

ROYAL BOROUGH OF
KENSINGTON
AND
CHELSEA

PARTIAL REVIEW OF
CORE STRATEGY

EXAMINATION IN PUBLIC
RESPONSE TO MATTER 6

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September 2014

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1.0 INTRODUCTION

- 1.1 This statement has been prepared by Chris Miele of Montagu Evans in response to the questions raised by the Planning Inspector under Matter 6.

- 1.2 There is some overlap in the questions, although the main reasons why the policy should be found unsound can be elucidated under my response to questions 32 and 33, followed by supplementary responses to other questions where necessary.

2.0 QUESTION 32 – HOW IS THIS CRITERION DIFFERENT IN PRINCIPLE FROM THAT OF THE ADOPTED CORE STRATEGY AND POLICY CL2 G.I. (APART FROM THE INCLUSION OF PAVEMENT VAULT)?

QUESTION 33 – IT IS NOT SUBSTANTIALLY DIFFERENT, WHAT HAS CHANGED THAT I SHOULD NOW, UNLIKE MY COLLEAGUE AT THE CORE STRATEGY EXAMINATION, FIND IT TO BE UNSOUND?

- 2.1 Core Strategy Policy CL2 criterion g.i. requires that it is demonstrated that extensions (among other criteria) do not involve excavation underneath a listed building. The Inspector notes in Question 33 that this was found to be sound by the Planning Inspector during the examination into the Core Strategy in 2010.
- 2.2 The main changes in circumstances since the adoption of the Core Strategy are as follows.
- 2.3 The principal change is represented by the publication of the National Planning Policy Framework (NPPF). The NPPF clearly sets out the process by which applications for listed building consent should be considered.
- 2.4 There is no need to set out the contents of the NPPF in detail in this regard, but I summarise it as follows.
- 2.5 Paragraph 128 requires an application to describe the ‘significance’ of any heritage assets affected by the proposals. Paragraph 132 states that when considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. Paragraph 132 states that ‘significance’ can be harmed or lost through alterations or destruction of the heritage assets or development within its setting.
- 2.6 Paragraph 133 and 134 advise planning authorities on how to address applications that result in ‘substantial’ harm or ‘less than substantial’ harm to an asset’s significance. Paragraphs 133 and 134 indicate that the harm caused can be outweighed by public benefits essentially to a degree commensurate with the harm caused. This is of course a simplified summary, but it is clear that an ordered approach to the assessment of applications is required; what is the significance of the asset; is that significance harmed; is that harm (either substantial or less than substantial) outweighed by other public benefits. The greater the harm, the greater the countervailing public benefit needs to be.
- 2.7 It is clear from the NPPF that applications for alterations to designated heritage assets need to be undertaken on a case by case basis. In fact, an ‘in-principle’ objection to any particular type of alteration is entirely incompatible with the approach set out in the NPPF. In some circumstances, an intervention may be harmful to a designated heritage asset, and in others it may not be. In still others, there may be harm but this harm is outweighed by public benefits that arise, in accordance with

assessment under paragraphs 133 or 134. This nuanced approach is impossible under criterion and of proposed Policy CL7.

2.8 The approach set out in the NPPF is reflected in the English Heritage document “Historic Environment with Practice Advice Note 2 : Decision Taking in a Historic Environment”, which has been consulted on until 5th September 2014.

2.9 It states:

“In deciding applications for planning permission and listed building consent, local planning authorities will need to assess the particular significance of the heritage asset(s) which may be affected by the proposal and the impact of the proposal on that significance...”

2.10 There is no indication within the English Heritage Document that any particular type of work to a listed building would be automatically harmful to a building’s significance (and no mention of subterranean development) – logically this conclusion may arise only after the line of enquiry set out in the NPPF has been followed.

Recent Appeal Decision and Planning Decisions

2.11 Recent planning decisions since the publication of the NPPF illustrate well the correct approach.

2.12 In the appeal enclosed at Appendix 1, relating to a Grade II listed property at 28 Mallord Street within the Royal Borough, an appeal was allowed for an addition of a cellar beneath the existing house with the reorganisation of a portion of the lower ground floor to accommodate a newly proposed staircase.

2.13 The first reason for refusal was:

“The proposal would, by reason of the impact on the hierarchy of the historic floor levels, excavations under the building and the loss of architectural fabric, cause significant harm to the special architectural and historic interest of this Listed Building. As such, the proposal is contrary to Policy CL4 of the Core Strategy, adopted December 2010 and the guidance contained in the Subterranean Developments SPD”

2.14 Essentially the reason for refusal corresponds to the justification for the proposed policy CC7 which restricts any basement underneath a listed building.

2.15 The Inspector states that paragraphs 6-8 of the appeal decision:

“I consider the proposed works would have minimal impact on the building’s original fabric and its architectural and historical significance...”

A principal concern of the Council is the effect that the introduction of the cellar would have on the historical hierarchy of floor levels of the building. I accept that...the special interest of listed buildings includes matters such as the location and hierarchy of rooms and floor levels, foundations and the original purpose of the building...There will be no alteration of the relationship of the building to its site.

The cellar is not designed for residential occupation but simply as a plant room for a bio mass boiler that would be a subservient and largely discrete element of the property. I disagree that in these circumstances the provision of the cellar would have any materially harmful impact on the hierarchy of the historic floor levels or will be detrimental to historic integrity, scale or layout of the building.”

2.16 With respect to the NPPF, the Inspector states at paragraph 11:

“...when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation and this should be in a manner appropriate to its significance. As a grade II listed building this is an important heritage asset. However for the reasons given I consider that the significance of the asset would not be materially harmed by the proposals and its architectural and historic interest would be preserved.”

2.17 The policy restricting any basement under listed buildings would be anathema to the approach set out in the NPPF and followed by the Planning Inspector in this case. This appeal decision alone illustrates that there are some circumstances where basements are acceptable under listed buildings.

2.18 Appendix 2 contains details of planning permission and listed building consent granted for a two additional storeys under a Grade II listed building in Wilton Crescent (City of Westminster).

2.19 English Heritage did not object to the application.

2.20 The Officer Report to the Council’s Planning Committee stated:

“The proposed basement extension or have no external manifestation. The stair linking the existing lower ground floor of the main house to the new basement levels is contained within the new part of the development, rather than within the footprint of the original historic house and as such there is minimal perceptual change to the historic plan form. As such, while the amount of basement excavation is extensive, this is considered that when complete, the works would not have an adverse impact on a significance of the listed buildings or the conservation area”.

2.21 In other words, in this instance, the design of the basement underneath the listed building was determined by the Council to have no harm to the significance of the

listed building, a position that was not contradicted by English Heritage. There are countless other examples of recently permitted basements underneath listed buildings across Central London.

- 2.22 An obvious general point arises which is that were there such a matter of important principle regarding subterranean excavation under listed buildings, RBKC's position would be supported by policies adopted by other London Boroughs where subterranean excavation is common and would also be manifested by English Heritage existence to such proposals. The alternative is that the listed buildings located within the boundary of RBKC are somehow inherently more significant than those listed at an equivalent grade located elsewhere – this position would not be defensible given that the listing of buildings is a national designation.
- 2.23 In July 2009, planning permission and listed building consent were granted for a basement extension beneath the Grade II* listed Commonwealth Institute within the Borough (see Appendix 3). Clearly the proposals for the Commonwealth Institute represent exceptional circumstances, but the decision serves to illustrate that it is not appropriate to have a policy that outlines a blanket objection to basement development.

The Council's justification for Core Strategy CL g.i.

- 2.24 I turn now to the Council's justification for Core Strategy Policy CL g.i. It is helpful to consider whether the Council's original justification for a restriction on excavation under listed buildings is still sound in the light of the changes of circumstances set out above.
- 2.25 For reference, paragraph 54 of the Inspector's Report on the Core Strategy states:
- “...the Council has adopted a subterranean development SPD in 2009. CL2(G) introduces a new criterion indicating that subterranean development under listed buildings are unacceptable. I am satisfied that the Council has provided sufficient evidence to support the approach, including reference to relevant appeal decisions (RBKC/11, paragraph 5.5) and to the Planning Practice Guidance for PPS5.”*
- 2.26 Core Strategy Documents RBKC/11 therefore provides a helpful summary of the genesis of CL g.i. The relevant extract is included at Appendix 4.
- 2.27 Paragraph 5.2 of RBKC/11 states that the issue of subterranean extension residential properties was considered important enough for an SPD to be prepared. The Subterranean Development SPD was published in May 2009. The SPD was prepared within the framework of the UDP (which itself at that time did not contain any policies that restricted basements underneath listed buildings).

2.28 The Council's 2010 justification for the restriction under listed buildings in CL2 refers directly to the SPD. It references Section 2.2.1 of the SPD which identifies concern of basements on the impact of structural considerations, the location and hierarchy of rooms and floor levels, foundations, the original purpose of the building, the size and location of any original basement, cellar or vault and integrity of the historic structure amongst other things.

2.29 These are all of course material considerations in assessing the "significance" of a listed building in the NPPF and we do not dispute that. The justification taken from the SPD then goes on to say (paragraph 2.2.2 of the listed building:

"An addition of a new floor level underneath the original lowest floor of a listed building...would have a significant impact on the hierarchy of the historic floor levels".

2.30 A key aspect of the Council's justification of the restrictions under Policy CL2 was therefore that they had prepared a SPD to support the UDP. That justification identified a number of aspects of a listed building which could contribute to its significance. The Council effectively states in the justification of CL2 that a basement level will harm that significance and thus come to the conclusion that subterranean development underneath listed buildings is automatically harmful to these aspects of the building, thus justifying the policy. Such a justification is inconsistent with the guidance within the NPPF.

2.31 Paragraph 5.5 of RBKC/11 then refers to two appeals in the Borough, one at 3 Halsey Street and one at 15 Mallord Street. The Council then uses these as justification that there is a fundamental matter of principle regarding the hierarchy of rooms and levels which are common to the majority of London houses.

2.32 In my view, these appeal decisions illustrate that the specific proposals put forward for those properties were considered unacceptable within the local and national policy context at that time. It rather illustrates that proposals should be considered on a case by case basis. In any event, the policy context (especially at national level) has now moved on.

2.33 The Council also previously relied on the PPS5 Practice Guidance to justify its position. Since the publication of the NPPF and the National Planning Practice Guidance (NPPG), this document now has very little or no weight. English Heritage is currently consulting on revised guidance.

2.34 At 5.7 of RBKC/11, the Council quotes from the PPS5 Practice Guidance:

"proposals to remove or modify internal arrangements, including the insertion of new openings or extension underground, will be subject to the same considerations of impact on significance (particularly architectural interest) as for externally visible alterations' (paragraph 182)"

- 2.35 It is overstating matters to conclude that the Practice Guidance indicates an in-principle objection to extension underground. The guidance merely states that proposals for extension underground should be subject to the same mode of assessment as other proposed alterations to listed buildings. Rightly so.

3.0 QUESTION 35 – COULD THE AIMS/REASONS BE ACHIEVED OR SATISFIED IN ANOTHER WAY? IF SO, PLEASE SUGGEST AN ALTERNATIVE WORDING FOR THE CRITERION.

QUESTION 36 – SHOULD THE CRITERION CONTAIN AN EXCEPTION CLAUSE TO CATER FOR DIFFERING CIRCUMSTANCES, SUCH AS WHERE THERE IS NO SPECIAL INTEREST IN THE FOUNDATIONS AND THE ORIGINAL FLOOR HIERARCHY CAN BE RESPECTED?

3.1 The concerns we have expressed during the consultation process could be addressed by removing criterion f) from Policy CL7 and amending criterion e) thus:

'e) not cause harm to the significance of heritage assets, having regard to the a range of consideration including historic plan form and hierarchy, significant surviving fabric, the level of alteration, and the nature/quality of the proposed accommodation'.

3.2 We note finally that no other authority in London has sought to limit basements in this way, at the level of principle. English Heritage maintains no principle objection to such works and considers basements on a case by case basis. The above proposed amendment would be consistent with the NPPF.

Appendix 1

Appeal Decision – 28 Mallord Street

Appeal Decisions

Site visit made on 7 August 2013

by P J Asquith MA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2013

Appeal A, Ref: APP/K5600/A/13/2193645 28 Mallord Street, London, SW3 6DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Dunn against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref. /PP/12/04577, dated 11 November 2012, was refused by notice dated 11 January 2013.
 - The development proposed is described as the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase.
-

Appeal B, Ref: APP/K5600/E/13/2194651 28 Mallord Street, London, SW3 6DU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs S Dunn against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref. /LB/12/04578, dated 11 November 2012, was refused by notice dated 11 January 2013.
 - The works proposed are described as the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase.
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase at 28 Mallord Street, London, SW3 6DU, in accordance with the terms of the application, Ref. /PP/12/04577, dated 11 November 2012, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and listed building consent is granted for the addition of a small cellar underneath the house and the reorganisation of a portion of the lower ground floor to accommodate the proposed cellar staircase at 28 Mallord Street, London, SW3 6DU, in accordance with the terms of the application, Ref.

/LB/12/04578, dated 11 November 2012, subject to the conditions set out in the attached schedule.

Main Issue

3. I consider the main issue in these cases to be the impact of the proposals on the special architectural and historic interest of this Grade II listed building.

Reasons

4. The brick and steeply-pitched pantiled roofed house was built for the painter Augustus John in 1913/14 to the designs of Dutch architect Robert van t'Hoff. The property displays Dutch influences in its design as well as the Arts and Crafts background of its architect. A particular feature is the airy and spacious rear room with gallery designed as John's studio. John described the building as 'my new studio with living rooms', using it as his studio for some 20 years at a time when he was a leading practitioner of portrait painting. The historical importance of the building through its association with the painter is reflected not only in its listing but also in its bearing of a Blue Plaque. The building has been altered over the years but retains much of its original fabric and fitting out, now providing residential accommodation over four floors.
5. The proposal includes the creation of a new cellar underneath part of the building to house a biomass boiler and wood pellet store with the intention of reducing the property's carbon footprint. Whilst the cellar would have a floor area of over 30m² this size of space is said to be needed to accommodate fuel storage next to the boiler. To access the cellar a section of the western side of the lower ground floor would require reorganisation to accommodate a staircase. This area has previously been altered from the original layout including the addition of an extra bathroom, plant room and partition walls. These would be removed so that the plan form would more closely follow that of the original. The floors in this area of the house are not original. A window on the western side of the lower ground floor would be reinstated. The Council has not specifically commented on these aspects of the proposal. In my view the rationalization of this part of the dwelling in the manner suggested would have no material impact on the special qualities or historical significance of the building.
6. Having regard to the construction of the cellar, it would sit within all but two existing load-bearing walls. The only loss of existing fabric would be the internal toes of two lengths of corbelled brick footings which would need to be removed. Past alterations to the building are said to have left scope for the exploitation of a number of vertical voids to accommodate the boiler flue without the need for impact on the fireplace within the 'snug'. I consider the proposed works would have minimal impact on the building's original fabric and its architectural and historic significance in this regard.
7. A principal concern of the Council is the effect that the introduction of the cellar would have on the historical hierarchy of floor levels of the building. I accept that, as stated in the Council's Subterranean Development Supplementary Planning Document (SPD), the special interest of listed buildings includes matters such as the location and hierarchy of rooms and floor levels, foundations and the original purpose of the building. However, the property is not a traditional 18th or 19th century London townhouse with a firm demarcation between 'upstairs' and 'downstairs' and separation of fine living

accommodation on ground and first floors and with plainer staff and functional accommodation in the basement and attics. It was principally designed as a studio on the lower ground floor with living accommodation above (although the original plans show kitchen and pantry on effectively the same level as the large studio). There were no separate staff quarters. The studio is now occupied as a large living area.

