archaeological importance.

Figure 4: Conservation Areas within 250 metres of the application site (outlined in red).

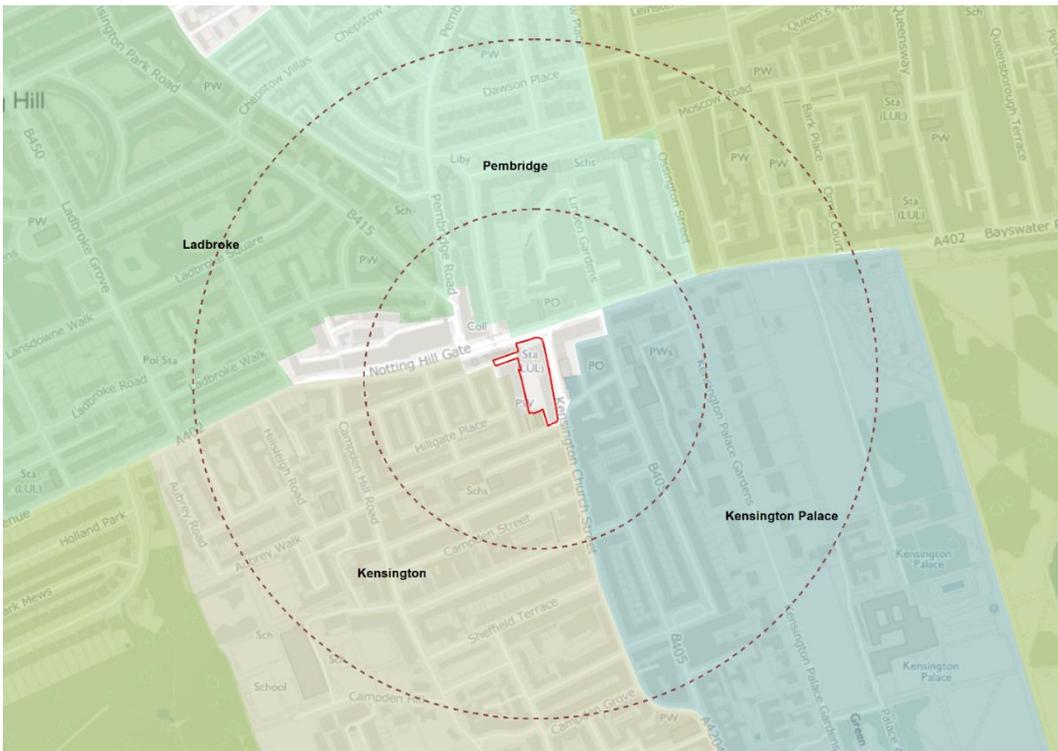


Figure 5: Listed buildings (numbered) within 400 metres of the site (outlined in red)

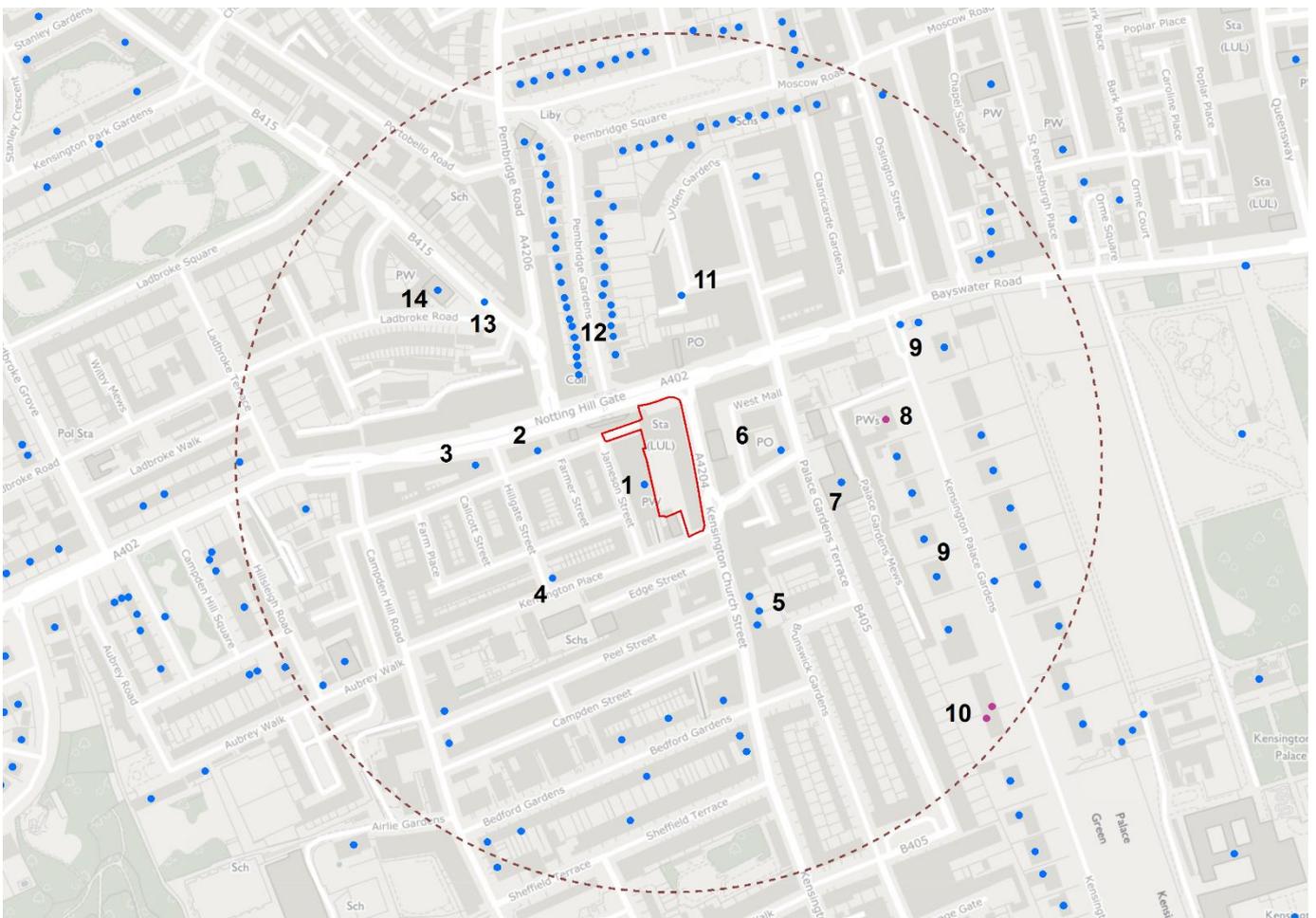


Table 8: List of listed buildings within 400 metres of the site (Outlined in red)

Ref	Name of listed structure	Grade
1	Notting Hill Gate London Underground	II
2	The Gate Cinema	II
3	Coronet Cinema	II
4	23 Kensington Place	II
5	128 Kensington Church Street	II
	132 and 134 Kensington Church Street	II
	136 Kensington Church Street	II
	138 Kensington Church Street	II
6	Mall Chambers	II
7	Second Church of Christ Scientist	II
8	24 Kensington Palace Gardens	II*
9	Kensington Palace Gardens residences	II
10	18 and 19 Kensington Palace Gardens	II*
11	Entrance Arch from Linden Gardens, Linden Mews	II
12	Numbers 4 to 34 Pembridge Gardens	II
13	Cabman's Shelter	II
14	Kensington Temple	II

235 The applicant has submitted a Townscape and Visual Impact Assessment (TVIA) and a Historic Building and Conservation Assessment, which assessed the impacts of the proposed development on each heritage asset which could be affected as outlined above. Officers are satisfied that these assessment points form a comprehensive basis from which to assess the proposed scheme's impact on heritage assets.

Conservation Areas

236 There are four conservation areas within 250 metres of the site, and there would be views of the scheme from all of the conservation areas. In many of the existing views, Newcombe House is visible.

Kensington Conservation Area

237 Kensington Conservation Area sits immediately south and south-west of the application site along Kensington Place, and is the closest conservation area to the site. Surrounded almost entirely by other conservation areas, the Conservation Area is populated with many listed buildings as well as a variety of historic building types such as public houses, churches, cinemas and mews. The diversity and proliferation of listed buildings within the area validates its heritage significance.

238 Viewpoint 27 (L8) taken from the junction of Kensington Place and Jameson Street shows that the proposed development would not alter the existing view from this location. The development would be visible in most of the remaining views out from the Conservation Area; however, in many instances the existing Newcombe House also appears prominently in the existing views. This is the case in: Views 2 (1) Kensington Church Street - South of Gloucester Walk; View 23(F) Outside 50 Bedford Gardens; View 25(6) Hillgate Place - by Hillgate Street; View 28(L5) Hillgate Place - Outside no.1; and, View 29(L1) Kensington Place - Looking north along Newcombe Street. In each instance, however, the TVIA demonstrates that although the proposed tower element of the development would be more visible than Newcombe House in these views because of its height, the tower's elegant, contemporary design and choice of material would appear recessive and would be an improvement on Newcombe House and therefore would not cause any

harm to the Kensington Conservation Area. In instances such as View 2(1), View 23(F) and 29(L1), the proposed development would enhance the townscape. In View 18(9) Uxbridge Street - by Farm Place, Newcombe House is also currently visible from within the Kensington Conservation Area, as well as in the setting of the Grade II Listed Coronet Cinema and Gate Cinema. The TVIA illustrates that four upper floors of Campden Hill Tower appear above the roofline of the 2-storey residential properties on the left of the view. The rear of the Grade II Listed Coronet Cinema and Gate Cinema are also visible on the left of the view. In addition, part of the western facade of Newcombe House is viewed to the right at the end of the vista looking eastward. Elements of the proposed West Perimeter Building 3 and Corner Building (tower) would be visible in a setting similar to Newcombe House. The proposed tower would respond to the scale of the Campden Hill Tower and would not harm the significance of the two Grade II Listed assets. The high-quality design of the proposed tower from this view would also better landmark the Notting Hill Gate London Underground station and cause no harm to the setting of the Conservation Area.