8. The cellar would be wholly contained within the footprint of the building, occupying less than about 17% of it. There would be no alteration of the relationship of the building to its site. The cellar is not designed for residential occupation but simply as a plant room for a biomass boiler and would be a subservient and largely discrete element of the property. I disagree that in these circumstances the provision of the cellar would have any materially harmful impact on the hierarchy of the historic floor levels or would be detrimental to historic integrity, scale or layout of the building.
9. Whilst the SPD indicates that proposals for subterranean development will normally be resisted I consider that, for the reasons given, this is a case where this presumption is not applicable. Similarly, I am satisfied from the evidence provided, including clarification regarding the submitted Construction Method Statement, that the building works to create the cellar could be carried out without resulting in any material harm to the fabric of the building.
10. The Council is further concerned that there has been a failure to demonstrate that the works needed to meet the requirement of achieving the BREEAM 'very good' assessment level would not cause harm to the building. However, a BREEAM pre-assessment and Standard Assessment Procedure for energy rating of dwellings calculations were included with the application and demonstrate how a BREEAM 'very good' rating would be achieved. The appellant accepts that a number of the credits can be difficult to achieve without causing harm to listed buildings. However, this is stated as being a reason for the addition of the biomass boiler; it would increase the environmental performance of the building without the need for more invasive and potentially damaging improvements to important elements of the original fabric of the building. The 'very good' rating can be achieved through the use of the boiler, high levels of insulation to the proposed cellar, and improvements to insulation within the roof structure that is said to have been redeveloped in the 1990s.
11. The National Planning Policy Framework indicates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and this should be in a manner appropriate to its significance. As a grade II listed building this is an important heritage asset. However, for the reasons given I consider that the significance of the asset would not be materially harmed by the proposals and its architectural and historic interest would be preserved. Subject to the imposition of appropriate conditions the scheme would not conflict with Policies CL2, CL4 or with the thrust of Policy CE1 of the Council's Core Strategy, adopted in 2010. These respectively seek to ensure modifications to existing buildings are of the highest architectural and urban design quality, the special architectural or historic interest of listed buildings is preserved or enhanced and proposals have due regard to sustainability. As already noted, it is my view that in the circumstances of this case there would no conflict with the thrust of the SPD on subterranean development.

12. I have taken account of all other matters raised, including the fact that the appeal property lies within the Chelsea Park/Carlyle Conservation Area. Given the nature of the proposed works they would have no impact on the appearance and character of this area. Overall, I therefore consider the proposal to be acceptable.

Conditions

13. I shall impose conditions along the lines of those suggested by the Council in the event of permission and consent being granted¹ and in respect of which the appellant has not specifically commented. A condition is necessary specifying the plans to which the permission and consent relate, for the avoidance of doubt. To protect the special interest of the building and its appearance conditions are necessary to require: works to be carried out in strict accordance with the plans; finishes to match existing original work; details to be provided of methods of removal of spoil in the construction of the cellar and the installation of the boiler flue; details and prior agreement of joinery and existing features to be removed; and notification to be provided of the start of work in order for the Council to be able to monitor this.
14. Given the nature of the work involving excavation beneath the building, I shall impose the Council's suggested condition requiring supervision by a suitably qualified engineer. Because of the location of the site directly fronting onto a residential street, and to protect highway safety and neighbouring amenity, conditions are required to secure the agreement of a Construction Traffic Management Plan and for the site or lead contractor to be signed to the Considerate Constructors' Scheme. To ensure that environmental impact is mitigated, a condition is necessary requiring the development to achieve a BREEAM 'very good' rating.

P J Asquith

INSPECTOR

Schedule of conditions

Appeal A – planning permission

- 1) The development hereby permitted shall begin not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 200P Rev P1, 211P, 212P, 213P, 299 Rev P2, 300 Rev P2, 311P, 312P Rev P2, 313P.
- 3) All work and work of making good shall be finished to match the existing original work in respect of material, colour, texture and profile and, in the case of brickwork, bonding and pointing.

¹ Applicable to the planning permission and listed building consent as appropriate.

- 4) Detailed drawings or samples of materials as appropriate in respect of the following shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun and the works shall not be carried out other than in accordance with the details so approved:
 - a) A detailed method statement and relevant drawings for the removal of spoil;
 - b) A detailed method statement and relevant drawings for the installation of the biomass boiler flue.
- 5) The development hereby permitted shall not be implemented until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan should include:
 - a) routeing of demolition, excavation and construction traffic;
 - b) access arrangements to the site;
 - c) the estimated number of vehicles per day/week; details of any vehicle holding area; details of any vehicle call-up procedure;
 - d) estimates for the number and type of parking suspensions that would be required; details of any diversion, disruption or other abnormal use of the public highway during demolition, excavation and construction work;
 - e) work programme and/or timescale for each phase of demolition, excavation and construction works; and
 - f) a plan showing any site layout on the highway including the extent of hoardings, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall not be carried out except in accordance with the approved Construction Traffic Management Plan.

- 6) The subterranean development hereby permitted shall not be used until the entire dwelling has achieved a BREEAM Domestic Refurbishment rating of 'very good' with 40% of credits achieved under the Energy, Water and Materials sections and a Post-construction Review Certificate or a Post-construction Letter of Compliance for the dwelling issued certifying that a 'very good' rating has been achieved.
- 7) The development hereby permitted shall not commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) has been appointed to supervise the construction works throughout their duration and their appointment confirmed in writing to the Local Planning Authority. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed those works shall cease until a replacement chartered engineer of one of the afore-described qualifications has been appointed to supervise their completion and their appointment confirmed in writing to the Local Planning Authority. At no time shall any construction work take place unless an engineer is at that time currently appointed and their appointment has been notified to the Local Planning Authority in accordance with this condition.

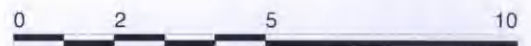
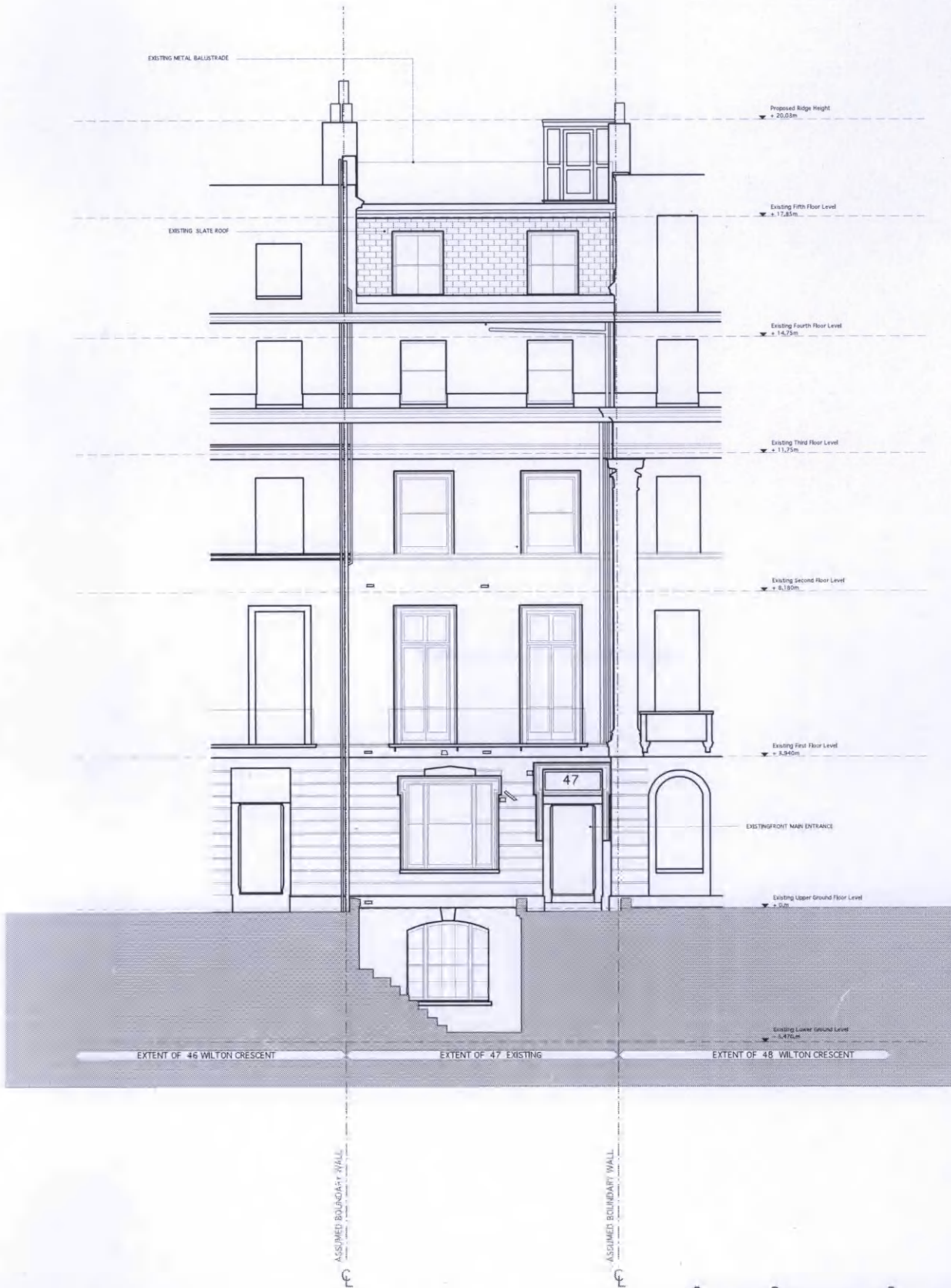
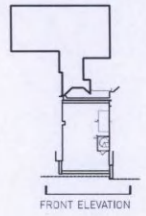
- 8) No development shall be carried out until such time as the lead contractor, or the site, is signed to the Considerate Constructors' Scheme and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, are clearly displayed on the site so that they can be easily read by passing members of the public, and shall thereafter be maintained on display throughout the duration of the works hereby approved.

Appeal B – listed building consent

1. The works hereby authorised shall begin not later than 3 years from the date of this consent.
2. No works shall commence before written notification of the intended start of works has been provided to the Local Planning Authority with such notification providing not less than fourteen days notice of the commencement of works.
3. The works hereby authorised shall be carried out in strict accordance with the following approved plans from which there shall be no variation without the prior written approval of the Local Planning Authority: 200P Rev P1, 211P, 212P, 213P, 299 Rev P2, 300 Rev P2, 311P, 312P Rev P2, 313P.
4. Notwithstanding the approved plans, the consent hereby approved does not cover the removal or alteration of any currently hidden features of interest that may be revealed during the course of building works, unless otherwise specifically agreed in writing by the Local Planning Authority.
5. All work and work of making good shall be finished to match the existing original work in respect of material, colour, texture and profile and, in the case of brickwork, bonding and pointing.
6. Detailed drawings or samples of materials as appropriate in respect of the following shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun and the work shall not be carried out other than in accordance with the details so approved:
 - a) A detailed method statement and relevant drawings for the removal of spoil;
 - b) A detailed method statement and relevant drawings for the installation of the biomass boiler flue.
7. Notwithstanding that which is specifically indicated on the approved plans, no existing joinery, cornices, fireplaces, floorboards, lath and plaster or other architectural fixtures or surfaces shall be removed from the building unless details have first been submitted to and approved in writing by the Local Planning Authority.

Appendix 2

Planning Permission, Wilton Crescent Listed Building Consent



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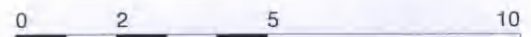
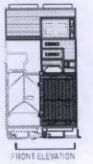
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LAM DEVELOPMENTS LTD
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DISCIPLINE	PLANNING
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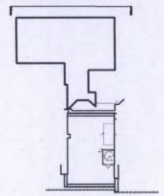
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PROJECT 47 Wilton Crescent			
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SHEETS PLANNING			
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REAR ELEVATION



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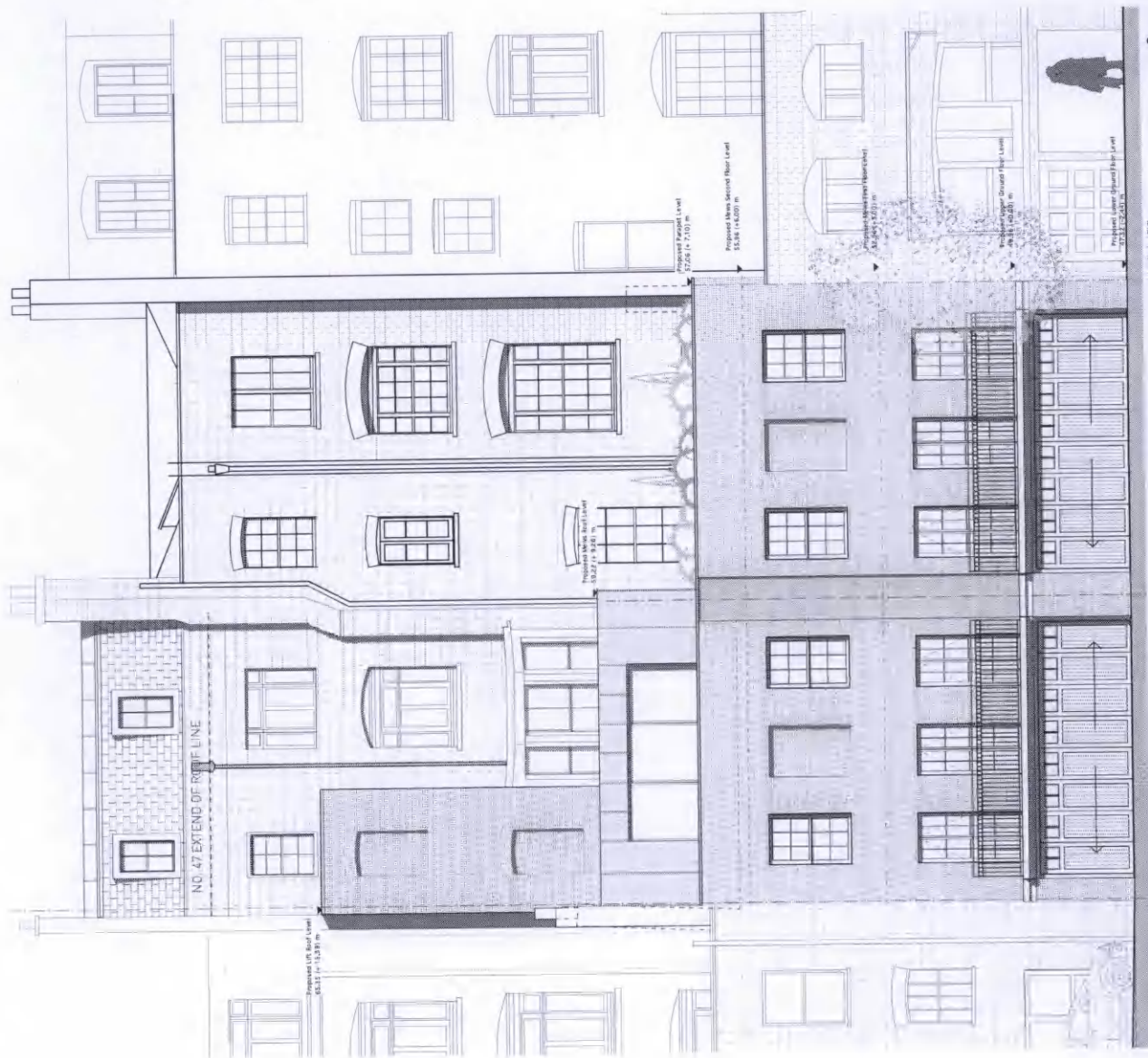
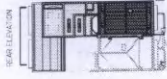
CLARIDGE ARCHITECTS, 6 LINDSAY ROAD,
LONDON, W9J 6SD
T: +44 (0)20 8649 5220 F: +44 (0)20 8649 5232

THE LAM DEVELOPMENTS LTD

CLARIDGEARCHITECTS

PROJECT	47 Wilton Crescent			
TYPE	EXISTING REAR ELEVATION			
DISCIPLINE	PLANNING			
DATE	11/05/12	SCALE	1:100	NO.
			a A3	08120 EX.09

215



NO. 47 EXTEND OF REF. LINE

Proposed New First Floor
10.17 (+ 3.30 m)

Proposed New First Floor
10.27 (+ 3.31 m)

Proposed New First Floor
10.26 (+ 3.30 m)

Proposed New Second Floor Level
15.56 (+ 6.20 m)

Proposed New Second Floor Level
15.56 (+ 6.20 m)

Proposed New Second Floor Level
15.56 (+ 6.20 m)

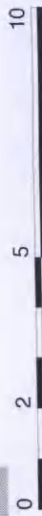
Proposed New Second Floor Level
15.56 (+ 6.20 m)

ASSUMED BOUNDARY

EXTENT OF '16 PROPOSED

EXTENT OF '17 PROPOSED

ASSUMED BOUNDARY



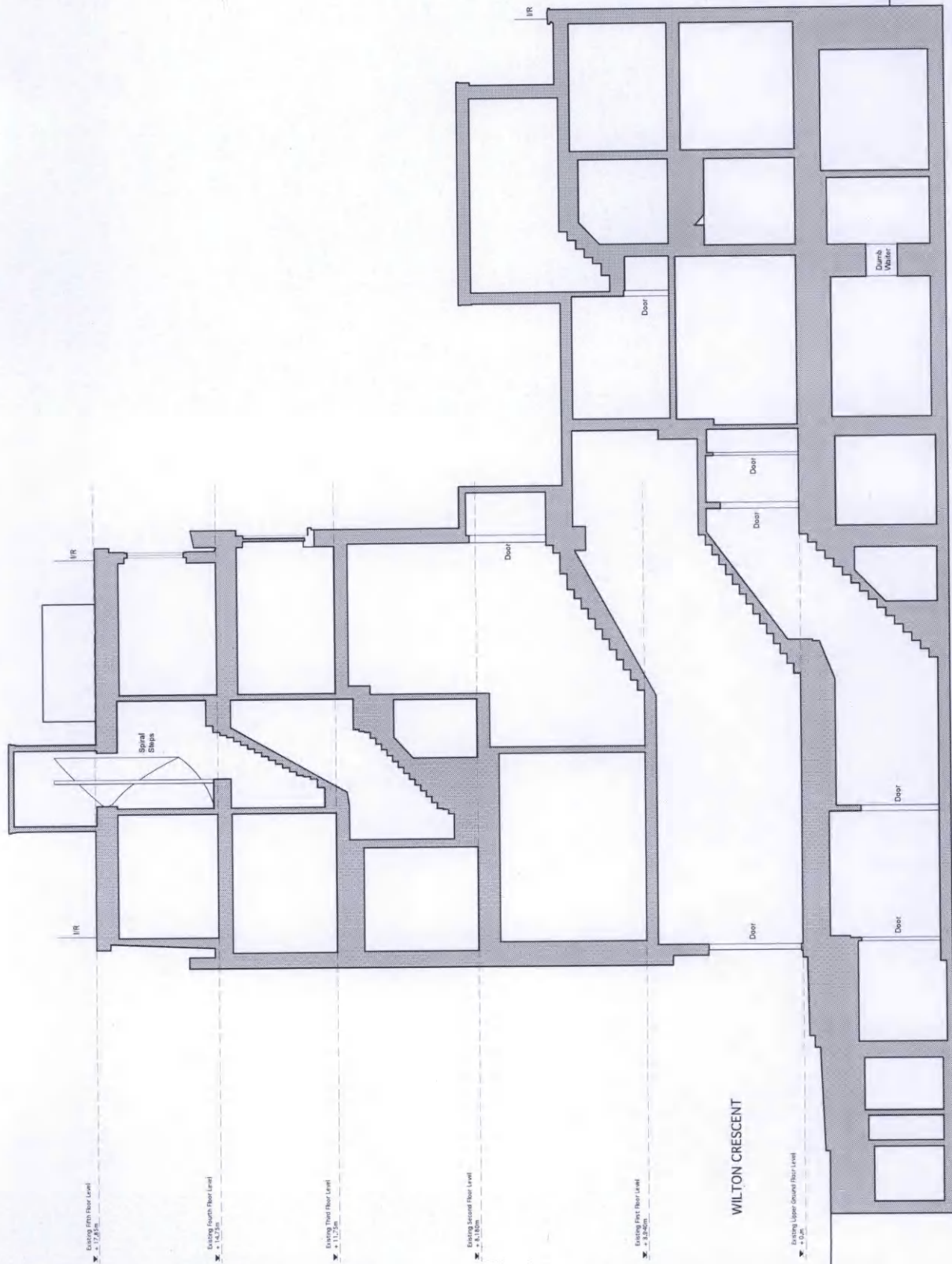
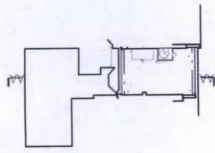
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CLIENT	Bulgrin House North 'Proposed' Elizabeth		
DATE	15.03.20	15.03.20	15.03.20
NO.	15.03.20	15.03.20	15.03.20
DATE	11/06/21	08/20	06/20
BY	BA	BA	BA

CLARIDGE ARCHITECTS
8 LONDONDERRY ROAD, WIMBORNE, DORSET, BH20 1JG
T: 01202 894722 F: 01202 894723
WWW.CLARIDGEARCHITECTS.CO.UK

FOR: LAW DEVELOPMENTS LTD
CLARIDGEARCHITECTS

REV DATE NOTES

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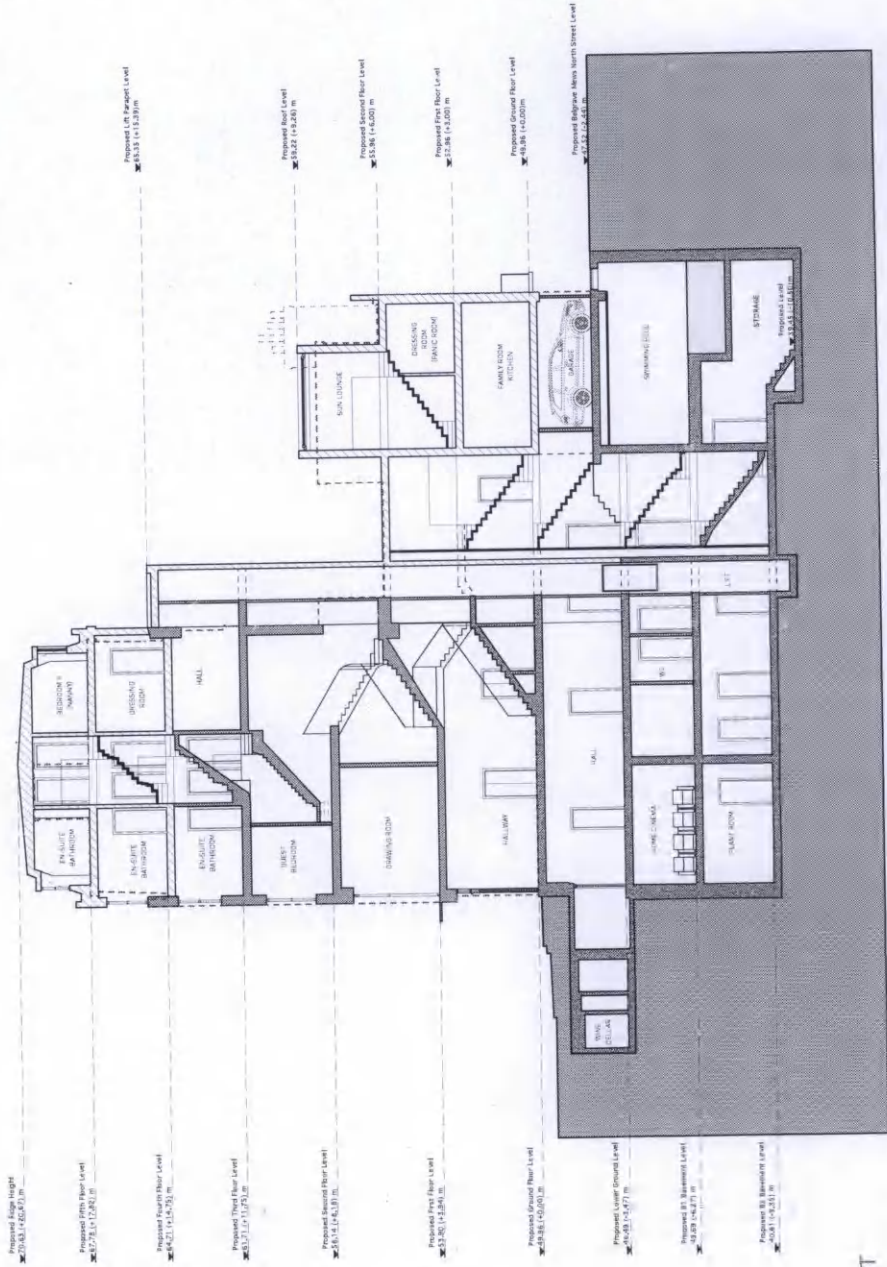
BELGRAVE MEWS

WILTON CRESCENT

PROJECT	47 Wilton Crescent
DATE	11/05/12
DESCRIPTION	EXISTING SECTION 4A
SCALE	PLANNING
DATE	11/05/12
BY	B AS
CHECKED BY	08120 EX 14
SCALE	-

CLARIDGE ARCHITECTS
 1, 2 & 3 BELGRAVE MEWS, WILTON CRESCENT, LONDON, N1 1JH
 020 7418 1200 020 7418 0000 FAX 020 7418 1201
 LAM DEVELOPMENTS LTD
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Proposed Floor Height
 ▶ 20.63 (6.29) m

Proposed First Floor Level
 ▶ 21.07 (6.92) m

Proposed Second Floor Level
 ▶ 24.42 (79.79) m

Proposed Third Floor Level
 ▶ 28.77 (94.70) m

Proposed Second Floor Level
 ▶ 21.12 (69.30) m

Proposed First Floor Level
 ▶ 21.36 (70.08) m

Proposed Ground Floor Level
 ▶ 21.36 (70.08) m

Proposed Lower Ground Level
 ▶ 19.81 (64.67) m

Proposed B3 Basement Level
 ▶ 18.89 (62.27) m

Proposed B4 Basement Level
 ▶ 18.31 (60.05) m

Proposed B5 Basement Level
 ▶ 17.81 (58.27) m

Proposed B6 Basement Level
 ▶ 17.31 (56.46) m

Proposed B7 Basement Level
 ▶ 16.81 (54.64) m

Proposed B8 Basement Level
 ▶ 16.31 (52.83) m

Proposed B9 Basement Level
 ▶ 15.81 (51.02) m

Proposed B10 Basement Level
 ▶ 15.31 (49.21) m

Proposed B11 Basement Level
 ▶ 14.81 (47.40) m

Proposed B12 Basement Level
 ▶ 14.31 (45.59) m

Proposed B13 Basement Level
 ▶ 13.81 (43.78) m

Proposed B14 Basement Level
 ▶ 13.31 (41.97) m

Proposed B15 Basement Level
 ▶ 12.81 (40.16) m

Proposed B16 Basement Level
 ▶ 12.31 (38.35) m

Proposed B17 Basement Level
 ▶ 11.81 (36.54) m

Proposed B18 Basement Level
 ▶ 11.31 (34.73) m

Proposed B19 Basement Level
 ▶ 10.81 (32.92) m

Proposed B20 Basement Level
 ▶ 10.31 (31.11) m

Proposed B21 Basement Level
 ▶ 9.81 (29.30) m

Proposed B22 Basement Level
 ▶ 9.31 (27.49) m

Proposed B23 Basement Level
 ▶ 8.81 (25.68) m

Proposed B24 Basement Level
 ▶ 8.31 (23.87) m

Proposed B25 Basement Level
 ▶ 7.81 (22.06) m

Proposed B26 Basement Level
 ▶ 7.31 (20.25) m

Proposed B27 Basement Level
 ▶ 6.81 (18.44) m

Proposed B28 Basement Level
 ▶ 6.31 (16.63) m

Proposed B29 Basement Level
 ▶ 5.81 (14.82) m

Proposed B30 Basement Level
 ▶ 5.31 (13.01) m

Proposed B31 Basement Level
 ▶ 4.81 (11.20) m

Proposed B32 Basement Level
 ▶ 4.31 (9.39) m

Proposed B33 Basement Level
 ▶ 3.81 (7.58) m

Proposed B34 Basement Level
 ▶ 3.31 (5.77) m

Proposed B35 Basement Level
 ▶ 2.81 (3.96) m

Proposed B36 Basement Level
 ▶ 2.31 (2.15) m

Proposed B37 Basement Level
 ▶ 1.81 (3.96) m

Proposed B38 Basement Level
 ▶ 1.31 (2.15) m

Proposed B39 Basement Level
 ▶ 0.81 (0.34) m

Proposed B40 Basement Level
 ▶ 0.31 (0.53) m

Proposed B41 Basement Level
 ▶ -0.19 (0.38) m

Proposed B42 Basement Level
 ▶ -0.69 (0.23) m

Proposed B43 Basement Level
 ▶ -1.19 (0.08) m

Proposed B44 Basement Level
 ▶ -1.69 (0.08) m

Proposed B45 Basement Level
 ▶ -2.19 (0.08) m

Proposed B46 Basement Level
 ▶ -2.69 (0.08) m

Proposed B47 Basement Level
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Proposed B48 Basement Level
 ▶ -3.69 (0.08) m

Proposed B49 Basement Level
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Proposed B50 Basement Level
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Proposed B79 Basement Level
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Proposed B86 Basement Level
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Proposed B90 Basement Level
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Proposed B91 Basement Level
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Proposed B92 Basement Level
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Proposed B93 Basement Level
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Proposed B94 Basement Level
 ▶ -26.69 (0.08) m

Proposed B95 Basement Level
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Proposed B96 Basement Level
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Proposed B97 Basement Level
 ▶ -28.19 (0.08) m

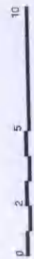
Proposed B98 Basement Level
 ▶ -28.69 (0.08) m

Proposed B99 Basement Level
 ▶ -29.19 (0.08) m

Proposed B100 Basement Level
 ▶ -29.69 (0.08) m

BELGRAVE MEWS NORTH

WILTON CRESCENT



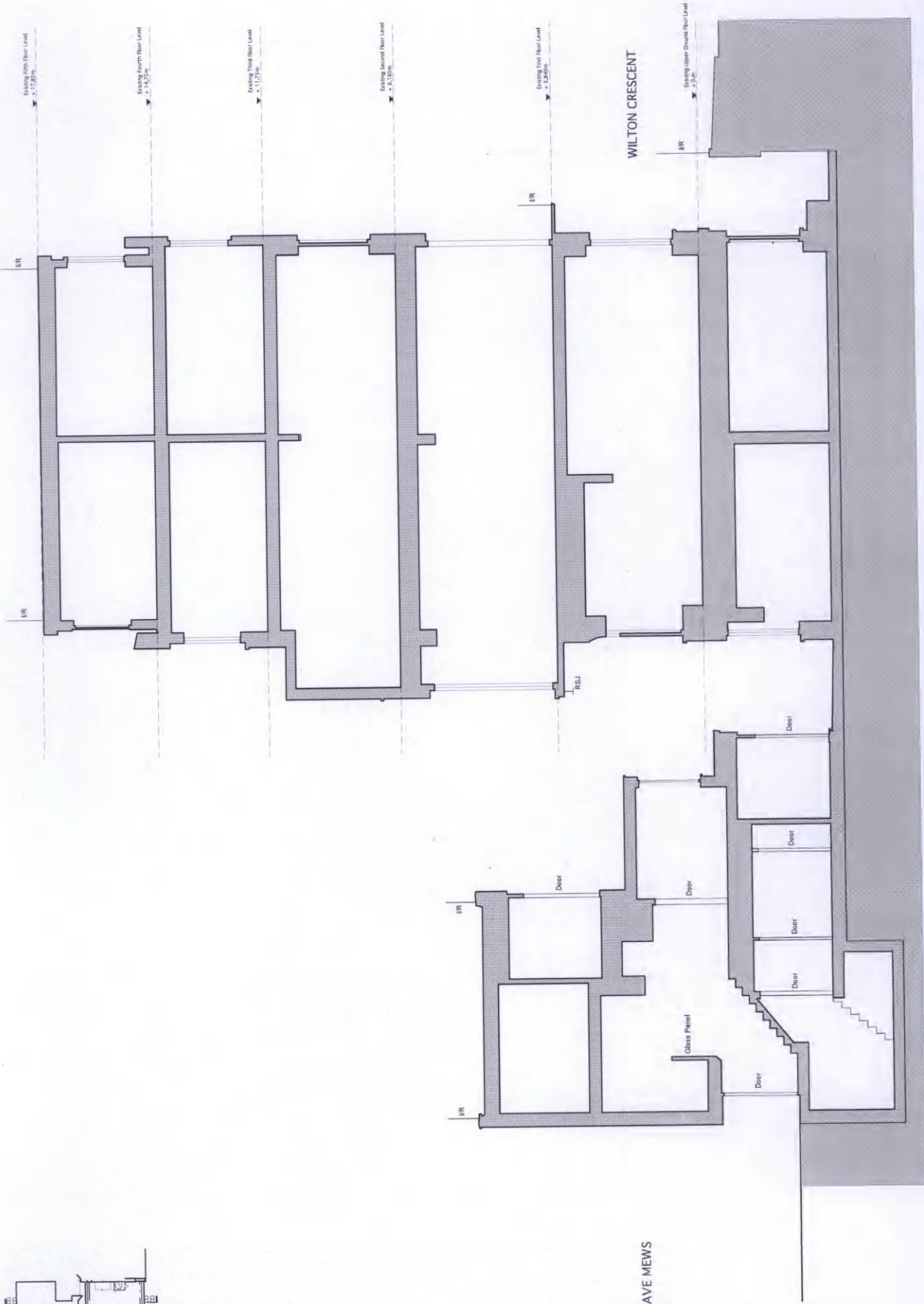
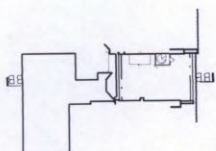
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 GE/14, 1:200 @ A3