239 Unlike Newcombe House, the proposed development would be visible in the following views: View 19(G) Outside 25 Campden Hill Square, 20(12.1) Campden Hill Square – South; View 22(D) Outside 50 Bedford Gardens; View 24(L7) (Kensington Place - Junction with Hillgate Place; and, View 26(E) Outside 16 Kensington Place. Regarding View 19(G), the proposed tower would be visible as is demonstrated in the TVIA. Its emergence in the skyline would be a distant view and would be visible above the existing roofline of the Grade II listed properties on Campden Hill Square; however, even in winter this would not be prominent as the tower would be obscured by trees. The Grade II Listed residential property (23 Kensington Place), appears in View 24(L7). Apart from the brickwork, the property's key feature is a turret fronting on to Hillgate Street. As the TVIA shows, a small portion of the proposed tower would be visible above the listed building. However, this would be only visible above the southern side of the asset's roofline and therefore would not detract from the significance of the asset's key feature—the turret. There would be no harm to the conservation area in this view. In Views 22(D) and 26(E), no change is expected in the first instance and in the latter the TVIA shows that a small part of the upper portion of the tower would be visible above the roofline of the houses in this view. The visibility would be minimal and would not cause any harm to the setting of the Conservation Area.

240 In summary, Newcombe House is at present visible in many of the views, and GLA officers are of the view that the proposal's overall improvement on design would result in no harm in most instances and where there is harm to the significance of heritage assets, this harm would be less than substantial. This is in line with the position of Historic England, who concluded that in comparison with the impact of the existing building the change resulting from the proposed development would range from neutral to beneficial.

Pembridge Conservation Area

241 The Pembridge Conservation Area, located to the north of the application site, is primarily a quiet residential area that contrasts with the busier Notting Hill Gate, Westbourne Grove and Pembridge Road / Pembridge Villas. It is its high-quality built environment of a predominately residential nature, illustrating the 19th century and with mature green spaces that embodies the area's distinctive character.

242 Views 35(24) Pembridge Villas - Junction with Chepstow Crescent, 36(25) Pembridge Square - Outside no.30 and 38(a) Pembridge Gardens - From Vincent House would not be altered by the proposed development. In the majority of the remaining views, Newcombe House is currently visible: View 12(29) Notting Hill Gate - by junction with Linden Gardens; View 15(K) Outside toilets at Westbourne Grove and Denbigh Road; View 37(27.1) Linden Gardens - West side; and, View 38(26) Pembridge Gardens - Outside no.6.

243 In Views 12(29) and 15 (K) (a long range view), the TVIA demonstrates that though the tower would be taller than the existing Newcombe House, it would appear in a similar position, and its improved design characterised by a slender upper portion would add some interest to the townscape rather than cause any harm to the Conservation Area. The dome on the Grade II Listed Coronet Cinema is visible in the background of View 12(29), and the TVIA shows that proposed development would not harm the significance of this listed building as the dome remains prominent in the view. Regarding View 37(27.1), Newcombe House is visible in the existing view in the background of a Grade II listed arch. The TVIA shows that the proposed tower would sit in a similar position; although taller in height, the slenderness and stepped approach to the height of the tower, with its solidity and muted colour would appear in a more recessive form in the background of the listed entrance arch. There would however be some impact on the view from within the Conservation Area, which in GLA officers' view would cause less than substantial harm. Both Newcombe House and the colourful facade of David Game House are currently prominent in View 38(26) and detract from the Grade II listed buildings that line the streetscape—4 to 34 Pembridge Gardens. The TVIA shows that the proposed tower would also be visible above the listed buildings; and, although taller, would be in a more recessed position than Newcombe House and with this positioning and its design and use of muted stone would relate better to the listed buildings. Any harm to the significance of the listed buildings would be less than substantial and there would be no harm to the Conservation Area.

244 Newcombe House is not visible in View 33(N) Pembridge Place at junction with Pembridge Villas and View 34(M) at junction of Dawson Place and Pembridge Place; however, the proposed development would be visible above the rooflines in both instances during winter as is demonstrated in the TVIA. In both views, the upper part of the tower would be visible in the background of trees but given the design and materiality the impact would be minor and would therefore cause less than substantial harm.

245 To conclude, Newcombe House is at present visible in most of the views, and GLA officers are of the view that the proposal's overall improvement on design would result in no harm in most instances and where there is harm to the significance of heritage assets, this harm would be less than substantial; and in some instances the proposed development would enhance the townscape. This is in line with the position of Historic England, who concluded that in comparison with the impact of the existing building the change resulting from the proposed development would range from neutral to beneficial.

Ladbroke Conservation Area

246 The Ladbroke Conservation Area was designated in 1969, one of the Royal Borough's earliest designations. It is characterised by housing that is distinctive to the Conservation Area and the location of communal gardens to the rear of the houses, which was innovative at that time of their development. It is demonstrated in the TVIA that Views 30(L) Outside 1 St John's Gardens and 31(18) Ladbroke Road - Junction with Horbury Mews would not change because of the proposed scheme. Of the remaining five views, Newcombe House is currently evident in three of the existing views, albeit at a lower height. An assessment of these views is set out below.

247 Newcombe House is currently visible in Views 14(21) Westbourne Grove - Junction with Ladbroke Gardens, View 6(15.1) Holland Park Avenue - West of Ladbroke Terrace, and Views 16(20) Kensington Park Road - Opposite junction with Ladbroke Square) and 17(19.1) Kensington Park Road - by Kensington Temple. In View 14(21), the Grade II Listed Church of St. Peter is visible, boasting a prominent bell tower, as well as another listed residential block. The TVIA demonstrates that the taller element of the proposed development would be visible in long views (as is currently the case with Newcombe House) but even during winter its impact would not affect the significance of the listed buildings and Conservation Area.

248 With Views 16(20) and 17(19.1), Newcombe House (with its bulk, height, materiality and orientation) contrasts with the 3-storey and 6-storey mansion blocks on Kensington Park Road and easily dominates the background in both existing views. As demonstrated in the TVIA, the proposed tower with its slender design, detailing and muted stone facade would add to the skyline and though taller than the existing Newcombe House would blend better with the existing conservation setting. These views include the listed Cabman's Shelter and Kensington Temple, and their significance would not be harmed by the proposed development. From these views, the impact of the proposed scheme would not harm the significance of the Ladbroke Conservation Area. Campden Hill Tower currently dominates View 6(15.1), with its side-on orientation to Notting Hill Gate. The TVIA shows that in this view the proposed tower would appear lower than Campden Hill Tower and its height and slender design would act as an anchor to counter the dominance of the Campden Hill Tower, thereby enhancing the townscape without causing any harm to the significance of Conservation Area. Its slender design and choice of colour would also enhance the background of the Grade II Listed Coronet Cinema's dome.

249 Newcombe House is not visible in View 32(I) Outside 25 Ladbroke Road on opposite site of the road; however, Campden Hill Tower is highly visible and dwarfs the much lower residential properties nearby, including those on Ladbroke Road. The north and west upper portions of the proposed tower would appear in what is currently unobstructed skyline; however, because of its slender form and details the harm caused to the significance of the Ladbroke Conservation Area would be less than substantial in view of the continued dominance of Campden Hill Tower in the view.

250 In summary, Newcombe House is at present visible in many of the views, and GLA officers are of the view that the proposal's overall improvement on design would result in no harm in most instances and where there is harm to the significance of heritage assets, this harm would be less than substantial; and in some instances, the proposed development would enhance the townscape. This is in line with the position of Historic England, who concluded that in comparison with the impact of the existing building the change resulting from the proposed development would range from neutral to beneficial.

Kensington Palace Conservation Area

251 The Kensington Palace Conservation Area is located to the east of the site and borders the Royal Parks Conservation Area in City of Westminster. It is dominated by the Queen Anne of Kensington Palace, which is made of red brick; but there are various materials in use within the Conservation Area.

252 It is demonstrated in the TVIA that View 44(B) Outside 56 Palace Gardens Terrace and would not change because of the proposed scheme. Views 3(2) Kensington Church Street - South of Campden Street), View 4(L4) Kensington Church Street - Opposite Edge Street and View 5(L2) Kensington Church Street - Junction with Kensington Mall that looking northwards Newcombe House is highly visible above the roofline. The TVIA also illustrates that the proposed development would continue the rhythmic building height pattern along the western side of Kensington Church Street; but also punctuate the Notting Hill Gate and Kensington Church Street junction with a building that because of its design, material and height would better landmark this junction. The height of the proposed buildings along Kensington Church Street in combination with the tower would also create a more cohesive urban block, as it removes what currently looks like a gap between Newcombe House and the lower units along Kensington Church Street. The townscape would therefore be enhanced, and the proposed development would enhance the character of the Kensington Palace and Kensington Conservation Areas. View 3(2) also indicates that there would be no harm to the significance of the Grade II listed 128, 132, 134, 136 and 138 Kensington Church Street.