REV: DATE: NOTES:

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CLARIDGE ARCHITECTS # LINDSAY ROAD, LONDON, SE16 7JZ +44 (0)20 7592 1000	PROJECT: 47 Wilton Crescent
130 LAM DEVELOPMENTS LTD	TITLE: Proposed Context Section AA
DATE: 09/05/12	DATE: 08/12/10
BY: AS	BY: AS
SCALE: 1:200	SCALE: 1:200
PRICE: 65.00	PRICE: 65.00

CLARIDGE ARCHITECTS



BELGRAVE MEWS

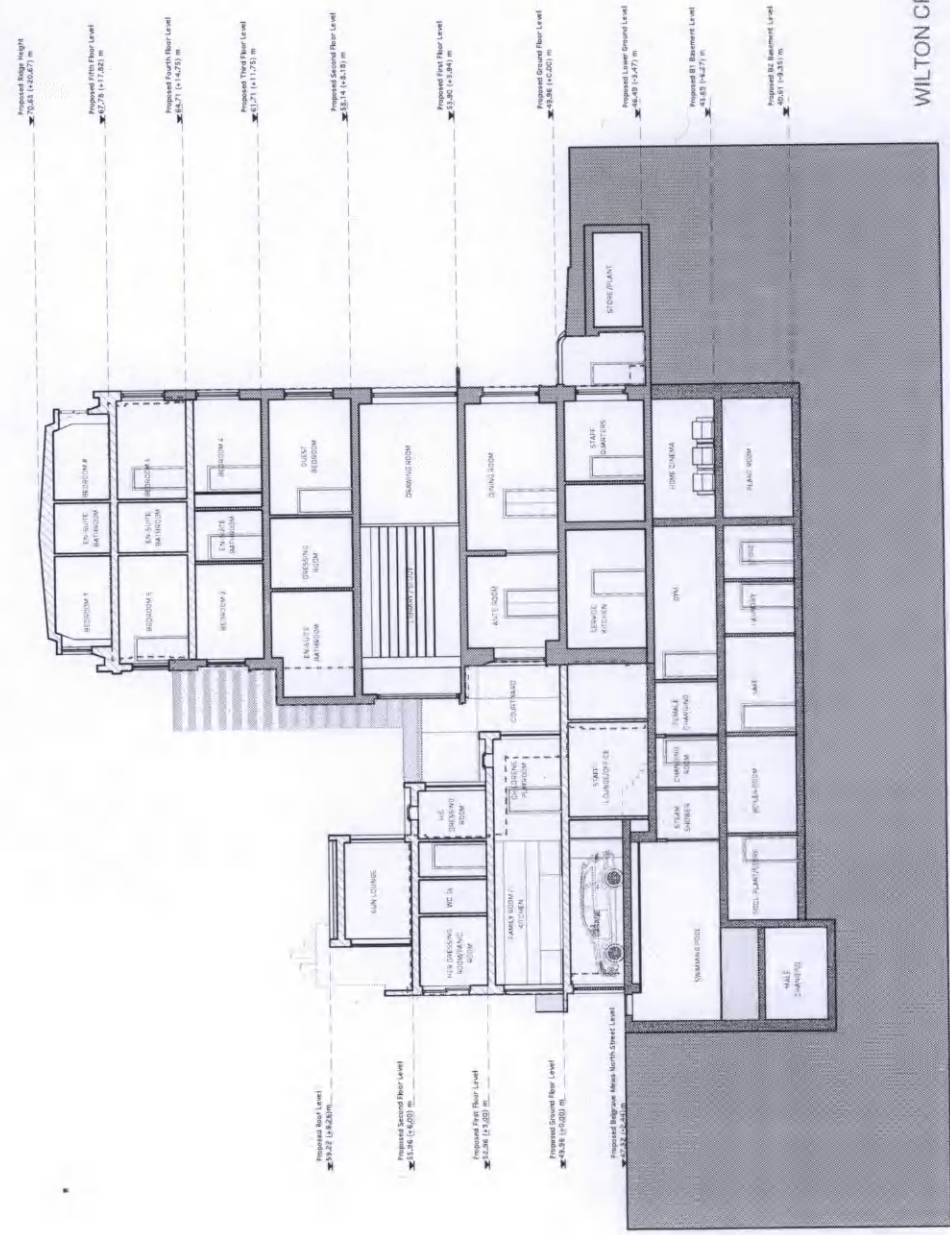
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TYPE	EXISTING SECTION BB
SCALE	PLANNING
DATE	11/06/12
BY	AS
NO.	08120 EX.15

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 LAM DEVELOPMENTS LTD

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WILTON CRESCENT

BELGRAVE MEWS NORTH



Proposed Section BB
 1:200 @ A3

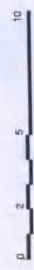
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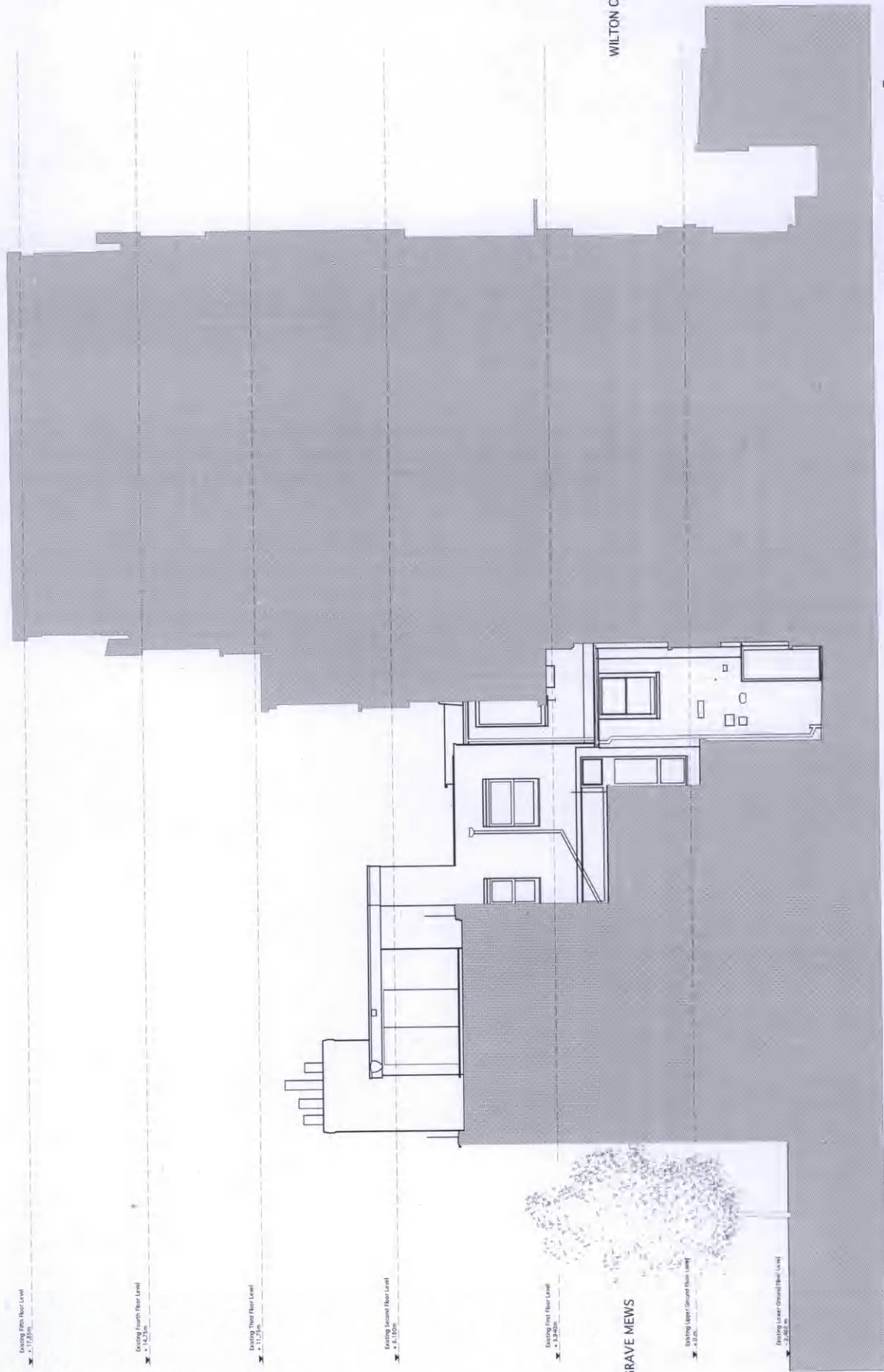
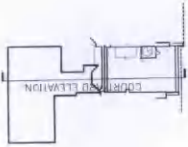
REV	DATE	REVISED
A		
B		

Proposed Section BB
 1:200 @ A3

CLARIDGE ARCHITECTS, 1 LONGSLEIGH ROAD,
 1-44 MOESBY RD 2222 - 144 0200 BHW 9224
 FOR LAM DEVELOPMENTS LTD
 CLARIDGE ARCHITECTS

NO	DATE	SCALE	BY	CHECKED	APPROVED
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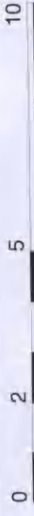




WILTON CRESCENT

BELGRAVE NEWS

221



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SCALE	1:100	08/12	08/12
CLIENT	PLANNING		
DATE	11/05/12	1:100	08/12
SCALE	1:100	08/12	08/12
CLIENT	PLANNING		

CLARIDGE ARCHITECTS
 Clients Name
 11/05/12 1:100 08/12 08/12

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Appendix 3

Officer Report for Planning Permission and Listed Building Consent Commonwealth Institute

Public Examination of Royal Borough of Kensington and Chelsea's Core Strategy with a Focus on North Kensington DPD

Royal Borough of Kensington and Chelsea's Statement

Matter 9a – Renewing the Legacy

Question 5

Criterion (g) of Policy CL2 allows for subterranean development only where listed criteria can be met. The justification refers to particular concern with listed buildings and also to the impact on the drainage system. Is there sufficient justification for the Policy and is the risk from surface water and sewer flooding such that there should be a moratorium until Thames Water improvements have been implemented?

- 5.0 *Yes, there is sufficient justification for this policy .The reasons for this policy approach with regard to listed buildings are clearly set out in the Council's Subterranean SPD. The policy gives clarity to the Council's approach to this issue. Flooding issues are dealt with in the Council's Statement in relation to Matter 9b Question 2 (Policy CE2).*
- 5.1 Policy CL2 (g) sets out criteria for the consideration of subterranean extensions. It is considered to be an appropriate policy for the Core Strategy because it has been a form of development which has led to increasing numbers of planning applications in recent years. There was a policy on such development in the UDP (CD32). That policy contained six criteria, three of which have been included in Core Strategy Policy CL2 (g). These relate to: the structural stability of buildings affected; the loss of trees; and the provision of adequate soil depth. However, Policy CL2 (g) introduces a new criterion which indicates that subterranean development under listed buildings is unacceptable. This has been questioned by objectors as appearing to be a blanket ban on subterranean extensions under listed buildings. This is dealt with in more detail below.
- 5.2 The issue of subterranean extensions to residential properties has been a matter of some concern to the Royal Borough for a number of years. It was considered important enough in terms of its impact on the area for an SPD to be prepared. The Subterranean Development SPD was published in May 2009, and sets out guidance to assist in dealing with applications for such development.
- 5.3 The SPD was prepared within the framework of the Unitary Development Plan (UDP) in which Policy CD32 sets out broad criteria for subterranean development, similar to Policy CL2(g) in the Submission Core Strategy. In the UDP policy, there was no reference specifically to listed buildings other than in terms of ensuring the structural stability of neighbouring buildings. At the time that the policy was drafted, applications for subterranean development were in the main for extensions under gardens rather than under the building itself.

- 5.4 The SPD carefully analyses the issues relating subterranean development and provides detailed guidance in relation to these issues. Section 2.2 deals with listed buildings and the opening paragraphs set out the reasons for the Borough's approach.

2.2.1 Apart from the structural considerations, there is a particular concern regarding the impact of subterranean development on the special architectural or historic interest of listed buildings. The special interest is not the same as appearance. Special interest includes the location and hierarchy of rooms and floor levels, foundations, the original purpose of the building, the size and location of any original basement, cellar or vault, and the integrity of the historic structure, among other things. Whilst roof additions and rear and side extensions have become commonly accepted means of enlarging listed buildings, development beneath the building raises other issues about the relationship of the building to its site, its structure and the degree of intervention involved.

2.2.2 An addition of a new floor level underneath the original lowest floor of a listed building (normally the lower ground floor level) would have a significant impact on the hierarchy of the historic floor levels. For this reason, excavation under the main body of statutory listed buildings is normally resisted in this Borough due to its detrimental impact on the hierarchy of the historic floor levels and the historic integrity, scale and layout of the original building. In addition, the excavation and construction of new foundations may have consequential effects on historic foundations which may impact upon the future stability of the parent building and any adjoining listed buildings.

- 5.5 As part of the evidence for the harm which might be caused by such development, the SPD refers to appeals which were dismissed on two properties in the Borough, 3 Halsey Street and 15 Mallord Street. In the case of 3 Halsey Street, the Inspector commented as follows: 'the existing basement level is evocative of the historic origins of the building and is an important element of its special interest. The creation of an additional subterranean storey would be detrimental to that special interest as it would detract from the original plan form which is an important element of the building's character'.

- 5.6 What is clear is that this is more than an 'on its merits' issue. There are fundamental matters of principle regarding the hierarchy of rooms and levels which are common to the majority of London houses. Consequently, it is appropriate that there is a policy on the subject. There may be cases where a deviation from the policy is possible; but from experience these will be rare, when other extenuating material considerations come into play.
- 5.7 Further justification for the policy is contained in PPS5. There was no policy or guidance in PPG15 because such development was not envisaged when the PPG was published in 1994. However, the Planning Practice Guide which accompanies PPS5 states the following in relation to listed buildings: 'proposals to remove or modify internal arrangements, including the insertion of new openings or extension underground, will be subject to the same considerations of impact on significance (particularly architectural interest) as for externally visible alterations' (paragraph 182). The significance of plan form and hierarchy is explained in the paragraphs from the SPD which are quoted above.
- 5.8 In conclusion, with regard to subterranean development beneath listed buildings, the Council has carefully considered the issue and appropriate guidance has been included in an SPD. The Council has analysed relevant appeal decisions and taken account of PPS5. It has concluded that in the main, this development is not acceptable. It is therefore appropriate to have a policy in the Core Strategy to give clarity in its approach for developers, planning officers and the public alike.
- 5.9 With regard to the flooding issue, the Council has provided a comprehensive response under Matter 9b Question 2. This would apply to both listed and unlisted buildings. In particular, paragraph 2.33 deals with the evidence base available, and paragraph 2.34 explains the relationship between Counters Creek and the risk of flooding, concluding that there should not be a moratorium on subterranean development at the present time.

Appendix 4

RBKC/11

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
MAJOR PLANNING DEVELOPMENT COMMITTEE AGENDA 07/07/2009

ISSUED BY THE DIRECTORATE OF PLANNING SERVICES

The following items(s) will be before the Major Planning Development Committee of 07/07/2009 for a decision.

Town Planning Applications: North

CASE NUMBER	PROPERTY	PROPOSED DEVELOPMENT	RECOMMENDATION
PP/09/00839 <u>Agenda Item:</u> 34	The Commonwealth Institute, 224-238 Kensington High Street, LONDON, W8 6NQ	Refurbishment and alteration of the property including removal of the administration building and the extension of the existing basement for D1 (non-residential institution) retail, restaurant and cafe, office, storage and ancillary uses. The erection of two residential buildings and one mixed use building to provide 72 new residential units with retail, restaurant and cafe and ancillary uses together with basement storage, car, motorcycle and cycle parking, cinema, fitness centre, swimming pool and spa facilities. Works of hard and soft landscaping, the removal, replacement and relocation of trees. Installation of plant and machinery; vehicle access arrangements and associated works. (Major Application)	That the Committee agree on how Officers should proceed with the application.

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
MAJOR PLANNING DEVELOPMENT COMMITTEE AGENDA 07/07/2009

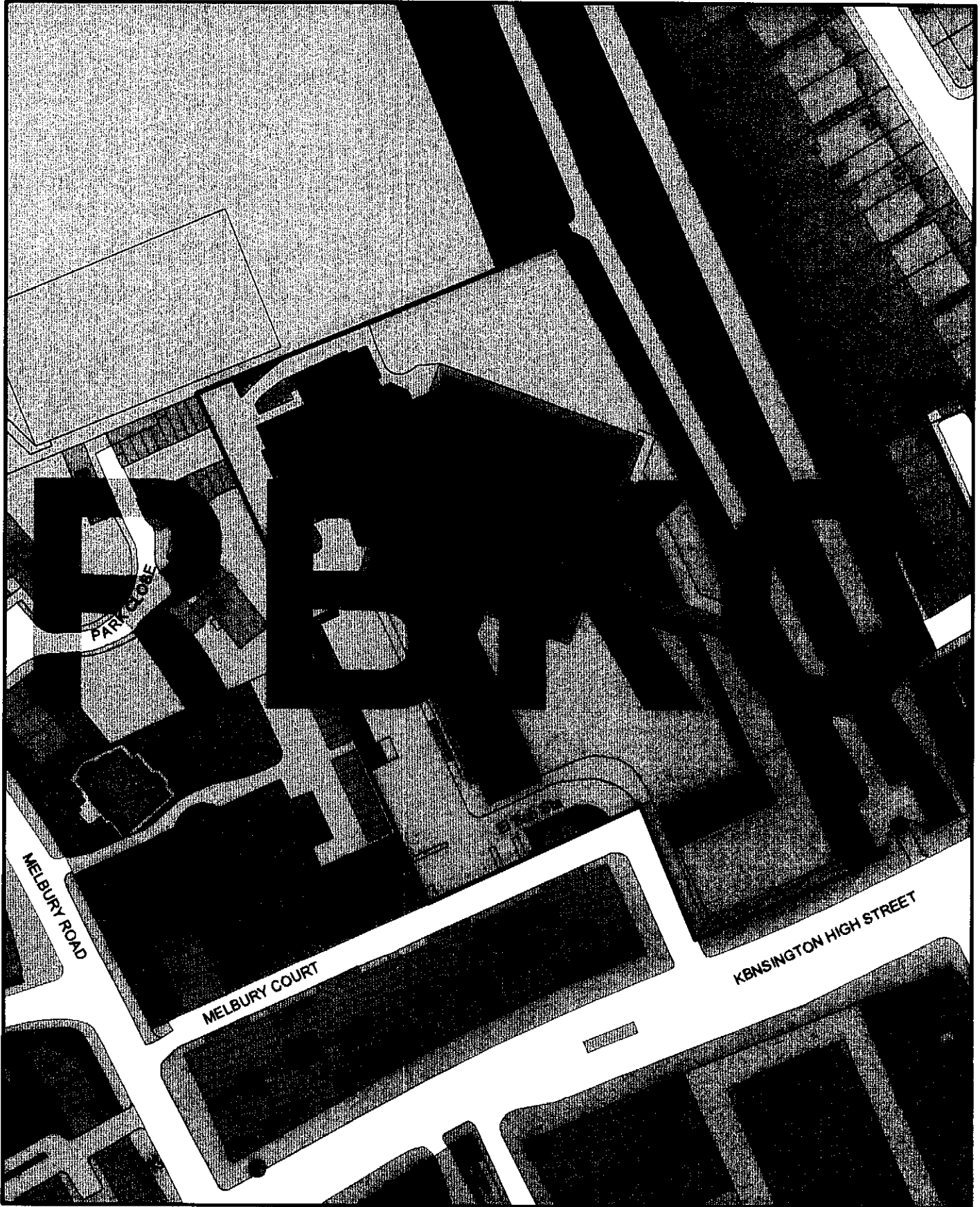
ISSUED BY THE DIRECTORATE OF PLANNING SERVICES

The following items(s) will be before the Major Planning Development Committee of 07/07/2009 for a decision.

Town Planning Applications: North

CASE NUMBER	PROPERTY	PROPOSED DEVELOPMENT	RECOMMENDATION
LB/09/00840 <u>Agenda Item:</u> 34	The Commonwealth Institute, 224-238 Kensington High Street, LONDON, W8 6NQ	Refurbishment and alteration of the property including removal of the administration building, covered walkway, water channel, grass sward and flagpoles. Removal and reinstating of the plinth structure and creation of new openings in the plinth wall, structural strengthening, removal of internal walls and floors and the creation of new floors. Repairs to the facade and replacement of the frames and glass and installation of a new stair and lift cores. Extension of the existing basement and installation of plant and machinery and associated works.	That the Committee agree on how Officers should proceed with the application.
CC/09/00841 <u>Agenda Item:</u> 34	The Commonwealth Institute, 224-238 Kensington High Street, LONDON, W8 6NQ	The partial demolition and replacement of the existing boundary wall and access gates, hardstanding and other structures.	That the Committee agree on how Officers should proceed with the application.

**THE CGMMONWEALTH INSTITUTE,
224-238 KENSINGTON HIGH STREET, W8**



1:1,250

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(100021668) (2009)



Listed Buildings	
	Grade II
	Grade II*
	Grade I

<p>THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA</p>	<p>Property and Land Applications Team The Royal Borough of Kensington and Chelsea The Town Hall, Morton Street, London, W8 7JX +44 (020) 7861 3584 Dewa.Yarwood@rbkc.gov.uk</p>	<p>Kensington Systems, Design and Innovation Contract Number - 871001 ISO 9001:2000</p>
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**ROYAL BOROUGH OF KENSINGTON AND CHELSEA
REPORT BY EXECUTIVE DIRECTOR,
 PLANNING AND BOROUGH DEVELOPMENT**

**Applications PP/09/00839, L8/09/00840, CC/09/00841
 Major Planning Development Committee 07/07/2009
 AGENDA ITEM NO. 34**

SITE ADDRESS

**The Commonwealth Institute
 224-238 Kensington High Street
 LONDON
 W8 6NQ**

**APPLICATION 14/04/2009
DATED**

**APPLICATION 17/04/2007
COMPLETE**

APPLICANT/AGENT ADDRESS

**DP9 Planning Consultants
 100 Pall Mall
 LONDON
 SW1Y 5NQ**

<u>LISTED</u>	II*	<u>CONS. AREA</u>	Holland Park	WARD	Holland
<u>BUILDING</u>					
<u>CAPS</u>	Yes	<u>ENGLISH</u>	Yes	ART '4'	No
		<u>HERITAGE</u>			

<u>CONSULTED</u>	<u>OBJECTIONS</u>	<u>SUPPORT</u>	<u>PETITION</u>
224	133	2	0

Applicant 224 KHS Developments

PROPOSAL:

**Planning Application PP/09/00839
 Refurbishment and alteration of the property including
 removal of the administration building and the extension of
 the existing basement for D1 (non-residential institution)
 retail, restaurant and cafe, office, storage and ancillary uses.
 The erection of two residential buildings and one mixed use
 building to provide 72 new residential units with retail,
 restaurant and cafe and ancillary uses together with
 basement storage, car, motorcycle and cycle parking,
 cinema, fitness centre, swimming pool and spa facilities.
 Works of hard and soft landscaping, the removal,
 replacement and relocation of trees. Installation of plant and
 machinery; vehicle access arrangements and associated
 works. (Major Application)**

RBK&C Drawing No(s): PP/09/00B39

Applicant's Drawing No(s):

See attached schedule in appendices.

Listed Building Consent Application LB/09/00B40

Refurbishment and alteration of the property including removal of the administration building, covered walkway, water channel, grass sward and flagpoles. Removal and reinstating of the plinth structure and creation of new openings in the plinth wall, structural strengthening, removal of internal walls and floors and the creation of new floors. Repairs to the façade and replacement of the frames and glass and installation of a new stair and lift cores. Extension of the existing basement and installation of plant and machinery and associated works.

RBK&C Drawing No(s): LB/09/00B40

Applicant's Drawing No(s):

See attached schedule in appendices.

Conservation Area Consent Application CC/09/00B41

The partial demolition and replacement of the existing boundary wall and access gates, bardstanding and other structures.

RBK&C Drawing No(s): CC/09/00B41

Applicant's Drawing No(s):

See attached schedule in appendices.

1.0 OVERVIEW

- 1.1 This proposal is a challenging development which poses benefits and disbenefits to the community. The purpose of this report is to highlight to the committee the main challenges with this proposal and to seek a "steer" from the committee on officers' intended way forward.
- 1.2 This is not an approach which has been widely used previously to progress a proposal but given the complexities around this proposal it is considered that seeking a "steer" is a sensible course of action in this instance.
- 1.3 This report, as far as has been possible and practical, reports everything which would generally be expected to be seen in a planning committee report, including copies of representations received up until the time of writing.
- 1.4 The "steer" sought is on the main issues listed in the Recommendations above. It is envisaged the outcome of this meeting will inform further negotiations prior to reporting back to the committee for a determination of each of the three applications.
- 1.5 As a result of this report, it is asked that the committee does one of three things:
 - (1) Comment on the proposal and provide officers with direction on those matters which members wish officers to **negotiate** on with the applicant before bringing the applications back to a future committee for a formal decision.
 - (2) Instruct officers to prepare a report recommending the **grant** of planning permission, listed building consent and conservation area consent, subject to Conditions and Heads of Terms for a Section 106 Planning Obligation which would be drafted by officers, on the basis of reasons highlighted by members as to why they consider the proposal to be acceptable, with the benefits and disbenefits of the proposal in mind.
 - (3) Instruct officers to **refuse** the applications so that officers may then proceed to prepare a delegated report refusing planning permission, listed building consent and conservation area consent for reasons highlighted by the committee in addition to any other matters which officers

identify in this report or which come to light following the meeting, with the benefits and disbenefits of the proposal in mind.

- 1.6 The applications are the subject of ongoing discussions and may be the subject of future consideration by the committee. This report is therefore not considered to be a comprehensive assessment of the formal applications and the committee is therefore asked to reserve judgement on all aspects of the submissions and in particular matters which are not discussed in this report and/or which are not discussed at the meeting or which are left without unequivocal endorsement by the committee. These will remain for further deliberation in due course. In this context, and for the avoidance of doubt, the views of the committee shall not be binding on a future committee.

2.0 THE SITE

- 2.1 The Commonwealth Institute is arguably one of London's most important post war buildings. Designed at the end of the 1950s by the highly regarded RMJM (Robert Matthew, Johnson-Marshall and Partners) practice, it used a highly innovative hyperbolic paraboloid roof form to span an unrestricted space to house the Commonwealth Exhibition. It opened in November 1962. The building is on English Heritage's and the Royal Borough's Buildings at Risk Registers.
- 2.2 The site lies to the north of Kensington High Street, almost opposite its junction with Earl's Court Road. The 'tent' is set back some 80 metres (260ft) behind the frontage of Kensington High Street. The site was originally part of the parkland which surrounded Holland House. The parkland originally had a much wider frontage to Kensington High Street. This was gradually narrowed by residential development during the twentieth century
- 2.3 The space at the front of the site makes a break in the frontage to Kensington High Street, between the western end of the principal shopping frontage and the local shopping frontage beyond. The buildings either side of this break have retail on the ground floor, with apartments over. To the east is Troy Court, a Twentieth Century mansion block of eight storeys, constructed of redbrick with stone dressings. To the west is the smaller Melbury Court, a six-storey mansion block.

The private gated access road between Melbury Court and the site is the main vehicular access to the site.

- 2.4 To the north of the site lies Holland Park. The land rises to the north, towards Holland House, a Grade I listed structure on the hill crest. There are elevated views of the building from the area in front of Holland House. Immediately adjoining the site are grass playing pitches, with a well tree'd landscape on the higher land. Holland Park is listed Grade II in the Register of Parks and Gardens of Historic Interest, as well as being designated Metropolitan Open Land, and a Site of Nature Conservation Importance (excluding the playing pitches). It also lies within the Holland Park Conservation Area, which includes the site.
- 2.5 To the east of the site is the finger of Holland Park that connects to Kensington High Street. The entrance gates to Holland Park on Kensington High Street are listed. Alongside this finger of park, and separated from it by railings, is Holland Walk, which is a pedestrian and cycle path from Kensington High Street to Holland Park Avenue. The 2 metre high brick wall to the back gardens of the Victorian semi-detached brick houses of Phillimore Gardens adjoin Holland Walk, some 13m from the Institute site. Phillimore Gardens lies within the Kensington Conservation Area.
- 2.6 To the west of the site and adjoining Holland Park are two 1960s nine-storey point blocks, built of brown brick set in open space. South of these blocks are buildings that front on to Melbury Road. Numbers 45 and 55/57 Melbury Road are listed Grade II as being of special architectural or historic interest. Garage blocks for the Melbury Road buildings, with residential use above, form the boundary with the site. These buildings are all within the Holland Park Conservation Area.
- 2.7 The site is 1.37 hectares (3.3 acres). The site rises to the north, so that the ground floor of the building is somewhat higher than those on Kensington High Street. The gardens surrounding the building are listed Grade II on the Register of Parks and Gardens of Historic Interest.
- 2.8 The full list description for the gardens states that the landscape was laid out by Sylvia (later Dame Sylvia) Crowe. The northern and eastern boundaries of the site, adjacent to Holland Park, are formed by 2m high brick walls that divide the site from the Park. The gardens to the south of the

building consist of grass, trees and an ornamental pond with a diagonal bridge.

- 2.9 To the south of the ornamental pond and its associated waterways is the area that abuts Kensington High Street. This area is hard paved, and contains 50 flagpoles set about 2m apart in a grid. There is no boundary wall or railing between this part of the site and Kensington High Street but there are four steps up to the site. The flagpole area is separated from the finger of Holland Park by the brick wall that extends down the eastern boundary of the site to Kensington High Street, thus dividing the site from the Park. There are no active uses adjacent to the flagpole area. It is bordered by a service road to the west, the garden to the 'tent' to the north, the finger of Holland Park to the east, and Kensington High Street to the south.
- 2.10 Between the flagpole area and the gardens, there is a row of mature Plane Trees. These make a significant contribution to Kensington High Street and to Holland Park, but the combination of the trees and the flag poles result in the existing building being largely screened from view from Kensington High Street, especially in the summer. There are many other trees on the site, all of which are protected by Tree Preservation Orders.
- 2.11 Pedestrian access to the building is gained from the south-east corner of the site where it abuts Kensington High Street.
- 2.12 The western area of the site, around the administration and conference wing, is a tarmaced service yard. Vehicular access is gained from Kensington High Street along the access road next to the 'flagpole'.
- 2.13 The present use of the site is an Arts, Cultural or Entertainment use (D1 use). The Unitary Development Plan protects such uses. The applicant disputes the existing use of the building.
- 2.14 Work on the building was started in 1960 and completed in 1962. The building is Grade II* listed. The listing includes not only the 'tent', but also the administration and conference wing, the covered walkway, together with the grass sward, water channel and flagpole area.
- 2.15 The 'tent' has a square plan form, set at 45 degrees to the line of Kensington High Street. It has a hyperbolic paraboloid

roof, which is the signature feature of the building. This was the first major use of the form in the UK, and probably the largest span covered by such a roof at the date of its construction. The role and function of the building was to provide exhibition space for the different Commonwealth countries, thus continuing the tradition of the Imperial Institute, which had been situated in South Kensington. The building and its internal layout was specifically designed for this use.

- 2.16 The roof is covered in copper. This has been replaced in the last ten years; the new copper roof has not yet begun to patinate. The walls are of glass, but not to provide light to the interior as that was lit from above from clerestory windows between the two roof 'peaks'. The original glazing has been replaced by glazing with a more reflective finish, but in the original turquoise colour.
- 2.17 To the west of the main building are two wings of administrative and conference accommodation, on a north-south alignment. These are modest block structures, deliberately built to a low budget to allow for greater scope on the main building. The list description indicates that they are of lesser interest.
- 2.18 The interior of the building is striking, with the tiered exhibition space organised on three levels and a complex arrangement of ramps and stairs. The planning brief states that English Heritage identified the following key qualities of the building's interior:
- The roof structure and buttresses
 - The progression of space from the main entrance to the exhibition hall
 - The change in level and the interplay of spaces, including the prominence of the central platform
 - The top-lit quality and enclosed nature of the interior space
 - The dramatic sweep of the shell concrete roof.
- 2.19 The building has been underused since the exhibits were removed in 1996. Questions over the long term future of the building were first raised in the 1980s. Following vacation of the building in the 1990s, there have been a number of proposals for alteration to the building. These included a number of failed bids for public funding, including an application to the Heritage Lottery Fund. In 2004 the Commonwealth Institute applied for the building to be taken off the register of listed buildings, in an attempt to allow for

redevelopment. This application was refused and the listing entry was amended to make clear that the significance related primarily to the exhibition hall building (the 'tent') rather than other parts of the site, as well as to its cultural and historical importance. Subsequently, the Government announced that it would promote a Hybrid Bill through Parliament to have the building de-listed. Following a great deal of public protest, this proposal was abandoned.