253 Partially blocked by trees, Newcombe House is also visible in the background of two Grade II* Listed residential properties (18 and 19 Kensington Palace Gardens) in View 43(36.1) Kensington Palace Gardens. The TVIA shows that the proposed tower would also be visible, sitting in the foreground in the gap between the two listed residences and rising at its highest point above the roofline of number 19. Given the distance, the proposed tower's slender design, muted stone and the lateral step down in height to the listed building, the increase in height would have less than substantial harm on the significance Grade II listed buildings. In terms of the view from within the Conservation Area, there could be some minor improvement to the skyline between the tower and number 18.

254 Views A5 (35) Kensington Gardens - East of Round Pond and 40(35.1) Kensington Gardens - East of Round Pond and, show that a small part of the top of the proposed tower would be seen in a distant view above the tree line to the right of the Kensington Palace. This minor overshoot of the tree tops is also demonstrated in 42a(33.1f) Kensington Gardens - Broadwalk looking across Kensington Palace. In 42c(33.1) Kensington Gardens - Broadwalk looking across Kensington Palace, this overshoot of the tree line by the tower of the proposed development is visible in the background of the Grade II Listed Statue of Queen Victoria. However, this would not overly detract from the significance of the heritage assets and would result in less than substantial harm. Historic England, as previously mentioned, also determined that the harm would be less than substantial, and only raised concerns about whether the proposed scheme would set a precedent for future developments in the vicinity of the Gardens.

255 Newcombe House is not visible in View 10(30) Bayswater Road - Junction with Kensington Palace Gardens. The Pembridge Conservation and Campden Hill Tower, with its height and massing, is prominent in the background and dominates the existing and proposed views. The TVIA demonstrates that the proposal would also be similarly hidden; however, during winter elements of the tower may be visible resulting in no harm to the significance of the Conservation Areas.

256 In view of the presence of Newcombe House in many of the existing views within the Conservation Area, GLA officers are of the view that given the quality of the proposed design and in many cases the distance, the proposal would result in no harm in most instances and where there is harm to the significance of heritage assets as in the case of the Kensington Palace and Kensington Garden and the Statue of Queen Victoria, this harm would be less than substantial. In some instances, the proposed development would enhance the townscape. This overall conclusion is in line with the position of Historic England, who concluded that the harm to the setting of the heritage assets is less than substantial but that given the high significance of the assets affected the public benefits must convincingly outweigh this harm.

Other Conservation Areas

257 Two other views in relation to conservation areas were set out in the TVIA: View 21(C) Outside the back of Youth Hostel in Holland Park, from within Holland Park Conservation Area, which is to the west of Kensington Conservation Area; and View 11(31) Bayswater Road - Junction with Ossington Street, from inside the Bayswater Conservation Area on the eastern boundary of the Pembridge Conservation Area in the City of Westminster. The TVIA demonstrates that the development would result in no change to the existing view associated with View 21. Regarding View 11, it shows that there would be no harm to the view from within the Bayswater Conservation Area. Views from Talbot Road within the Westbourne Conservation were also submitted in the TVIA, which show that the proposed development would be visible in distant views. This, however, would not harm the significance of the Westbourne Conservation Area.

Listed buildings

258 As illustrated in Table 8, there are more than 15 listed buildings within 400 metres of the application site. In the above assessments of the views set out in the TVIA, GLA officers have considered the impact of the proposals on the Grade II listed: Gate Cinema; Coronet Cinema; 128-138 Kensington Church Street (even numbers); 23 Kensington Place; 18 and 19 Kensington Palace Gardens; entrance Arch from Linden Gardens; 4 to 34 Pembridge Gardens; Cabman's Shelter; Kensington Temple; and, 3-13, 14 and 15 Campden Hill Square. The impact on remaining listed buildings identified in Figure 5 above, is considered below.

259 The Grade II listed train shed roof of the Notting Hill Gate London Underground is the closest listed building to the site. It is however generally unaffected in terms of its views. There is a limited view of the roof from Kensington Place, but the true appreciation of the roof is when stood at platform level within the station. Other opportunities to view the roof are from the surface car park and the higher-level floors of the existing Newcombe House. The listing entry states "*Station. 1868. Sir John Fowler, for Metropolitan Railway. Brick retaining walls with blind arcades, supporting elliptically arched iron roof of 9 bays, partially glazed and partly panelled with wood. Listed as a relatively well preserved example of underground railway platform of "cut and cover" type.*" Given that the listing relates to features viewed principally from platform level, GLA officers are of the view that the proposal would not result in any change in the setting of this listed building that would cause harm to its significance.

260 The Grade II Listed Mall Chambers, Second Church of Christ Scientist and Kensington Palace Garden residences, and the Grade II* listed 24 Kensington Palace Gardens are situated to the east and southeast of the application site. Given their location and orientation in relation to the application site, change to their setting would be minimal and their significance would not be harmed.

Registered Parks and Gardens

261 The special historic character of the Grade I listed Kensington Gardens, which also forms a substantial part of Royal Parks Conservation Area within the City of Westminster, would not be harmed. In View 39(32) Kensington Gardens - Lancaster Gate entrance, the TVIA demonstrates that a small part of the north-eastern corner of the tower would be seen during spring; however, Campden Hill Tower currently is and would remain dominant in this view. The impact of the other Views relating to Kensington Gardens, A5 (35), 40(35.1), 42a(33.1f) and 42c(33.1) have been addressed above.

Archaeology

262 Historic England (Archaeology) concluded that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest and has not recommended an archaeological requirement.

Conclusion on heritage assets

263 It is noted that the Council's reason for refusal identified substantial harm to heritage assets, although it is unclear to which heritage assets this refers. GLA officers conclude that the proposals would not have an overly adverse impact on the significance of heritage assets and the amendments made to the height of the scheme following the Mayor's decision to call the application in do not cause any harm. The Visual Impact Assessment demonstrates that the proposed development would be visible in many views that fall within the settings of heritage assets set out above. However, GLA officers consider that the likely effects changes to the setting of these heritage assets would not be overly harmful to their significance. There would not be substantial harm to the setting of Kensington Palace, as the proposed tower would not project above the building in key views and would in most cases be obscured by surrounding trees. With specific regard to the scale and massing of the scheme

in local heritage views, owing to the existing built context, the proposal would be seen in relation to the existing tall buildings in Notting Hill Gate. As such, where harm is identified it is considered to be less than substantial in this urban context, subject to ensuring a high-quality finish for the proposed buildings.

264 In summary, GLA officers consider that in some instances there would be no harm to the significance of the heritage assets identified above and in instances where there would be harm it would be less than substantial. Even though that harm is to be given great weight, the view is taken that a clear and convincing justification for the scheme exists as that harm is outweighed by the public benefits the scheme would deliver, namely improved public realm, much needed housing (including affordable housing), replacement social rent units, delivery of an appropriate mix of uses and step free access to the London Underground station. These benefits collectively must be given very significant weight. The proposal would therefore address the requirements of the policies set out above. 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. The proposals comply with London Plan Policies 7.8, Policy HC1 of the draft London Plan and Kensington and Chelsea CLP Policies CL3 and CL4.

Inclusive design

265 London Plan Policy 7.2 and draft London Plan Policy D3 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 D5 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. The Mayor's SPG "Accessible London: Achieving an Inclusive Environment" provides guidance on the implementation of these policies. Policy CH2b (iii) requires 10% of dwellings to be wheelchair accessible.

266 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.

Accessible homes

267 All residential units would meet Building Regulation requirement M4(2). A total of 6 dwellings would meet Building Regulation M4(3), representing 10% of the units in the scheme, and the wheelchair accessible/adaptable homes are provided across the full range of tenures and unit sizes. A condition is recommended to be imposed to ensure that this level of accessible housing is secured.

Public realm

268 The submitted drawings and landscape drawings demonstrate that appropriate levels and gradients can be provided across the site to ensure an inclusive environment throughout. Only emergency vehicles would be allowed access to the pedestrianised areas; therefore, the use of the public square should remain safe for all users. 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.

Car parking

269 The overall development would include 25 car parking spaces, of which 6 would be reserved as Blue Badge accessible parking spaces for residential units. A car parking management plan, secured through the S106 agreement, will set out measures to monitor and increase this provision, if necessary.

Inclusive design Conclusion

270 In summary, in view of the reasons detailed above, the proposal 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 Kensington & Chelsea's CLP Policy CH2b(iii).

Neighbouring amenity impacts

271 A core principle of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. London Plan Policy 7.6 and draft London Plan Policy D2 state that the design of 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. London Plan Policy 7.7 and draft London Plan Policy D8 state that tall buildings should not affect their surroundings adversely in terms of microclimate, wind turbulence, overshadowing, noise, reflected glare, aviation, navigation and telecommunication interference. London Plan Policy 7.15 and draft London Plan D13 seek to reduce and manage noise associated with development.

272 Kensington and Chelsea Council's CLP CL5 seeks to ensure that development does not harm the amenity of nearby properties through unacceptable noise, vibration, traffic congestion, air pollution, overshadowing, overbearing, poor outlook, privacy or daylight and sunlight. CLP Policies CL11 and CL7 also speak to the amenity of neighbours in terms of the impact of tall buildings (including their impact on microclimate, overshadowing and overlooking) and the impact of development comprising basements respectively.