3.0 PROPOSAL

- 3.1 This proposal relates to three applications which include an application for planning permission, an application for listed building consent and an application for conservation area consent. This report considers all three applications.

The Planning Application

- 3.2 Planning permission is sought for alterations to the former Commonwealth Institute building including the removal of its administration block and the provision of a basement extension to the existing exhibition building. This building is often referred to as the 'tent'. The use of the building would remain as its existing non-residential institutional use which is a D1 Use Class but the building would include ancillary uses such as retail, restaurant, café, office and storage uses, which, providing they do not overtake the primary use of the building as a 'museum' for the purposes of the Use Classes Order, would all be D1 uses as opposed to other uses in the Use Classes Order, with the exception of a single separate retail unit proposed at the front of the ground floor of the High Street building. The section 106 agreement (see paragraph 6.115) would further restrict the use of the tent building to a "public institutional use" to be agreed by the Executive Director of Planning and Borough Development."
- 3.3 The planning application includes the erection of three buildings within the curtilage of the site of the former Commonwealth Institute. These are referred to variously in the documents as buildings A, B and C with the former Commonwealth Institute building exhibition hall also referred to as building D. Buildings A, B and C are also referred to as the 'High Street Building', 'Garden Building' and 'Park Building' respectively, and shall be referred to in this way from hereon given that these names indicate the respective position of each proposed building on the site.

3.4 Taken together, in addition to some elements of mixed-use in the High Street Building, described below the three buildings in the curtilage would provide a total of 72 market residential dwellings formed of the following:

Bedrooms	Total Units	Mix
1 bedroom	13	18.05%
2 bedrooms	12	16.66%
3 bedrooms	35	48.61%
4 bedrooms	11	15.27%
5 bedrooms	1	1.38%

3.5 It is proposed there should be no affordable housing on the site as part of this proposal.

3.6 The Park Building and Garden Building would also contain facilities associated with the proposed dwellings. These facilities would include storage and plant areas, staff accommodation, a cold room, cinema, event space, fitness centre, swimming pool, spa, steam room and treatment rooms.

3.7 The planning permission also extends to works of hard and soft landscaping over the entire site and the installation of plant and machinery, vehicle access arrangements and associated works. Each aspect is described more fully below.

The Exhibition building or 'tent'

3.8 The external alterations to the exhibition building include the complete removal of the administration block on its western side and the covered walkway on its south eastern side and the repair of the elevations exposed by the removal of these parts. Re-cladding and re-glazing of the building is proposed such that all the glazing on the north-eastern and south-eastern sides would be clear and all the glazing on the south western and north-western sides would be opaque.

3.9 The design and access statement illustrates that the current basement of the exhibition building extends approximately 3.62 metres below the existing ground level. The proposal would involve lowering the internal ground level by approximately 0.24 metres and excavating down into the ground by approximately 3.07 metres. This additional internal volume would provide additional space inside the exhibition building for the intended occupant. The internal alterations to the listed building do not require planning permission and are

discussed below under the section relating to the listed building consent.

- 3.10 The submission states that it is proposed that the Design Museum, currently located on the Southbank in what are described as 'inadequate' facilities, would relocate to the reconfigured and refurbished exhibition building. It is understood that the Design Museum has signed heads of terms with the applicant to occupy the refurbished exhibition building. The applicant is offering the Design Museum works to the value of £20 million in respect of the exhibition building and the lease of the building for 175 years at a peppercorn rent. The section 106 agreement would secure a period of exclusivity for the Design Museum and in the event that the Design Museum did not occupy the building the use of the 'tent' would be limited to a 'public institutional use' to be agreed by the Executive Director of Planning and Borough Development.

The High Street Building

- 3.11 This 8 storey high building would contain 23 units formed of 7X1-beds, 7X2-beds, 6X3-beds and 3X4-beds. The ground floor of the building would provide a 148 square metre (net) shop, a 140 square metre shop/café and a 63 square metre non-residential institution shop associated with the re-use of the exhibition building. If the Design Museum were the occupant it is anticipated that this space would provide facilities for the sale of tickets and gifts etc. In relation to the adjoining buildings the Design and Access Statement illustrates that this building would be two storeys higher than Melbury Court to the west and the same number of storeys as Troy Court to the east. The elevations show the building (above ground floor level and excluding roof plant) would be approximately 28.9 metres high.

- 3.12 This building would be sited on the Kensington High Street side of the site on the area currently occupied by the flagpoles and the five London Plane trees. It would be angled at 45 degrees to the alignment of Kensington High Street.

The Garden Building

- 3.13 This 9 storey high building would contain 38 units formed of 4X1-beds, 3X2-beds, 2X3-beds, 2X4-beds and 1X5-beds. This building would be sited towards the southern corner of the site behind Melbury Court and would be angled at 45 degrees to the south-eastern and south-western boundaries of the site. In relation to the adjoining buildings the Design

and Access Statement illustrates that this building would be two storeys higher than Melbury Court to the south and the same number of storeys as Park Close to the west. The elevations show the building (above ground floor level and excluding roof plant) would be approximately 31.9 metres high.

The Park Building

3.14 This 6 storey high building would contain 11 units formed of 2X1-beds, 2X2-beds, 1X3-beds and 6X4-beds. This building would be sited at the rear of the site towards its western corner between the existing exhibition building the 9 storey block of flats housing 1-28 Park Close. In relation to the adjoining buildings the Design and Access Statement illustrates that this building would be three storeys shorter than Park Close to the west. The elevations show the building (above ground floor level and excluding roof plant) would be approximately 24.9 metres high.

Materials

3.15 The three new buildings would be constructed from pre-cast concrete panels clad in a grouted light coloured stone similar to travertine or limestone. The proposed windows would be formed of double glazed aluminium. Green roofs are proposed for the three new buildings.

Landscaping Proposals

3.16 Parts of the existing boundary walls would be retained but the north-eastern half of the north-western boundary wall would be demolished and replaced with fencing and the whole of the north-eastern boundary wall would be replaced with fencing. In addition perforated metal enclosures to ventilation shafts for proposed basement accommodation would be sited adjacent to the south-eastern and south-western boundary walls.

3.17 The proposal involves the division of the site into a private zone on the south-western half of the site and a public zone on the north-eastern side of the site. The applicant has provided a general landscaping plan which illustrates that the means of division would be via a water feature formed of spray jets set into artist commissioned tiles. This feature would divide a new tiled area known as 'Lime Tree Court'. At the front of the High Street Building would be a new High Street plaza furnished with commissioned artist's tiles and bronze tiles containing details of the Commonwealth Countries.

- 3.18 The areas surrounding the Garden Building and Park Building would be heavily planted with trees which would provide screening between these building and Park Close to the southwest.
- 3.19 The northern corner of the site would be landscaped with a new Terrace Garden containing some existing and new trees as well as flower planting areas. The planning statement states that this would provide a sculpture garden.

Access arrangements, parking and servicing

- 3.20 The existing site access from Melbury Court would be used for vehicles for the exhibition building and the residential development and basement.
- 3.21 Off-street servicing for the D1 use is proposed in the basement parking area. The applicant envisages that the exhibition building would only be accessed at grade by large service vehicles for what is described in the submission as 'infrequent servicing' and 'occasional' taxi drop-off and pick-up. The submission illustrates that vehicular access for 'furniture trucks' would be made available to all of the buildings at grade.
- 3.22 Pedestrian access to the exhibition building would be available by two routes, first from Holland Park and Holland Walk via a new gate set into new fencing on the north-eastern side of the site, such that pedestrians may enter the exhibition building from its eastern elevation. Second, pedestrians would be able to access the exhibition building via the proposed non-residential institution shop on the ground floor of the High Street Building. They would then walk across Lime Tree Court (described above) to the exhibition building.
- 3.23 Pedestrian access to the three residential blocks would all be via a ground floor lobby on the western side of the High Street Building, which occupants of the Garden Building and Park Building would walk through to access the Garden Building or Park Building. The entrance to the Garden Building would be on its northern side facing the exhibition building and the entrance to the Park Building would be on its eastern side facing the exhibition building.
- 3.24 The proposal includes 62 basement car parking spaces (including 7 disabled car parking spaces for the proposed residential units); 5 car parking spaces for the D1 use (all of

which will be disabled bays) at basement level and 2 disabled car parking spaces for the D1 use at ground floor level and service vehicle parking area and 11 motorcycle parking spaces at basement level.

- 3.25 In terms of cycle parking spaces, 112 spaces are proposed in total including 72 spaces in the basement parking area and 40 spaces on the High Street plaza.

The Listed Building Consent Application

- 3.26 Listed building consent is required for all internal and external alterations to the former Commonwealth Institute building. Whilst the documents submitted with the applications suggest how the interior of the building might be used and arranged, the proposal does not include the detailed design of the interior of the exhibition building. All the details provided in this respect are illustrative. It does however detail the generic 'shell and core' work that would allow the building to be suitable for many D1 Use Class non-residential institutions. It is understood the proposals have been designed with regard to the Design Museum's requirements but that the proposals are sufficiently flexible to accommodate alternative public institutional uses. There is no specific planning policy requirement for the proposal to 'fit' the Design Museum. Nevertheless, the onus is on the applicant to sufficiently describe the works to the listed building for the local planning authority to be able to assess the affect of the proposed shell and core works on the architectural and historic interest of the listed building.
- 3.27 The listed building consent applied for includes the removal of the administration block, covered walkway, water channel, grass sward and flagpoles; the removal and reinstatement of the plinth structure which the exhibition building sits on; the creation of new openings in the external elevations; the removal of internal walls and floors in the building and the creation of new floors; repairs to the façade and the replacement of the frames and glass cladding and the installation of a new stair and lift cores as well as the extension of the existing basement.
- 3.28 It is proposed that the exhibition building would have a new 'hidden' floor inserted into it which would divide the building horizontally into an upper exhibition level and a lower exhibition level with a non-public floor of ancillary accommodation between. Various shell and core facilities including stairs and lifts would be provided.

The Conservation Area Consent Application

3.29 Conservation Area consent is sought for the partial demolition of the existing boundary wall and access gates. Parts of the existing boundary walls would be retained but the north-eastern half of the north-western boundary wall would be demolished and replaced with fencing and the whole of the north-eastern boundary wall would be replaced with fencing.

Legislative aspects of the proposal

3.30 The applicant has submitted an Environmental Statement with the application pursuant to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The suite of Environmental Statement documents submitted explain the Environmental Impact Assessment undertaken for the proposal. They set out the development's likely significant environmental effects, the means by which the applicant proposes to mitigate these effects and the residual impacts which would be experienced following mitigation.

3.31 Under the provisions of the Town and Country Planning (Mayor of London) Order 2000, the application has been referred to the Mayor of London. If the Council reaches a point where it is minded to grant planning permission, it must first allow the Mayor the opportunity, within 14 days, to decide whether to direct the Council to refuse permission. The comments of the Mayor are discussed later in this report and are attached as an appendix.

3.32 As the Commonwealth Institute buildings are grade II* listed English Heritage have the power of direction over all aspects of the proposal which require listed building consent. As such, listed building consent could not be granted for this proposal without English Heritage's agreement.

4.0 RELEVANT PLANNING HISTORY

4.1 The site has a long history of minor alterations and repairs and very minor developments within its curtilage, none of which are considered directly relevant to the current proposal. There is no planning application, listed building consent application or conservation area consent application history for this particular proposal.

5.0 PLANNING POLICIES

5.1 The relevant development plan policies are contained within the Kensington and Chelsea Unitary Development Plan adopted May 25th 2002 and amended on 28th September 2007 and The London Plan Spatial Development Strategy for Greater London consolidated with alterations since 2004.

5.2 The relevant 'saved' policies from the UDP are as follows:

- STRAT1 (protection and enhancement of residential character and amenity)
- STRAT5 (locate visitor development/ public transport)
- STRAT7 (public transport/ provision of local facilities to reduce need to travel)
- STRAT9 (preservation of residential character)
- STRAT10 (protect Listed Buildings and character and appearance of Conservation Areas)
- STRAT11 (high standards of design)
- STRAT25 (walking and the pedestrian environment)
- STRAT26 (cycling and provision for cyclists)
- STRAT29 (new rail links)
- STRAT36 (controlled parking zones)
- STRAT38 (vitality and viability)
- STRAT41 (improving streetscape/townscape in shopping centres)
- STRAT46 (contribution of recreation/arts facilities)
- STRAT47 (open space)
- CD15 (setting of Holland Park)
- CD18 (setting of the canal)
- CD23 (open space)
- CD25 (protect parks and gardens of Special Historic interest)
- CD26 (improvement of land and buildings)
- CD27 (high standards of design)
- CD28 (high standards of design)
- CD31 (backland development)
- CD32 (subterranean development)
- CD33 (resist significant loss of sunlight and daylight)
- CD34 (good light conditions for buildings/spaces)
- CD35 (privacy)
- CD36 (sense of enclosure)
- CD38 (open space)
- CD39 (safety and security)
- CD40 (noise)
- CD41 (noise and development)
- CD42 (accessibility)
- CD50 (alterations)
- CD52 (installation of plant/equipment)

CD57	(conservation areas)
CD58	(conservation areas)
CD59	(conservation area proposals statements)
CD60	(demolition)
CD61	(conservation areas)
CD62	(development in conservation areas)
CD63	(development adjoining Conservation Areas)
CD64	(conservation areas)
CD65	(demolition)
CD66	(listed buildings)
CD67	(use of listed buildings)
CD68	(use of listed buildings)
CD69	(setting of listed buildings)
CD80	(retention of trees)
CD81	(new trees)
CD82	(loss of trees)
CD83	(felling of trees)
CD84	(protection of trees)
CD92	(planning obligations)
CD93	(street furniture)
CD94	(street furniture)
CD95	(street furniture)
H2	(residential development)
H4	(other uses in residential areas)
H7	(outdoor space in new development)
H8	(social and community facilities)
H9	(housing-low density)
H10	(family housing)
H18	(small units in development)
H19	(dwelling mix)
TR1	(trip generation)
TR3	(footways)
TR4	(to protect footpaths and encourage provision of pedestrian routes)
TR8	(cycle routes)
TR9	(bicycle parking)
TR14	(new bus services)
TR17	(public transport network)
TR18	(coach facilities)
TR19	(coach parking)
TR21	(coach movements)
TR35	(impact of development on the highway)
TR36	(development and traffic/parking/congestion)
TR37	(to negotiate improvement to transport services/facilities & pedestrian environment)
TR38	(limit non-residential off-street parking to essential needs only)

TR41	(off-street service space)
TR42	(residential off-street parking)
TR44	(resist loss of on-street residents' parking)
S4	(shop units)
S6	(vitality and viability)
S23	(food and drink uses)
SC1	(social and community facilities)
SC4	(social and community facilities)
SC5	(social and community facilities)
SC6	(planning obligations)
SC9	(workplace nurseries)
LR2	(sports and recreational facilities)
LR3	(sports and recreational facilities)
LR8	(public and private open space)
LR12	(amenity areas)
LR14	(open space)
LR15	(amenity space)
LR16	(communal open space)
LR17	(nature gardens and ecological sites)
LR24	(protect Sites of Nature Conservation Importance and Green Corridors)
LR27	(allocate land for nature conservation)
LR28	(arts, cultural and entertainment facilities)
LR32	(arts, cultural and entertainment uses)
LR36	(arts, cultural and entertainment facilities)
LR38	(open space)
LR40	(play provision)
PU1	(to resist development which would have unacceptable impact on air quality)
PU2	(development leading to pollution)
PU3	(contamination)
PU4	(measures to protect future users or occupiers of contaminated land)
PU11	(refuse storage space)
PU13	(recycling)
PU14	(construction materials)
MI1	(planning obligations)

5.3 The most relevant London Plan policies are considered to be as follows:

3A.1	(increasing London's supply of housing)
3A.2	(borough housing targets)
3A.3	(maximising the potential of sites)
3A.5	(housing choice)
3A.6	(quality of new housing provision)
3A.7	(large scale residential developments)

- 3A.9 (affordable housing targets)
- 3A.10 (negotiating affordable housing in individual private residential and mixed-use schemes)
- 3A.11 (affordable housing thresholds)
- 3A.18 (protection and enhancement of social infrastructure and community facilities)
- 3B.9 (tourism industry)
- 3C.1 (integrating transport and development)
- 3C.2 (matching development to transport capacity)
- 3C.3 (sustainable transport in London)
- 3C.20 (improving conditions for buses)
- 3C.21 (improving conditions for walking)
- 3C.22 (improving conditions for cycling)
- 3C.23 (parking strategy)
- 3C.25 (freight strategy)
- 3D.1 (supporting town centres)
- 3D.4 (development and promotion of arts and culture)
- 3D.7 (visitor accommodation and facilities)
- 3D.8 (realising the value of open space and green infrastructure)
- 3D.13 (children and young people's play and informal recreation strategies)
- 3D.14 (biodiversity and nature conservation)
- 3D.15 (trees and woodland)
- 4A.1 (tackling climate change)
- 4A.3 (sustainable design and construction)
- 4A.4 (energy assessment)
- 4A.6 (decentralised energy: heating, cooling and power)
- 4A.7 (renewable energy)
- 4A.9 (adaptation to climate change)
- 4A.10 (overheating)
- 4A.11 (living roofs and walls)
- 4A.12 (flood risk management)
- 4A.14 (sustainable drainage)
- 4A.15 (rising groundwater)
- 4A.16 (water supplies and resources)
- 4A.17 (water quality)
- 4A.19 (improving air quality)
- 4A.20 (reducing noise and enhancing soundscapes)
- 4A.22 (spatial policies for waste management)
- 4A.28 (construction, excavation and demolition waste)
- 4A.33 (bringing contaminated land into beneficial use)
- 4B.1 (design principles for a compact city)
- 4B.2 (promoting world-class architecture and design)
- 4B.3 (enhancing the quality of the public realm)
- 4B.5 (creating an inclusive environment)
- 4B.6 (safety, security and fire prevention and protection)

- 4B.8 (respect local context and communities)
- 4B.9 (tall buildings - location)
- 4B.10 (large-scale buildings – design and impact)
- 4B.11 (London’s built heritage)
- 4B.12 (heritage conservation)
- 4B.13 (historic conservation-led regeneration)

5.4 Weight has been given to relevant Supplementary Planning Guidance which in this case is the Holland Park Conservation Area Proposals Statement, Housing Standards SPG, Construction Training and Planning Agreements SPG and Public Art SPG.

5.5 Weight has also been given to relevant Supplementary Planning Documents which in this case are the Transport SPD, Noise SPD, Subterranean Development SPD and Designing Out Crime SPD.

5.6 Regard has also been had to the (at the time of writing) soon to be adopted SPD for “The ‘Tent in the Park’ - A Planning Brief for the site of the former Commonwealth Institute”. This is the planning brief for the site. The SPD was initially consulted on in February 2008. However, owing to material changes to the initial draft since the first consultation, the Council decided to consult on a revised draft SPD.

5.7 The SPD forms part of the Local Development Framework; supplements the Unitary Development Plan (UDP) and is consistent with national and regional planning policy.

5.8 The earlier drafts and the latest version of the SPD give clear direction on what the local planning authority expects from a development on this site.

5.9 The SPD sets out the principles to shape the function and appearance of any development at part of the Commonwealth Institute site. In particular, this includes proposals to integrate any future development within the local townscape and ensure that any future development secures the refurbishment and long term future of the iconic listed Commonwealth Institute building. Requirements of the SPD are discussed in detail in section 6 of this report.

6.0 CONSIDERATIONS

6.1 The main considerations in the determination of this proposal are:

- The principle of development within the curtilage of the site of the former Commonwealth Institute;
- The volume of development proposed, particularly in terms of the viability of the scheme and the lack of affordable housing proposed;
- The impact of the proposed works to the grade II* listed building on its architectural and historic interest;
- The visual impact of the proposal on the setting of the grade II* listed building, the Holland Park Conservation Area, adjoining Conservation Areas, Holland Park itself, and the former Commonwealth Institute's listed garden of special historic interest;
- The impact of the development on the public realm and the quality of the landscaping works proposed;
- The socio-economic impact of the proposal particularly in terms of the vitality and viability of Kensington High Street as a Principle Shopping Centre;
- The quality of the residential units proposed in terms of their density, size and mix of unit sizes, their access to amenity space and open space;
- The alternatives considered to the proposal (which is a specific requirement of EIA regulations);
- The impact of the proposal on the amenity of neighbouring occupiers in respect of sunlight, daylight, noise, vibration, disturbance, light pollution, enclosure, microclimatic conditions, safety and security;
- The impact of the development on transport infrastructure including servicing;
- The impact of the development on social and community infrastructure and what Planning Obligations would be require to mitigate the impact of the development;
- The impact of the development on the environment in respect of trees, nature conservation, ecology, structural stability, drainage, land contamination, air quality and archaeology; and
- The environmental performance of the development in terms of its use of energy, water and materials and its generation of waste.

6.2 The proposal has been reviewed by all of the appropriate internal and external consultees. Where appropriate, selections of their comments are integrated into this report. However, to avoid any risk of misinterpretation or bias, each of their full responses are appended to this report to enable a full understanding of their individual comments.

The principle of the development

- 6.3 The planning brief states that it is the Council's aim to ensure the short term refurbishment and long term future of this iconic Twentieth Century Grade II* listed building, if necessary through the use of enabling development.
- 6.4 The planning brief has three primary objectives the first of which is to find a suitable use for and the preservation of the 'tent' now and in the future, if necessary by permitting enabling development on part of the site, to secure the long term future of the 'tent' both physically and culturally. The brief seeks to retain a public institutional use on the site. The proposed use of the tent by the Design Museum is potentially an ideal one and if adequate financial safeguards are in place (i.e. through a section 106 agreement) it is considered that the future of the building would be assured. The question however is at what cost to the listed building. The brief states that residential is envisaged as the most likely use in terms of enabling development. The principle of residential accommodation on the site is therefore not in question.
- 6.5 The second primary objective from the planning brief is the integration of the development with, and enhancement of the parkland setting, whilst taking account of the registered garden, and paying special attention to the desirability of preserving or enhancing the setting of the 'tent' and the character or appearance of the conservation area. The question therefore in this respect is whether the replacement of the registered garden with the enabling development to secure the long term future of the 'tent' is justified and whether the enabling development as proposed preserves and enhances the setting of the listed building and the character and appearance of the Conservation Area which contains the registered garden.
- 6.6 The third primary objective of the planning brief is to positively relate the 'tent' to Kensington High Street, including the creation of an active public space. The question in this respect is whether the High Street Building as proposed contribute to or frustrates the achievement of this aim.

Viability and the volume of development proposed

- 6.7 At the heart of the Council's requirements, as expressed in the planning brief, is for development on the site to secure the long term future of the listed 'tent'. The planning brief does not invite a volume of development on the site in excess of that. The planning brief does not contemplate development

on the site unless that development is 'enabling development'. Enabling development is defined by English Heritage as "development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out and which could not otherwise be achieved."

- 6.8 The applicant does not agree the proposal is 'enabling development' and it is understood this position is maintained by the applicant because they do not agree the new buildings are 'unacceptable in planning terms'.
- 6.9 In the consideration of any development on this site intended to secure the long term future of the tent, it is key examine whether the volume of development proposed is the minimum necessary. This aligns with the English Heritage guidance entitled "Enabling Development and the Conservation of Significant Places", published in 2008. The document sets out seven criteria on which to judge such development. Crucial in this case are criterion (a) which requires that the development does not materially harm the heritage value of the place or its setting and (g) which states that the public benefit of securing the future of the significant place through such development decisively outweighs the disbenefits of breaching other public policies.
- 6.10 The planning brief states that information will also be sought on the financial viability of the scheme to assist in the assessment of the amount enabling development required and need for affordable housing. London Plan policy 3A.11 states that borough's should normally require affordable housing provision on sites with a capacity or provide 10 or more homes taking into account density guidance relating to local context, design principles and public transport capacity. It is noted that no affordable housing is proposed as part of this development. The planning brief states that where the provision of affordable housing might frustrate the primary purpose of this brief – the long term preservation of the 'tent' building and its setting – an assessment will be made using the tool kit and an independent assessment of the viability of the site as appropriate. Therefore, the local planning authority will not insist on the provision of affordable housing on the site as long as the volume of development proposed is the minimum necessary.
- 6.11 Notably, CABE broadly support the quantum of development proposed but in their earlier written advice of January 2009

English Heritage considered the proposal would result in an overdevelopment of the site.

- 6.12 The proposal has been independently assessed by the Valuation Office Agency, who were commissions by the Royal Borough as local planning authority to review and evaluate the 3 Dragons appraisal together with the supporting documents and financial analysis in support of the applicant's viability study for the site. As part of the review the VOA have evaluated whether the costs and values used are reasonable and whether the applicant's arguments to justify the proposal are reasonable.
- 6.13 There were two stages to the VOA review. The first was to assess whether the scheme as proposed is capable of cross funding the provision of affordable housing. The second part was to consider whether in lieu of providing affordable housing the volume of development on the site could be reduced.
- 6.14 The VOA have considered the applicant's proposal and have concluded the scheme would be capable of cross funding the provision of approximately 46 habitable rooms of affordable housing. To consider this in the context of the overall scheme of 304 habitable rooms this equates to the provision of approximately 15.2% affordable housing.
- 6.15 In considering the opportunity to reduce the floor area of the proposed new buildings this translates into an approximate gross internal floor area reduction of 1,151 square metres (12,392 square feet) and an approximate gross internal sales area reduction of 978.53 square metres (10,533 square feet).
- 6.16 It should be noted the assessment has been based upon the High Street Building accommodating affordable housing. The area reductions would vary from block to block due to the different pricing profiles and opportunity costs of the blocks.
- 6.17 Based on the applicant's accommodation schedule, the High Street Building has a floor plate area of approximately 684 square meters; the Garden Building 923 square metres and the Park Building 528 square metres. In terms of what a reduction in the volume of development by the amount identified by the VOA could achieve (in terms of the development's visual impact), this would equate to more than a floor being taken off the High Street Building or a floor

being taken off the Garden Building or two floors being taken off the Park Building.

Design quality and principles

- 6.18 The applicant decided an architectural competition would be appropriate to open the design of the proposal to a range of ideas. In early 2008 a short list of architects was nominated to produce ideas. The six architects included Professor Rafael Moneo, Rafael Vinolli, Eric Parry Associates, Caruso St. John, Make Architects and the Office for Metropolitan Architecture.
- 6.19 A panel was appointed chaired by Paul Finch CBE (Editor of Architectural Review) together with the Royal Borough's Design Champion, the Secretary of the Twentieth Century Society as well as Professor Ricky Burdett (Centennial Professor in Architecture and Urbanism at the London School of Economics) and Sir Jack Zunz (Former Senior Partner at Arup) together with representatives of the applicant. The panel decided to appoint The Office of Metropolitan Architecture (OMA). OMA is an international partnership practicing contemporary architecture, urbanism and cultural analysis, founded in 1975. OMA is led by six partners including Reinier de Graaf.
- 6.20 The Council's Conservation and Design Manager considers the proposal to replace the existing administration block with the Garden Block and Park Block to be acceptable in principle subject to design considerations. The Park Block could well be accommodated in the space between the tent and the park. The Garden Block would potentially be contained between Melbury Court and the tent and it is considered sensible to follow the orientation of the tent to connect the new blocks visually to it but also to emphasise their pavilion-like qualities. In addition CABE support the strategy of not deferring to the geometry of the existing Victorian urban context and agree the new blocks are a family that should be regulated by matching geometry. However, they consider the decision to adopt the 45 degree orientation of the exhibition building might formalise the "tent in the park" in a way that makes it read less distinctly as an individual object.
- 6.21 In respect of the flagpole area at the front of the site, the planning brief advises one of two approaches to development, either a 'civic' approach or an 'active' approach. At present the flagpole area, without any active frontages surrounding it, has the potential to be a 'civic' rather than 'active' space. The primary purpose of such a 'civic' space would be to provide a

setting to the 'tent'. The purpose of the space, as now, would be to offer an architectural punctuation to Kensington High Street. As such, the planning brief advises that it is unlikely that any buildings could be satisfactorily accommodated within this space if the 'civic' approach is adopted. In this situation the retention of the flagpoles or their replacement by an alternative architectural statement would be appropriate.

- 6.22 However, the planning brief advises that the 'civic' approach outlined above might be regarded as a missed opportunity to add vitality to Kensington High Street. An alternative exists to animate the space by the introduction of a carefully considered building, taking account of the domestic qualities and residential amenity of neighbouring mansion blocks rather than the later post-war flats. The 'tent' must not appear to be hidden behind the Kensington High Street frontage. The ground floor would need to be an active use that would draw people to the site and so contribute to the success of the new use in the 'tent'. Such uses could be independent of the use of the 'tent', such as a restaurant or gallery, or could be ancillary to the new use in the 'tent' – such as ticket facility, or gift shop. The resulting public space would be an ideal location for temporary external exhibitions, and the shape of the space must allow for this.
- 6.23 In respect of the flagpole area, the Council's Conservation and Design Manager considers the High Street Building would dominate its surroundings and would not sit well with the other mansion blocks around it. It might be seen as reducing the civic nature of the frontage of the site.
- 6.24 The Council's Conservation and Design Manager considers that whilst the Park Block is the smallest of the three it still breaks the roofline of the tent in views from Holland Park.
- 6.25 The Council's Conservation and Design Manager states that the Garden Block is higher than the tent and considers that the footprint and overall height of the High Street Block give it a dominant presence on the High Street.
- 6.26 He states that the large footprint and bulk of these blocks results in a larger scale than their domestic neighbours and that whilst the vertical window arrangement suggests an appropriate residential secondary scale, the large recessed and projecting balconies appear as crude aspects of the design.

- 6.27 CABE however, consider the three new blocks to exhibit high quality architecture and consider the architectural treatment proposed to be an elegant elevational composition. They conclude that they support the key design principles including the radical alterations to the existing Commonwealth Institute building and the high quality design for three new residential blocks. However, they have reservations about the detailed alignment of the three new residential blocks.
- 6.28 Most members of the Council's Architectural Appraisal Panel felt that, on balance, the development should proceed as long as their recommendations were acted upon. Their recommendations were: that a full transport and servicing report ensures surface traffic is limited to essential use only; reconsideration of the fence between the public and private space at ground level; further work and strengthening of landscaping proposals; provision of a more prominent, celebrated, public access to the exhibition building from Kensington High Street; a reduction in the height of the High Street building by one storey; an increase in the height of the ground-to-first floor of the High Street Building to improve visibility and permeability of the public building behind; and a possible reduction in the footprint of the High Street building.
- 6.29 There is clearly some element of disagreement amongst design professionals.

The impact of the proposed works to the listed building

- 6.30 It is understood the proposals have been designed with regard to the Design Museum's requirements but that the proposals are, in the applicant's view, sufficiently flexible to accommodate alternative public institutional uses. The Council's Conservation and Design Manager considers the Design Museum is in principle an ideal use for the building. It would allow public access and would maintain an appropriate exhibition type use. However, the use would differ from that of the original use of the building insofar as it would have changing exhibitions rather than a static display. This proposal therefore poses different requirements for the building than the former Commonwealth Institute use did.
- 6.31 The changes to the building include the demolition of the administration block, the removal of the interior to allow the insertion of a new floor, the enlargement of the basement and replacement of exterior cladding. The Council's Conservation and Design Manager considers these alterations amount to radical intervention by any standards.

- 6.32 As well as UDP policies on listed buildings, the proposal needs to be judged in relation to the advice in PPG15. In particular, that on alterations and extensions (paragraphs 3.12-3.15) and that on demolitions (paragraph 3.16 – 3.19). The applicant's have submitted a PPG15 Statement as part of their submission to justify their proposals.
- 6.33 Architecturally and historically English Heritage consider the site is of very considerable significance. The planning brief states that the spatial quality of the main exhibition hall, with its sense of one single volume, with tiered levels, is very important to the character of the building. Although the administration block was an integral part of the original Commonwealth Institute, it is not one of the primary items of interest of the building.
- 6.34 A letter from English Heritage in 2005 confirms that the administration block is of lesser interest than the main exhibition building and that it could be demolished as part of an overall proposal for the site. The Council's Conservation and Design Manager considers there is a case to be made that its removal would leave an architecturally less compromised building. To some extent it is considered the proposed demolition of the administration block fits well with the PPG15 advice which recommends that the matters to be taken into consideration are the condition of the building, the adequacy of efforts made to retain the building in use and the merits of the alternative proposals for the site.
- 6.35 Whilst the documents submitted with the applications suggest how the interior of the building might be used and arranged, the proposal does not include the detailed design of the interior of the exhibition building. All the details provided in this respect are illustrative. It does however detail the generic 'shell and core' work that would allow the building to be suitable for many D1 Use Class non-residential institutions. However, it is understood that the applicant has had regard to the Design Museum's requirements in formulating proposals for the interior.
- 6.36 To meet the requirements of the Design Museum (as well as other possible occupants), it is proposed to completely remove the existing internal structure and to insert a new floor which would house ancillary accommodation. New floors would need to withstand the weight of temporary exhibitions. In addition, modern Disability Discrimination Act requirements

and fire regulations would impact on the requirements of any future user. At present, significant parts of the building are not fully accessible for example by wheelchair users. Significant internal alterations would be required to resolve this. It is considered these alterations would come at significant expense. It is understood the existing floors could not. Therefore, it is considered unlikely that any future occupant could or would wish to occupy the existing exhibition building without major structural alterations to the interior.