Daylight and sunlight assessment

273 The applicant has submitted a revised Daylight, Sunlight and Overshadowing Report (DSOR), which considers the impact of the proposal upon existing nearby properties and the resultant daylight and sunlight levels within the proposed residential units and public spaces. The amendments to the scheme have been considered in the revised report. The analysis is based on Building Research Establishment (BRE) Guidelines with specific reference to Vertical Sky Component for assessing daylight and Annual Probable Sunlight Hours (APSH) for assessing sunlight. It also assesses average daylight factor (ADF) for existing and proposed properties.

274 Vertical Sky Component (VSC): This method of assessment is a "spot" measurement of daylight, taken at the mid-point of a window. It represents the amount of visible sky that can be seen from that reference point from over and around the obstruction in front of the window. That area of visible sky is expressed as a percentage of an unobstructed hemisphere of sky and therefore represents the amount of daylight available for that window. The maximum VSC value is almost 40% for a completely unobstructed vertical wall or window. A window may be adversely affected if

its VSC measured at the centre of the window is less than 27% and less than 0.8 times its former value.

275 It should also be noted however that the 27% VSC recommended guideline is based on a low density suburban housing model and in an urban environment it is recognised that VSC values more than 20% are considered as reasonably good, and that VSC values in the mid-teens are deemed acceptable.

276 No-sky Line (NSL): No-sky line (NSL) is a measure of the distribution of diffuse daylight within a room. The NSL simply follows the division between those parts of a room that can receive some direct skylight from those that cannot. If from a point in a room on the working plane (plane 850 millimetres above the floor) it is possible to see some sky, then that point will lie inside the NSL contour. Conversely, if no sky is visible from that point then it would lie outside the contour.

277 Where large parts of the working plane lie beyond the NSL, the internal natural lighting conditions will be poor regardless of the VSC value, and where there is significant movement in the position of the NSL contour following a development, the impact on internal amenity can be significant. When comparing the NSL for existing buildings against that proposed following development, BRE guidelines state that if the no-sky line moves so that the area of the existing room which does receive direct skylight is reduced to less than 0.8 times its former value, then this will be noticeable to the occupants, and more of the room will appear poorly lit.

278 Average Probable Sunlight Hours (APSH): In relation to sunlight and overshadowing, the revised DSOR sets out an analysis of APSH of windows which face the site and are located within 90° of due south (as per the application of the BRE Guidelines). A window may be adversely affected if a point at the centre of the window receives for the entire year less than 25% of the APSH, including at least 5% of the APSH during the winter months (September 21 to March 21) and less than 0.8 times its former sunlight hours during either period, and for existing neighbouring buildings, if there is a reduction in total APSH which is greater than 4%.

279 To confirm, the BRE Guidance is intended for building designers, developers, consultants and local planning authorities. The advice it gives is not mandatory and should not be used as an instrument of planning policy. Of relevance, the Guidance states: *"This guide is a comprehensive revision of the 1991 edition of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice. It is purely advisory and the numerical target values within it may be varied to meet the needs of the development and its location."* As stated above, the Guidance is based on a suburban model, and in urban areas such as this one, VSC values of less than 27% would be considered to maintain reasonable daylight conditions.

280 The NPPF paragraph 123(c) provides that local planning authorities should refuse applications which they consider fail to take efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities are to take a flexible approach 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 provide acceptable living standards).

281 Policy 7.6 of the London Plan requires new development to avoid causing 'unacceptable harm' to the amenity of surrounding land and buildings, particularly in relation to privacy and overshadowing and where tall buildings are proposed. An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines are to be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing

capacity; and scope for the character and form of an area to change over time. The degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced, but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.

282 Given the location and surroundings, the residential properties with the potential to be most impacted because of the proposal are listed below:

- 52- 74 Notting Hill Gate (even only);
- 9 – 37 Jameson Street (odd);
- 2 – 8 Jameson Street (even);
- 5 Kensington Place;
- 8 Edge Street;
- 145 Kensington Church Street;
- 160 Kensington Church Street;
- 162 – 164 Kensington Church Street;
- 166 – 168 Kensington Church Street;
- 170 Kensington Church Street;
- 172 Kensington Church Street;
- 174 – 180 Kensington Church Street, Carlyle Mansions;
- 182 – 188 Kensington Church Street;
- 206 Kensington Church Street;
- 190-202 Kensington Church Street; and,
- 1-10 Campden Mansions.

283 Daylight: The DSOR sets out an analysis of 402 windows in the residential properties referred to above, using the VSC criteria. The assessment concludes that 86% of all windows analysed would either retain a VSC of at least 27% or retain a VSC which is at least 0.8 times its former value, thereby meeting BRE Guidance criteria regarding VSC. In some instances, there would be gains. Most of the windows that would fail to meet the BRE Guidance criteria are within properties located along Kensington Church Street to the east, where the existing massing on the site is uncharacteristically low for the surrounding area, nevertheless impacts would be experienced compared to the existing situation.

284 Sunlight: The applicant's study analyses 249 windows in the above-mentioned properties, which face within 90 degrees of due south. In terms of APSH, it was found that 94% would meet the relevant BRE Guidance.

285 The Council's planning officers confirmed in their committee report that they considered the impact on neighbouring properties in terms of daylight and sunlight to be acceptable, and GLA officers concur with this view. There would be no material increase in the level of impact as a result of the increase in height of the proposal since the Mayor took the decision to call in the application for his own determination. The losses of daylight and sunlight that would occur to certain windows in adjacent residential properties result in residual impacts within the levels of acceptability in an urban environment and which are not unusual for the local context. Overall, the scheme achieves a very good level of compliance with relevant BRE Guidance but some loss of daylight will occur to some existing properties. The impact on commercial properties is considered to be acceptable.

286 The internal daylighting for units within the propose scheme has been considered in paragraph 183.

Overshadowing

287 The revised Daylight, Sunlight and Overshadowing Report also looks at the impact of the scheme in terms of overshadowing to amenity and public spaces. The BRE Guidance suggests that where large buildings are proposed, it is useful and illustrative to plot a shadow plan to show the location of shadows at various times of the day and year. The path of the sun is tracked to determine where the sun would reach the ground and where ground would be overshadowed. BRE Guidance recommends that at least 50% of a garden or amenity area should receive at least 2 hours of sunlight at the Spring Equinox (21 March) to appear adequately sunlit, or else the area which receives 2 hours of direct sunlight on 21 March should not be reduced to less than 0.8 times its former value (i.e. reduced by more than 20%).

288 Nearby outdoor amenity spaces, namely the rear gardens and terraces of properties on Jameson Street and the nursery school located on Kensington Place were also assessed to determine whether the proposed development would cause or increase overshadowing. At present, both spaces fail to meet the BRE default recommendation and the proposed development would not cause a material worsening of the living conditions experienced by the occupants of the residential properties on Jameson Street or the users of the outdoor space at the nursery.

Privacy

289 Paragraph 34.3.38 of the Kensington and Chelsea CLP states that about 18 metres between opposite habitable rooms is acceptable when considering privacy; however, it is also acknowledged that there are many instances within the borough where this is not the case due to the Borough's historic fabric. The Mayor's Housing SPG (March 2016) notes that commonly used minimum separation distances between habitable rooms of 18-21 metres are yardsticks but advocates a more flexible approach to managing privacy.

290 In this instance, most of the residential units would face on to existing streets around the site. The windows of the proposed residential units in Kensington Church Street Building 2 at the junction of Kensington Place and Kensington Church Street would be 11 metres from the windows of the recently constructed building at 145 Kensington Church Street. This distance maintains the current relationship between other properties on Kensington Place to the west and re-establishes historic building lines. The proposed buildings (West Perimeter Building 1, West Perimeter Building 2 and West Perimeter Building 3) along the western boundary of the site are between approximately 16 metres and 18 metres away from the rear windows of properties on Jameson Street. Circulation space, office accommodation and the secondary windows of habitable rooms within residential units are proposed at second floor; whilst the proposed windows at second floor are set further back at a distance, which exceeds 18 metres between the properties on Jameson Street and these windows, thereby causing no unacceptable loss of privacy to residents along Jameson Street. A condition is recommended to be imposed prohibiting the use of the proposed flat roof terraces at second floor level adjacent to the site boundary to ensure that privacy for residents in properties along Jameson Street is maintained.

291 Existing properties to the east of the site along Kensington Church Street and to the north on Notting Hill Gate are 20.5 metres and 35 metres away respectively. These distances exceed 18 metres and would therefore meet the yardstick distances of 18-21 metres referred to in the Mayor's Housing SPG.

292 The proposed buildings would therefore have no demonstrable harmful impact on privacy to existing or proposed homes near the site.

293 The impact on privacy to the proposed units within the scheme itself has been addressed at paragraphs 185-186 above.

Noise and basement development

294 The applicant has submitted an Environmental Noise and Vibration Strategy, which sets out the findings of the likely noise and vibration effects of the proposed development during both the construction and operational phases.

295 During the construction phase, there will inevitably be some abnormal noise caused to nearby residential properties caused by construction activities and vehicles. These impacts will be temporary, confined to normal working hours (8am to 6pm) and can be controlled through the implementation of mitigation measures outlined in a construction environmental management plan (CEMP) (covering hours of works, use of Best Practicable Means, “quiet piling” techniques, erection of hoardings etc). A condition is recommended to be imposed requiring the submission and implementation of the CEMP.

296 The proposed scheme involves the provision of a 2-storey basement over a large percentage of the site. Draft London Plan Policy D9 recognises the potential impact the construction of large-scale basements (i.e. those that are multi-storey and/or those that extend significantly beyond the existing building footprint) can have on neighbouring amenity, including noise, vibration and land and structural stability. The application is supported by a Basement Construction Method (BCMS) Statement, which meets the requirements of CLP Policy CL7 and the Basement SPD. The BCMS sets out the mitigation measures, similar to those above, for addressing noise and vibration. Mitigation measures to address impact on land and structural stability have also been set out, and the BCMS adequately demonstrates that the structural stability of the existing nearby buildings could be safeguarded. A condition is recommended to be imposed requiring the basement contractor responsible for the development to be a member of the Considerate Constructors Scheme and to display the details of the membership and contact details on the site. It is noted that both Council officers and committee members considered the BCMS to be acceptable.

297 During the operational phase, potential noise impacts from the development on existing neighbouring properties are likely to be confined to noise from plant and services. Conditions are recommended to be imposed to limit noise from plant to be at least 5dB below background noise level, measured at the nearest residential premises, as well as conditions to secure anti-vibration mounts for equipment, to protect the amenity for existing and future residents. These measures would ensure that any potential noise impact can be appropriately controlled and mitigated. The commercial uses proposed across the site would not generally cause noise and disturbance beyond the level of the existing uses; however, a condition is recommended to be imposed limiting commercial uses to between 07:00 and 23:00 hours. The impact on the use of the public square on existing residents has also been assessed and the Environmental Noise and Vibration Strategy demonstrates that the noise levels would not exceed the levels set out in the Council’s Noise SPD.

Neighbouring amenity impacts conclusion

298 The proposals would not have an unacceptable impact on the residential amenity of existing residents close to the site, and the proposals thus comply with London Plan Policies 7.6, 7.7 and 7.15, and Kensington and Chelsea CLP Policies CL4, CL5 and CL11, and Basements SPD and Noise SPD.

Sustainability and climate change

299 London Plan climate change policies, set out in Chapter Five, collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, and to minimise carbon dioxide emissions. London Plan Policy 5.1 sets out the strategic approach to reducing carbon emissions in London, and Policy 5.2 sets out an energy hierarchy for

assessing applications. Policy 5.2 sets a minimum target for carbon dioxide emissions reduction in new buildings of 35% beyond Part L of the Building Regulations (as amended 2013) for commercial buildings and zero-carbon for residential buildings. London Plan Policy 5.3 requires future developments to meet the highest standards of sustainable design and construction, and London Plan Policies 5.9-5.15 promote and support the most effective climate change adaptation measures including passive thermal regulation, urban greening, and water management.

300 Draft London Plan climate change policies are set out in chapter 9, again collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, minimise carbon dioxide emissions and meet the highest standard of sustainable design. The policies go further than the current London Plan setting more stringent standards regarding air quality, greenhouse gas emissions, energy infrastructure, water infrastructure and waste and the support for the circular economy. Draft London Plan Policy G5 (Urban Greening) states that all major development proposals should contribute to the greening of London.

301 The Mayor's Sustainable Design & Construction SPG sets out how these policies should be implemented.

302 Kensington and Chelsea CLP Policies CE1 and CE2 set out the borough's approach to climate change and require developments to meet the highest standards of sustainable drainage and comply with London Plan carbon reduction standards.

Energy

Energy strategy

303 The applicant has submitted an energy strategy for the site, which outlines the measures to reduce carbon dioxide emissions beyond the 2013 Building Regulations, in compliance with the London Plan target. In reporting the application at Stage 1, it was observed that the scheme followed the London Plan energy hierarchy, with a range of passive design features and demand reduction measures proposed, and district heating, combined heat and power (CHP) and renewable energy sources, and that the carbon savings were more than the London Plan's targets.

304 Energy efficiency (Be Lean): A range of passive design features and demand reduction measures are proposed to reduce the carbon emissions of the proposed development. Both air permeability and heat loss parameters will be improved beyond the minimum backstop values required by building regulations. Other features include low energy lighting and variable speed pumps. The demand for cooling will be minimised through appropriate glazing proportions, overhangs through balconies, blinds and mechanical ventilation heat recovery. Comfort cooling is being proposed to the apartments due to acoustic restrictions and mechanical cooling is required to maintain comfortable temperatures within the flats.

305 District heating (Be Clean): The applicant has carried out an investigation and there are no existing or planned district heating networks within the vicinity of the proposed development. The applicant has, however, provided a commitment to ensuring that the development is designed to allow future connection to a district heating network should one become available. The applicant is proposing to install a site heat network and has confirmed that all apartments and non-domestic building uses will be connected to the site heat network. The site heat network will be supplied from a single energy centre located at basement level. The applicant is proposing to install a 70 kWe / 109 kWth gas fired CHP unit as the lead heat source for the site heat network. The CHP is sized to provide the domestic hot water load, as well as a proportion of the space heating leading to a 60% total contribution. A reduction in regulated CO₂ emissions of 30 tonnes per annum (18%) will be achieved through this second part of the energy hierarchy.

306 Renewable technology (Be Green): The applicant has investigated the feasibility of a range of renewable energy technologies and is proposing to install 26kWp of Photovoltaic (PV) panels (circa 110sq.m.) and has provided a roof layout of the proposed panels.

307 Overall savings: Based on the energy assessment submitted, an on-site reduction of 44 tonnes of CO₂ per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected for the domestic buildings, equivalent to an overall saving of 43%. For the non-domestic element, an on-site reduction of 51 tonnes, equivalent to an overall saving of 28% is expected. The carbon dioxide savings do not meet the zero-carbon target for domestic buildings or the 35% target for non-domestic buildings. As such, a contribution is mandatory to make up for this shortfall, which has been estimated at £125,000 and will be paid into Kensington & Chelsea's carbon offset fund, to be secured in the S106 agreement.

308 A condition is also recommended to be imposed requiring details of the final energy strategy to be submitted and approved prior to occupation. In this respect, the proposals comply with London Plan and borough policies on energy efficiency and carbon savings.

Flood risk and drainage

309 London Plan Policy 5.12 and draft London Plan Policy SI12 seeks to ensure that developments address flood risk and incorporate flood resilient design. Policy 5.13 and draft London Plan Policy SI13 states that developments should use sustainable urban drainage systems (SUDS) and should ensure that surface water run-off is managed as close to its source as possible in line with the London Plan drainage hierarchy. Kensington and Chelsea CLP Policy CE2 requires developments to mitigate the effects of, and adapt to, surface water and sewer flooding; as well as adapt to fluvial flooding.

310 The application is supported by a Flood Risk Assessment (FRA). The FRA confirms that the site is within flood risk Zone 1; but there is a degree of risk of surface water flooding identified on Environment Agency Mapping. The FRA states that the main risk is to the London Underground tube lines, which are set at a lower level, and that the basement would be designed with measures to prevent water ingress. GLA officers have assessed the FRA and have determined that the development would be at low risk from flooding.

311 A surface water drainage strategy has been submitted with the application, which proposes a combination of green roofs and attenuation tanks at basement level. These measures would restrict peak surface water flows to greenfield rates in line with the relevant policies in the London Plan and draft London Plan.

312 GLA officers recommend that a condition be imposed requiring the submission of a detailed drainage strategy to be discharged in consultation with the Lead Local Flood Officer. In view of the comments raised by Thames Water, a condition is also recommended to be imposed requiring the installation of a non-return valve or other suitable device to avoid the risk of backflow into the basement prior to occupation. The development thus complies with London Plan Policies 5.12 and 5.13, draft London Plan Policies SI12 and SI13, and Kensington and Chelsea CLP Policy CE2.

Sustainability strategy

313 The applicant has submitted a Sustainability Statement for the site, which sets out a number of climate change adaptation measures proposed in the design and construction process. Where appropriate, the themes within the Sustainability Statement have been considered separately in this report under sections addressing energy, flood risk and drainage, transport, ecology and biodiversity, waste management, landscape, noise, heritage, and air pollution. The remaining themes are considered as follows:

314 BREEAM: The applicant is targeting a BREEAM “Excellent” rating for the commercial; elements of the scheme. A condition is recommended to be imposed to ensure that the commitment relating to BREEAM is secured in line with the requirements of Kensington and Chelsea CLP Policy CE1.

315 Water use demand: The applicant has set out the measures that would be incorporated into the scheme to reduce the water demand of the development, including water metering and use of water efficient appliances and fittings. This is welcomed in accordance with London Plan Policy 5.15, draft London Plan Policy SI5 and Kensington and Chelsea CLP Policy CE1. A condition is recommended to be imposed to ensure that these are secured.

316 Materials and construction waste recycling: The applicant has set out commitments to, where possible, recycle materials, utilise materials with low environmental impact and use local sources for materials. A condition is recommended to be imposed to ensure that a site waste management plan is secured.

Trees and urban greening

317 London Plan Policies 5.10 and 7.21 seek to retain existing trees of value, or mitigate their loss, and require developments to incorporate urban greening measures. Draft London Plan Policies G5 and G7 go beyond the London Plan requirements by embedding urban greening measures and retention of existing trees of quality into the planning process. As set out in draft London Plan Policy G5, the Mayor has developed a generic Urban Greening Factor model to assist boroughs and developers in determining the appropriate provision of urban greening for new developments. This model is based on a review of green space factors in other cities. The factors outlined in Table 8.2 of the policy are a simplified measure of numerous benefits provided by soils, vegetation and water based on their potential for rainwater infiltration as a proxy to provide a range of benefits such as improved health, climate change adaption and biodiversity conservation.

318 The protection of existing trees and the provision of new trees to enhance or create green areas of the highest quality that deliver amenity and biodiversity benefits is a requirement of Policy CR6 of the Kensington and Chelsea CLP. CLP CR6 sets out several ways this will be achieved by the Council such as resisting the loss of trees, requiring appropriate replacements where practicable in the event trees are felled, demanding the protection of trees during development and serving Tree Preservation Orders or attach planning conditions to protect trees of townscape or amenity value that are threatened by development.

319 The application is supported by an Arboriculture Report, which indicates that there are no trees on the site that are protected by Tree Preservation Orders and that there would be a net gain of three trees across the site resulting from the proposed development. This net increase is acceptable given the site’s urban context and the amount of proposed development on the site. This net increase would be achieved by retaining all existing trees on Kensington Church Street (except one which requires replacement), the provision of four new semi-mature False Acacia trees within the public square, and the felling of a large London Plane tree on the corner of Notting Hill Gate and Kensington Church Street. The replacement of four Cabbage Palms on Notting Hill Gate, with four semi-mature London Plan trees to a height of 10 metres is also proposed, but this provision would be dependent on whether this type of tree could be accommodated on the footpath given the presence of services underneath the pavement that are related to the operations of the Notting Hill Gate London Underground station. The London Plane tree identified for felling is classified as Grade B under the British Standard classification in the Arboriculture Report; however, this has been disputed by the Council’s officers who contend that given the tree’s prominence and good health it is considered a Grade A tree. GLA officers agree with the Council’s officers’ assessment. Furthermore, GLA officers are of the view that the possible replacement of the Cabbage Palms with four semi-mature trees would not in themselves mitigate the loss of a mature

London Plane tree in terms of quality or quantity, as there would also be a net loss of one tree along the footpath. Nevertheless, in view of the overall net gain of three trees across the site, GLA officers consider that the harm resulting from the loss of this tree would be outweighed by the overall uplift in tree planting across the site. It will therefore be important to ensure that the quality and maturity of the replacement specimens is of the highest standards, and that the tree pit design and maintenance regime is suitable.

320 Regarding the urban greening factor, the proposal seeks to maximise the quantum of soft landscaping by incorporating new green spaces planting and roofs resulting in a significant uplift of planting on site including a net gain of three trees across the site. Whilst it is acknowledged that the draft London Plan has limited weight, the urban greening factor of the proposal has been calculated in accordance with Policy G5, which recommends a target score of 0.4 for predominantly residential developments. It is noted that Kensington and Chelsea has not yet established an urban greening target score for the borough. The urban greening score for the proposal is 0.167. Whilst this falls short of the Mayor's target, the proposal does provide a significant uplift in greening and a net gain in trees on the existing site and utilises greening measures identified by the Mayor including high quality landscaping, intensive gardens at roof level and green walls. On balance, given the uplift in green cover and tree planting, the urban character of the scheme and the public benefit of the new public square, it is considered that the proposal maximises urban greening provision and the level of green cover is considered to be acceptable.

321 The proposal is considered to be compliant with London Plan, and Local Plan policies on trees and urban greening. Whilst it doesn't meet the draft London Plan urban greening target, given the specific circumstances discussed above, this is considered acceptable. GLA officers consider that given the increase in greenspace and trees and the high quality of the landscaping to be delivered, the application is considered to be policy compliant in this respect. Conditions are recommended to be imposed requiring a full landscaping and maintenance scheme to be submitted and approved to ensure the proposals are carried through to the build out. A condition is recommended to be imposed requiring a tree protection measures for the retained trees during construction to be approved would also be imposed; and any proposed street trees on Council land would fall within the remit of the Section 278 secured by the Section 106 agreement.

322 It is noted that Council officers, in their assessment of the scheme, considered that the impact on trees was acceptable, and given the net gain of three trees proposed, and the quality and maturity of replacement provision to be secured, GLA officers concur with this assessment.

Ecology and biodiversity

323 London Plan Policy 7.19 and draft London Plan Policy G6 require developments to make a positive contribution to the protection, enhancement and creation of biodiversity. Locally, Kensington and Chelsea CLP Policy CE4 promotes the protection of biodiversity and requires opportunities to be undertaken to enhance biodiversity. CLP Policies CR5 and CR6 also emphasise the importance of development optimising benefit to biodiversity.

324 The site does not fall within the boundaries of any statutory or non-statutory sites of nature conservation and is not designated for any nature conservation purposes. A preliminary ecological assessment and bat survey have been carried out. This assessment and survey concluded that there is no evidence of any roosting on-site or in the surrounding areas. Several recommendations aimed at enhancing biodiversity on the site, including native planting within the development, provision of bat boxes, and appropriate lighting design to minimise intrusion to bats have been proposed. Details of these measures will be approved by condition, and accordingly it is considered the scheme would be in accordance with strategic and local policy on ecology and biodiversity.

Conclusion on climate change and sustainability

325 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 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 follows relevant planning policies regarding sustainability and adapting to climate change.

Other environmental issues

Air quality and odour

326 London Plan Policy 7.14 (Improving air quality) seeks to ensure that new development minimises increased exposure to existing poor air quality and makes provision to address local problems of air quality (particularly within Air Quality Management Areas (AQMAs)) and be at least “air quality neutral”. Kensington and Chelsea CLP Policy CE5 seeks to reduce the potential air quality impacts of development and promote air quality conditions across the borough. In addition, The RBKC Air Quality and Climate Change Action Plan sets out the ambitions and objectives of the local council with regards to tackling air quality and climate change issues between 2016-2021.

327 The entire Borough of Kensington and Chelsea is within an AQMA. The applicant has submitted an assessment of the proposal on air quality with the application. This looks at the impacts of demolition and construction, the CHP unit, traffic generated by the scheme and the impact of traffic pollution on the health and comfort of future occupiers of the development. The assessment also sets out the receptors within the site and along a number of nearby streets, including Kensington Church Street, Jameson Street, Notting Hill Gate, Linden Gardens, Kensington Mall, Hillgate Street and Uxbridge Street. An Air Quality Neutral Assessment has been submitted.

328 Construction Phase. Whilst the risk to air quality from dust and vehicle emissions during demolition and construction would be high if not mitigated, with proposed mitigation measures, including following best practice to reduce dust emissions from works, the likely effects would be reduced so as not to be significant. As such a planning condition is recommended to be imposed requiring the approval and implementation of an Air Quality and Dust Management Plan (AQDMP). In addition, a condition is recommended to be imposed to ensure compliance with the Non-Road Mobile Machinery Low Emission Zone as set out in London Plan Policy 7.14(b) and the associated Control of Dust and Emissions during Construction and Demolition SPG. Subject to these conditions, the likely temporary effects on air quality during the construction period are acceptable.

329 Operational Phase. The main polluting operations associated with the proposed development once built include emissions from traffic movements, the CHP unit and gas boilers. The assessment concluded that these operations would have negligible impacts. However, given the elevated levels of pollutant concentrations in the location, mechanical ventilation will be installed to reduce the exposure of future residents.

330 Having reviewed the applicant’s air quality study, it is considered that construction impacts can be suitably mitigated through the AQDMP and NRMM, and a condition is recommended to be imposed to secure this mitigation. Kensington and Chelsea officers also reviewed the material and raised no concerns, subject to securing conditions.

Wind

331 London Plan Policy 7.7 and draft London Plan Policy D8 state that tall buildings should not adversely affect their surroundings in terms of (amongst other things) microclimate and wind turbulence. The Mayor's Sustainable Design and Construction SPG identifies the Lawson Comfort Criteria as a means for identifying suitability of wind conditions. Paragraph 34.3.99 of the Kensington and Chelsea CLP states that given the problems caused by tall buildings, including microclimate, on residential environments and amenity spaces, tall buildings should be carefully sited and designed. Moreover, Kensington and Chelsea CLP Policies CR3 and CR4 promote the maintenance of streets and the functionality of streetscapes, which includes the impact of microclimate on the street environment.

332 The applicant has submitted a Pedestrian Level Wind Microclimate Assessment, which focuses on the windiest (generally winter) and summer seasons under the Lawson Comfort Criteria. Results were also included for the spring and autumn seasons to ensure a comprehensive analysis of the potential conditions. The assessment includes results of wind tunnel testing for the proposed development and assesses thoroughfares on and off-site, on-site residential terraces, entrances to the site, and the public square against a 'comfort criteria' consisting of six pedestrian activities where less active pursuits require more benign wind conditions. It demonstrates that all the areas tested would achieve compliance with standards for their intended use i.e. sitting and standing or walking. Achieving this compliance is dependent on mitigation measures identified in the study; therefore, a condition is recommended to be imposed requiring that these measures be in place prior to the development being occupied.

333 Subject to this, the development is not likely to have an adverse impact on wind conditions for people on the site or using surrounding areas and would comply with London Plan, draft London Plan and local policies.

Waste

334 London Plan Policy 5.17 requires adequate provision for waste and recycling storage and collection; and 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.

335 Draft London Plan Policy SI7 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.

336 Kensington and Chelsea CLP Policy CE3 seeks to encourage sustainable waste management in the borough, including promoting waste reduction, re-use and recycling. Kensington and Chelsea CLP Policy CE3 also requires the preparation and implementation of a site waste management plan for demolition and construction waste for major developments.

337 Construction waste: the applicant has committed to resource efficiency and material management during construction, directing construction waste away from landfill; and planning conditions are recommended to ensure that contractors adhere to this plan.

338 Operational waste: The applicant has prepared a refuse and recycling strategy for the site. This has the following key themes:

- each residential block would be provided with a dedicated refuse and recycling store, accommodating communal bin storage for each waste stream;
- the stores would be located so that residents only travel a short distance to access them;

- the bins would be managed by site management to ensure they are ready on collection day and transported to the collection point on Uxbridge Street;
- the quantum of bin storage would accord with the relevant Building Regulations and Kensington and Chelsea's standards set out in their Transport and Streets SPD document; and,
- adequate provision to be made for commercial waste (separate from residential waste), with specialist collectors used for the surgery waste.

339 The Council's waste officer raised no objections subject to conditions. Further information is therefore required to ensure that adequate waste management facilities are provided, and therefore a condition is recommended to be imposed requiring a detailed waste strategy to be submitted and approved by the Council. It is noted that Council officers proposed this approach in their assessment of the application at committee stage.

Contaminated land

340 London Plan Policy 5.21 supports the remediation of contaminated sites and bringing contaminated land back into beneficial use. Kensington and Chelsea CLP Policy CE7 requires adequate mitigation to be taken to ensure that development is safe regarding the re-use of land.

341 Given that the proposed uses would be particularly vulnerable to the presence of contamination, conditions to ensure a thorough investigation of the ground conditions and likely sources of contamination, appropriate remediation if necessary, and a validation report if necessary to confirm that all potential contamination has been removed from the site prior to its first use would be secured.

342 The presence of contamination will require further investigation to identify a suitable remediation strategy for the construction and operational phases. It is therefore recommended that planning conditions are imposed requiring investigative work and assessment, and a piling impact study. Subject to these, and a condition requiring the approval and implementation of an appropriate construction environmental management plan, the potential contaminated land will not cause a significant risk.

Transport

343 The NPPF states that *"Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives... The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel."* London Plan Policy 6.1 applies these principles within the strategic approach for transport in London. Other relevant strategic transport policies in this case include: Providing public transport capacity and safeguarding land for transport (Policy 6.2); Assessing effects of development on transport capacity (Policy 6.3); Enhancing London's transport connectivity (Policy 6.4); Funding Crossrail and other strategically important transport infrastructure (Policy 6.5); Better streets and surface transport (Policy 6.7); Cycling (Policy 6.9); Walking (Policy 6.10); Smoothing traffic flow and tackling congestion (Policy 6.11); Road network capacity (Policy 6.12); Parking (Policy 6.13); The Mayor's priorities for planning obligations (Policy 8.2); and, Mayoral Community Infrastructure Levy (Policy 8.3).

344 The Mayor's Transport Strategy (2018) (MTS) looks to put people's health and quality of life at the very heart of planning the city's transport with an aim that by 2041, 80% of all Londoners' trips will be made on foot, by cycle or by public transport. The MTS seeks to impose high expectations on developers to deliver transport solutions that will promote sustainable mode shift, reduce road congestion, improve air quality and assist in the development of attractive,

healthy and active places. It will also seek to restrict car parking provision within new developments, with those locations more accessible to public transport expected to be car free or car-light. Provision for car parking should be minimised and designed for alternative uses in the future as car dependency decreases.

345 The aspirations of the Mayor's Transport Strategy are embedded in the policies of the draft London Plan particularly the policy approaches such as 'Healthy Streets', 'Good Growth' and the Mayoral mode share targets. Draft London Plan Policy T1 sets the Mayor's strategic target of 80 per cent of all trips to be made by foot, cycle or public transport by 2041. Draft London Plan Policies T3-T6 and T6.1 – 6.3 seek to enable the achievement of the Mayor's strategic target whilst T7 will deliver MTS objectives in respect of freight and T9 emphasises the funding of transport schemes through planning.

346 Kensington and Chelsea CLP Policy CT1 states that the Council will, as an alternative to car use, ensure that it is easier and more attractive to walk, cycle and use public transport and by managing traffic congestion and the supply of car parking. Policies CT2 and CR7 of the CLP and the Transport and Streets SPD (2016) are also relevant.

347 Issues with respect to transport were considered by the Council as having been satisfactorily addressed, subject to agreement of appropriate planning conditions and section 106 obligations to secure necessary mitigation measures. Transport does not feature in the Council's proposed reasons for refusal. The Mayor's Stage 1 comments concluded that some further work was required on cycle hire, public realm and arrangements for access and servicing, construction logistics as well as the adequacy of supporting measures including the travel plan.

348 These matters have been satisfactorily resolved subject to planning conditions and section 106 obligations.

349 The provision of step free and stair free access at Notting Hill Gate London Underground station through this development has been considered already (paras 122-127).

Trip generation and mode split

350 The Transport Assessment (TA) Addendum dated July 2018 estimates that the development would generate 168 two-way trips in the AM peak and 175 two-way trips in the PM peak across all travel modes. Of those trips, seven two-way vehicle trips are predicted in the AM peak hour and six in the PM peak hour. The existing use on site currently generates 13 and 15 two-way vehicle trips in the AM and PM peak hours respectively. Therefore, the total net change in vehicle trips generated by the development is -6 in the AM peak hour and -9 in the PM peak hour. As such, it is concluded that the proposals would not materially impact on traffic flow on the Transport for London Road Network (TLRN) or the wider highway network nor cause congestion in the local area.

351 The Transport Assessment also predicts that most trips will be made by public transport, walking and cycling. It is estimated that the proposal will generate 153 combined public transport/walk/cycle trips in the AM peak hour and 164 in the PM peak hour. This level of trips emphasises the need to ensure a high-quality pedestrian and cycle network within the immediate area.

Car parking

352 The proposed development includes the provision of 25 car parking spaces for the residential element of the development only, which equates to a car parking ratio of 0.45 spaces per dwelling. In policy terms, this is an improvement compared to the original proposal, that proposed a car parking ratio of 0.55 spaces per dwelling. An additional five car parking spaces (including one Blue Badge space) are proposed for the GP surgery. The other elements of the development would be car free.

353 In line with the MTS and the London Plan, the proposed development includes basement car parking well below maximum standards and is supported by electric vehicle charging points, along with high quality walking and cycling provision and step free and stair free access at Notting Hill Gate LU station to encourage mode shift away from the private car.

354 A total of 6 Blue Badge car parking spaces are proposed (five for the residential uses and one for the GP surgery). This meets the requirements of the London Plan and draft London Plan. Since the revision of the proposed development, four motorcycle parking spaces have been included, which accords with local policy. In line with London Plan parking standards, six of the parking spaces will be provided with electric vehicle charging points (EVCP) and a further six spaces with passive provision. A condition is recommended to be imposed to secure this provision of EVCPs.

355 To prevent parking overspill and to encourage the use of sustainable modes, the development will be subject to an appropriate legal planning restriction whereby occupiers will be prevented from being able to obtain parking permits for the surrounding Controlled Parking Zones (CPZs).

356 It is recommended that a condition be imposed requiring the submission of a car parking management plan.

Cycle parking

357 A total of 265 cycle parking spaces, comprising 204 long-stay and 61 short-stay spaces are proposed. The long-stay parking, which complies with London Plan and draft London Plan standards, would be provided at basement along with 11 short-stay spaces and the remaining 50 short-stay spaces would be provided at ground/street level on Uxbridge Street and Kensington Place and Newcombe Street. The proposed provision of short-stay parking does not accord with the London Plan and draft London Plan; however, this is acceptable given the constrained nature of the site. Space for adaptable cycles and mobility scooters, as well as cyclist changing facilities would also be provided in line with London Plan Policy 6.9B. A condition is recommended to be imposed requiring the details of these facilities to be approved.

358 The development would increase demand for hire bicycles in the area requiring 25 new cycle hire docking points. An appropriate area of land to accommodate a 25-point docking station would be safeguarded and secured through the S106 agreement, along with a contribution of £200,000 to fund the assets, construction, surveys, planning, design and maintenance of the hire facility.

Highway access and public realm works

359 It is proposed to use the two existing vehicle accesses from Newcombe Street and Uxbridge Street, but no vehicles other than emergency services would be permitted to drive through the site. Access to the basement car park would be provided by a car lift at Uxbridge Street, with egress via a car lift from Newcombe Street. Access to/from the basement car park is not anticipated to have strategic highway impacts and the acceptability of these arrangements has been confirmed by the Council as highway authority. The applicant is required to engage with the Council on the detailed designs of the stopping up of the existing access and the proposed new site access, through a S278 agreement for highway works associated with the development, including the site access, which will be secured through the S106 agreement and be undertaken by the Council.

Pedestrian and cycle routes

360 The proposed development would see an increase in pedestrian and cycle trips to / from the site and the local area. Public realm improvements are proposed along the entire site boundary on Kensington Church Street, Notting Hill Gate, Uxbridge Street and a public square on Newcombe Street in the centre of the site. Legible London signage has been secured to clearly signpost this

route. Step-free and stair free access between the street and Notting Hill Gate London Underground station platforms is also proposed, and the cost of doing so and land safeguarded through the Section 106 agreement.

361 The high-quality pedestrian and cycle environment proposed will contribute to the Mayor's "Healthy Streets" agenda for encouraging active travel and mode shift away from the private vehicle.

Public transport

362 The site is served by nine high-frequency bus routes, with bus stops adjacent to the site or close by. The development is expected to generate 27 two-way bus trips in the AM peak hour and 31 in the PM. It has been confirmed by Transport for London (TfL) officers that this can be accommodated within the existing bus network capacity. Therefore, mitigation for bus service improvements has not been sought for this development. Notting Hill Gate London Underground station is adjacent to the site and is served by the District and Circle and Central lines. During the peak hours there are a total of 16 services per hour. The development is expected to generate 74 two-way Underground trips in the AM peak hour and 77 in the PM peak hour. It has been confirmed by Transport for London (TfL) officers that this can be accommodated within the existing rail network capacity.

363 Given the range of public transport options in this area and having regard to the predicted demand from these proposals, the development would not have a site-specific effect on public transport capacity that will require mitigation.

Delivery, servicing, construction and travel planning

364 The development proposes servicing from the existing on-street loading and pay and display bays on Kensington Church Street and Notting Hill Gate. This is like the existing arrangement and the approach has been agreed with the Council as highway authority as it offers a preferable solution to allowing additional vehicles into the public square. Conditions are recommended to be imposed requiring the submission of a full delivery and servicing plan (DSP) and waste management plan. The DSP would set out how delivery and servicing movements will be controlled, managed and adhered to by all occupiers. Regarding refuse collection, this is proposed to take place from an on-street bay on Uxbridge Street, and would also provide access for servicing and maintaining the proposed cycle hire docking station. Both the Council and TfL agree that the deliveries and servicing arrangement proposed are acceptable and accord with London Plan Policies 6.3, 6.13D and 6.14. and draft London Plan policy T.7. The proposals are also in accordance with Kensington and Chelsea CLP Policy CR7.

365 London Plan Policy 6.14B promotes the uptake of construction logistics plans (CLP) and the TfL Fleet Operators Recognition Scheme (FORS), to minimise the impact and safety risks of construction activities on people and the transport network. A draft Construction Traffic Management Plan (CTMP) has been submitted with the application in accordance with the Council's methodology. This proposes loading/unloading on Kensington Church Street and would require temporary bus stop/stand suspension. Suitable arrangements for this would be agreed with TfL and the Council prior to sign-off, and a condition is recommended to be imposed to secure these arrangements.

366 A draft Travel Plan has been submitted for the office use as part of the application, which would be used as the basis for a full travel plan prepared for the development prior to occupation. A condition is recommended to be imposed requiring the submission of a full travel plan. The other land uses do not meet the threshold for requiring travel plans.

Conclusion on transport matters

367 The proposed development for a high density residential-led mixed use scheme in a very accessible location accords with the London Plan policy of encouraging such development in locations that give rise to patterns of development that minimise the need to travel, particularly by car. The development will make acceptable alterations to the public realm around the site to accommodate the expected pedestrian and cycle demand and will encourage sustainable travel. The provision of step-free and stair free access between the street and the platforms at Notting Hill Gate London Underground station would enhance its accessibility of the station, in accordance with London Plan and local policy.

368 Subject to a suitable framework of controls and mitigation as identified above being secured through the S106 agreement and use of appropriate planning conditions, the transport impacts of this development are in accordance with strategic and local transport policies in the London Plan (Policies 6.1, 6.3, 6.5, 6.9, 6.10, 6.12, 6.13, 6.14, 8.2 and 8.3); draft London Plan (T1 – T6, T6.1 – 3, T7, T9 and DF1), Kensington and Chelsea CLP Policies CT1, CT2, CR7 and the Transport and Streets SPD.

Mitigating the impact of development through planning obligations

369 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.”* At the regional level, London Plan Policy 8.2 sets out the Mayor’s priorities for planning obligations, and states: *“Affordable housing; supporting the funding of Crossrail where this is appropriate (see Policy 6.5); and other public transport improvements should be given the highest importance”*. Draft London Plan Policy DF1 recognises there the most critical areas for investment to achieve the step change in housing delivery that London needs are increased investment in transport infrastructure and fundamental changes to the housing market. At the local level Kensington and Chelsea Council’s Planning Obligations SPD (2010) and the Notting Hill Gate SPD (2015) provide the basis for determining planning obligations when considering planning applications for development within Notting Hill Gate.

370 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 a number of planning obligations required to appropriately mitigate the impact of this development. A full list of the obligations is provided under paragraph 8 above, and where appropriate there is detailed consideration given in the relevant topic section of the report. 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

371 As discussed in the housing section of this report, 23 affordable units would be secured, comprising 8 intermediate rent units and 15 affordable rent units. Details of affordable housing definitions, fit out, transfer/lease to a Registered Provider, the income thresholds for the intermediate accommodation, rent levels for the affordable rented units and the retention of the affordable units at the proposed rent levels, would be set out in the section 106 agreement. All affordable rent units would be secured at London Affordable Rent (LAR) and the intermediate rent units would be secured at discounted London Living Rent.

372 GLA officers propose that an early review mechanism, which would be triggered if the development has not been substantially implemented within two years of the date of consent, is

secured. The review would establish whether, in the light of increasing viability, a financial contribution could be made to the Council for the provision of additional off-site affordable housing at London Affordable Rent levels. Any review must be signed-off with reference to the GLA (as a Mayoral take-over). GLA officers also propose a late stage review, which would be triggered once 75% of the residential units are sold or let.

Medical Centre

373 The provision of a Medical Centre of at least 952 sq.m. (GIA), constructed to shell and core standard and fit out to a specification approved by the NHS with a minimum spend of £1.5m will be secured. The property would be leased to identified medical Operators currently operating at Pembridge Villas Surgery and Westbourne Grove Medical Centre.

Step-free access

374 Provision of a step-free access route between street level to the southbound/westbound (inner rail) platform of the District & Circle lines which also delivers stair-free access to the east and westbound Central line platforms prior to first occupation. The definition of step-free access provided by TfL is: the provision of lifts, ramps and/or other infrastructure that allow independent access for persons with reduced mobility to follow a route (or routes) between street and platform levels without the need to use stairs or escalators. Compliant access between the platform and train should also be provided where practicable.

Public square/landscaping

375 Provision, retention and maintenance of the public square and public realm through the site to be publicly accessible 24 hours a day, in perpetuity, except in specific instances as set out in the Section 106 agreement. A contribution toward public art and the submission of a public art strategy in accordance with the Council's Planning Obligations SPD. Provision of details to the Council of the steps to be taken to encourage a Farmers' Market to be held in the public square.

Retail

376 Submission of a Small Independent Retail Units Marketing Strategy to the Council to ensure that appropriate occupiers for the retail units are secured,

Employment and training

377 A construction training and employment contribution of £295,071 (index linked) towards the provision of construction training within the Borough would be secured in accordance with the Council's Planning Obligations SPD.

Transport

378 The following transport mitigation and improvement measures would be secured:

- cycle hire safeguarded land and access rights for hirers and operational vehicles and a cycle hire contribution of £200,000 to TfL; as a fall-back position, the contribution would be used for other transport-related infrastructure;
- legible London contribution of £3,017 to RBKC;
- local highway works to be completed via S278 agreement with RBKC;

- permit-free obligation to ensure that residents of the development do not disenfranchise existing residents by parking in the surrounding roads;
- demolition traffic management plan assessment £2,800 per plan to RBKC to mitigate impact on highways network; and
- office travel planning monitoring fee £1,000 to RBKC to encourage sustainable travel.

Sustainability

379 As discussed in the energy section of this report, a carbon off-set payment will also be payable into the Council’s fund in accordance with the Council’s Planning Obligations SPD. This is estimated to be £124,959.

Council’s cost

380 The costs to the Council of monitoring and enforcing the section 106 legal agreement will be secured.

Legal considerations

381 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/17/05782.

382 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.

383 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.

384 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.

385 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.

386 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.

387 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.

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

389 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.

390 Other guidance, which has been formally adopted by Kensington and Chelsea Council 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.

391 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.

392 Regarding Community Infrastructure Levy (CIL) considerations, the Mayoral CIL payment associated with this development is estimated to be up to £683,216.

393 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. The Mayor is also required to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas which may be affected by the proposed development (section 72 of the of the Planning [Listed Buildings and Conservation Areas] Act 1990).

394 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.

395 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.

396 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.

397 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.

398 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.

399 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.

400 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.

401 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

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

403 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.

404 When considering the proposals, GLA officers have had special regard to the desirability of preserving the setting of listed buildings near the proposed development and they have given special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

405 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 (mixed-use development, town centres, residential, retail and office uses, social infrastructure, accessible transport); housing (including delivery of affordable housing, tenure, mix, density, quality, play space); urban design and heritage (including urban design, views, the historic environment, listed buildings and archaeology); inclusive design; neighbouring amenity impacts (including privacy/overlooking, light pollution and noise/disturbance) ; sustainable development (including climate change mitigation and adaption, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage); other environmental considerations (including air quality, contaminated land and waste management); transport, including parking provision; and, mitigating the impact of development through planning obligations.

406 It has been concluded that overall the proposed development accords with the development plan. No conflict with the NPPF has been identified. As a result, applying the NPPF Paragraph 11, the view is reached that the proposed development represents sustainable development. Apply section 38(6) of the 2004 Act, it is concluded that there are no material considerations which indicate that planning permission should be refused that are of sufficient weight to outweigh the support of the development plan and the NPPF.

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

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