- 6.37 The Council's Conservation and Design Manager considers the introduction of the new floor would be a significant alteration to the listed building. Whilst the roof structure would remain visible at the upper levels and there would be an open area through which escalators would take visitors up the building, the existing quality of the interior would undoubtedly be changed not least because the new floor would in part interrupt the sense of a single space that is of such importance to the building's character. PPG15 accepts that listed buildings may need to be adapted to accommodate new uses but also states that the gutting and reconstruction of interiors is not normally an acceptable approach. The Council's Conservation and Design Manager advises that in this case there is a difficult judgement to be made between the adaptation required to allow the re-use of the building and retaining its special character. On balance, he considers the retention of the concept of a single, albeit compromised space to be an acceptable degree of intervention.
- 6.38 The Council's Conservation and Design Manager considers that the advice in the Council's subterranean development SPD, in respect of the basement extension proposed underneath the exhibition building, is targeted mainly at basements under residential listed buildings. This particular building is regarded as a one-off and does not contain the functional and spatial hierarchy of a traditional domestic property. Therefore an exception might be made in this case.
- 6.39 In respect of the alterations to the tent's exterior, the Council's Conservation and Design Manager considers more could be done to retain the existing pattern and even colour of the cladding and that this issue needs further consideration.
- 6.40 English Heritage considered pre-application proposals which they consider are similar to the current proposal at its London Advisory Committee on 5 December 2008. The London

Advisory Committee's view were expressed in a letter to the applicant dated 16 January 2009, a copy of which is appended to this report. At the time of writing, English Heritage had not responded to the current proposal but confirmed that the London Advisory Committee would be considering the current applications at its meeting on the 17 July 2009. English Heritage's view on the proposal are therefore expected shortly after this meeting.

- 6.41 In their 16 January 2009 letter English Heritage welcomed the efforts being made to secure a new use for what they consider to be a nationally important building, on the basis that new use would allow public access and enjoyment. They recognised the difficulty in identifying and funding such a use, particularly if as it would be cultural rather than commercial. They applauded the 'possible' [sic] commitment to subsidise the costs of repair and adaptation from any profit generated by development within the site.
- 6.42 In their 16 January 2009 letter English Heritage advised that the Commonwealth Institute building and its associated structures and the landscape in which they sit are of considerable significance locally and nationally. However, they considered that the residential development on the site proposed at that time would result in the loss of the registered landscape and the listed structure within this landscape.
- 6.43 The English Heritage letter of 16 January 2009 states that a great deal of further information would be required to understand and justify the proposals at that time and that at that time they were unable to determine how the proposals would safeguard what was special and significant about the Institute, building and landscape. At that time they considered that the proposal would result in too great a loss of historic fabric and overdevelopment of the site.
- 6.44 It is understood that following the dispatch of English Heritage's January 2009 advice the applicant has met with English Heritage and held workshops with them to work through the concerns raised. The applicant considered that much further information has been provided to aid English Heritage's assessment of the proposal and that on this basis they expect a more favourable response from English Heritage on the proposal as it currently stands, as opposed to their assessment of an earlier iteration of the scheme back in January 2009. English Heritage's further response is awaited.

- 6.45 CABE support and applaud what they consider to be the ingenious thinking behind the proposals for the adaptation of the existing pavilion and broadly support the radical approach that would make the building usable as a contemporary exhibition space.
- 6.46 The Ancient Monument Society believe the applications fail the tests in the English Heritage guidance on enabling development and would result in unacceptable damage to the special interest of the site and would fail to meet the criteria set out in English Heritage's Conservations Principles. They consider the special interest of the listed building will be significantly damaged and advise that the applications should be refused.
- 6.47 The Council for British Archaeology consider the alteration to the listed building to be too great to be acceptable.
- 6.48 The Twentieth Century Society consider the extent of alterations to the listed building to be highly destructive and strongly object to the loss of the administration block and historic assets contained therein including artwork, stained glass and models, the relocation of which there are no clear proposals for. They are concerned about certainty surrounding the proposed occupant for the exhibition building and see no proper justification for the loss of the internal levels and walkways and strongly object to the proposals. They recommend the applications are refused.

Impact on the setting of the listed building, Conservation Areas and Holland Park

- 6.49 The planning brief states that any development on the site must not undermine the very thing that is sought to be preserved, by adversely affecting the setting of the 'tent' and that any new building should respect the parkland character of Holland Park and avoid intrusive or overbearing impacts on the park.
- 6.50 The Holland Park Conservation Area Proposals Statement highlights the important view southwards across the park from Holland House. It recommends that this view should be preserved and that no 'high rise buildings should be erected'. The Council's Conservation and Design Manager considers it difficult to make a case that the new building on the flagpole area would enhance or preserve the setting of the Conservation Area. Similarly, the setting of the listed building

would not be preserved as recommended in paragraphs 2.16 and 2.17 of PPG15. In particular this new building would detract from the sense of the parkland extending down to the High Street. Overall the three new buildings might be considered to dominate the tent and interrupt the fine balance of residential and parkland but much of the park's boundaries is flanked by residential properties of varying sizes. The amount of new building proposed is leading to the overdevelopment the Holland Park Conservation Area Proposals Statement seeks to prevent. The new buildings cannot be described as being subservient to the tent as set out in the planning brief. Instead they tend to compete with it.

6.51 The Ancient Monument Society consider the proposed new buildings to be high which would diminish the precedence of what would be left of the Institute building. In their view the proposals would therefore fail to preserve the setting of the listed building or the setting of the Conservation Area and they advise a refusal of the applications.

6.52 The Council for British Archaeology consider the proposal to be over-dominant, impacting adversely upon the Institute and views of it and adversely affecting its image as a "pavilion in the park". The Council for British Archaeology appreciate that the wall presently separating the Institute from the park would be removed but feel the impact of the new buildings totally negated any benefit that might be gained and that in particular the High Street Building would be particularly detrimental in terms of views of the Institute. They object to the applications.

6.53 The Architects Appraisal Panel felt the setting of the listed building would be greatly altered by the new blocks; it would be largely concealed behind the High Street Building when viewed from Kensington High Street. The panel felt the presence of the retail and ticketing space on the ground floor of the High Street Building was welcome, signalling the presence of the Design Museum on Kensington High Street. However, the ground floor appears cramped and the building was considered too tall and dominant on this frontage. The panel suggested the High Street Building should be reduced by one storey and the ground to first floor height increased to improve visibility and permeability of the public building behind. The panel also felt the footprint of this building could be reduced. On balance the panel thought that the development should proceed as long as their recommendation

were acted upon. Their recommendations were: that a full transport and servicing report ensures surface traffic is limited to essential use only; reconsideration of the fence between the public and private space at ground level; further work and strengthening of landscaping proposals; provision of a more prominent, celebrated, public access to the exhibition building from Kensington High Street; a reduction in the height of the High Street building by one storey; an increase in the height of the ground-to-first floor of the High Street Building to improve visibility and permeability of the public building behind; and a possible reduction in the footprint of the High Street building.

Impact on the Commonwealth Institute's garden

6.54 The submission confirms that the registered landscaped gardens would be "replaced" by the proposal. However, the applicant maintains that the current landscape cannot be retained as part of the proposals and they consider that the landscape cannot be attributed to Sylvia Crow because it was designed for the most part by Maurice Lee, a senior associated at Robert Matthews, Johnson-Marshall and Partners.

6.55 The Council's Conservation and Design Manager considers that more could be done to at least keep some sense of that 'strong unity between architecture and the designed landscape' which is referenced in the listing description. The proposal to demolish the boundary wall of the site and open up the connection with the park is considered to be a positive aspect of the proposal which would go some way to realising the original concept of the building being the 'tent in the park'. Indeed, the planning brief seeks improvement of the visual and physical links between the 'tent' and the park, specifically the demolition of the northern and eastern boundary walls and the reorganisation of entrances.

6.56 In their letter of 16 January 2009, English Heritage considered that the residential development proposed in an earlier iteration of the proposal would have resulted in the loss of the registered landscape and the listed structures within that landscapé. English Heritage's further response is awaited.

6.57 The Ancient Monument Society consider the specially designed garden would be lost and the historic landscape effectively lost and that the entry in the register of parks and gardens of special interest would have to be deleted. The Council for

British Archaeology consider the loss of the 'Sylvia Crowe' landscape unacceptable.

- 6.58 The Twentieth Century Society consider the existing landscape would easily be restored and that this is a fundamental part of the Commonwealth Institute's significance. In respect of the garden and flagpoles they consider the proposals to be damaging and strongly object. They recommend the applications are refused.
- 6.59 The question therefore is whether the loss of the listed garden is acceptable given it is considered that development on the site is required to fund the repair and long term future of the 'tent'.

Landscaping works and public realm

- 6.60 CABE have reservations about the site layout and the treatment of the ground plane. They consider this to be the least successful part of the proposal. They are concerned about the privatisation of so much potential public space. This is a result of the provision of residential accommodation on the ground floors of the Garden Building and the Park Building. CABE suggest the substitution of public uses at ground floor level for the Garden Building and the Park Building to allow access through the entire site. They consider the definition between the public and private spaces on the site to not read clearly and urge a coordinated design for a combined new entrance to the park and the exhibition pavilion. They recommend that the Royal Borough satisfy itself on the quality of the ground place before the application is determined.
- 6.61 The Architects Appraisal Panel are concerned about the division between public and private space at ground level and criticised the landscaping for lacking a concept as strong as Silvia Crowe's original proposals. The panel considered the closely spaced silver birch trees around the residential blocks to be bizarre and unrelated to anything else in Holland Park. They felt the nature of the hard and soft spaces, the sculpture court, planting and fountains need further work and strengthening. The panel were not convinced by the cramped access to the exhibition hall under the corner of the front block and seek a more prominent, celebrated public access to the exhibition building from Kensington High Street.
- 6.62 The Council's Conservation and Design Manager wishes for much greater clarity on patterns of movement around the site

as this is not clear from the application documents. The Architects Appraisal Panel are concerned about servicing and access in the interests of the parkland character of the site.

Socio-economic impact

- 6.63 The contribution of the use of the 'tent' to the vitality and viability of Kensington High Street is a key consideration and would contribute to the achievement of a number of development plan policies which seek to support shopping centres such as Kensington High Street. A public use of the 'tent' which attracts large numbers of visitors could be particularly beneficial to Kensington High Street and the Principle Shopping Centre therein.
- 6.64 The applicant has provided an assessment of the economic impact of the proposal and this has been reviewed by the Council's Town Centre Initiative's Manager who has reviewed the documentation and is broadly satisfied with its findings. In summary, the applicant's assessment states that the proposal would draw 400,000 additional visitors to the area each year. This would include 175,000 visitors for the main collection, 165,000 for special exhibitions, 40,000 for educational events and projects and 15,000 for corporate events. The site's location on Kensington High Street is considered ideally located to support "linked trips" i.e. those with more than one journey purpose. The applicant assumes 65% of visitors would be from the UK and 35% would be from abroad.
- 6.65 The Royal Borough has recognised through the Local Development Framework process that there is a concentration of cultural uses at the western end of Kensington high Street including the Commonwealth Institute, the Odeon cinema, Leighton House and Linley Sambourne House. It is considered that the proposal would have a significant positive cultural impact on this part of the Royal Borough. However, such an impact is inevitably difficult to quantify.
- 6.66 The applicant's assessment states that it has been estimated that domestic visitors to UK galleries and museums spend around £11.25 per trip in addition to entry costs and expenditure in the attraction they visit, whilst overseas visitors spend approximately £30. Applying this to the estimated visitors the applicant suggests additional visitor expenditure over £6 million per year.
- 6.67 The provision of 72 new homes on the site would also be expected to generate additional local spending by new

residents. The applicant considers that approximately 130 residents would be expected to live within the proposed development, of whom approximately 12 would be children. The applicant reports that average weekly household expenditure on goods and local services in 2005/6 was £310 and that households living in the new dwellings would be expected to account for around £1.2 million a year in household spending including convenience and comparison shopping.

6.68 Further, the applicant reports that workers spend £6 per day locally on food and drink alone. They estimate additional spending by employees to be approximately £260,000. However, elsewhere in the submission documents it is estimated that 120 full time equivalent jobs would be created. Based on the above figures, the estimates on workers' spending seem optimistic. Nevertheless, it is clear the proposal does present a very real opportunity to enhance the vitality and viability of Kensington High Street as a Principle Shopping Centre, the success of which is currently reported to be in decline, partly as a consequence of rival centres such as the new Westfield development in Hammersmith and Fulham. The provision of a public institutional use like the Design Museum would very much help Kensington High Street to compete with rival centres such as Westfield which do not have a comparable offer in terms of cultural facilities.

6.69 If the Design Museum were the end user of the tent, jobs could include curatorial, research, finance, teaching, fundraising, communication, technical, operations and facilities management, front of house (invigilation and security), retail and café staff and catering staff. Construction of the proposal, if approved, would generate construction jobs and an opportunity for construction training which could be secured through a section 106 planning obligation.

Housing density

6.70 Guidance regarding density for proposed development is contained in table 3A.2 of the London Plan where it indicates for developments in central locations with a public transport accessibility level (PTAL) of 4-6, the proposed density of development of these sites should be in the range of 650 to 1,100 habitable rooms per hectare. The site is considered a central location as defined by paragraph 3.23 of the London Plan given its context within Kensington High Street. The site is considered to enjoy a PTAL of 4 to 5 as advised by the Director of Highways and Transportation.

- 6.71 In respect of the residential accommodation proposed, the applicant has confirmed that 304 habitable rooms would be provided. Given the site is 1.37 hectares, the proposal would have a density of 221.89 habitable rooms per hectare or 52.55 dwellings per hectare. This is significantly below the range sought by the London Plan. Nevertheless, it must be borne in mind that the proposal would be a mixed use development on the 1.37 hectare site which would include the re-use of the exhibition building, landscaping within the curtilage of the site and non-residential uses on the ground floor of the High Street building. The calculation above therefore does not take these considerations into account and is therefore not a true reflection of the density of the development.
- 6.72 London Plan policy 3A.3 requires development proposals to achieve the maximum intensity of use compatible with local context, design principles and public transport capacity. In this instance, the local context includes the impact of the residential development on the setting of the listed building, Conservation Areas, Holland Park and the listed garden and the mixed use nature of the proposal. Therefore, a density lesser than that sought by table 3A.2 of the London Plan and policy 3A.3 of the London Plan is considered acceptable due to the particular circumstances of this site which include very real townscape constraints which are considered to outweigh the policy requirement for greater density on the site.

Affordable housing

- 6.73 The planning brief states that information will be sought on the financial viability of the scheme to assist in the assessment of the need for affordable housing. No affordable housing is proposed as part of this development. This directly conflicts with London Plan policy but the planning brief states that where the provision of affordable housing might frustrate the primary purpose of this brief – the long term preservation of the 'tent' building and its setting – an assessment will be made using the tool kit and an independent assessment of the viability of the site as appropriate. Therefore, the local planning authority will not insist on the provision of affordable housing on the site as long as the volume of development proposed is the minimum necessary, which is what has been independently assessed (above) by the VOA on behalf of the Council.

6.74 The Greater London Authority consider the proposal fails to comply with London Plan policy in several important respects in its present form. In respect of affordable housing they state that independent assessment of the financial toolkit appraisal should be submitted before the application is referred back to the Mayor and that this (along with other changes discussed elsewhere might remedy the proposal's deficiencies and could possibly lead to the application becoming compliant with the London Plan.

Dwelling size and mix

6.75 All of the proposed dwellings would far exceed the Council's minimum dwelling size standards set out in the Council's Housing Standards Supplementary Planning Guidance. The mix of dwelling sizes proposed favours family housing insofar as 82% of the dwellings would have more than one bedroom.

Bedrooms	Total Units	Mix
1 bedroom	13	18.05%
2 bedrooms	12	16.66%
3 bedrooms	35	48.61%
4 bedrooms	11	15.27%
5 bedrooms	1	1.38%
	72	

6.76 Notably, CABE welcome the high proportion of larger, three, four and five bedroom flats. The planning brief states that the proximity of the park indicates that family housing on the site would be suitable but as the primary purpose of any possible residential development is to secure the long term future of the 'tent', the Council will be flexible in terms of the mix of sizes of residential units on the site. Therefore the mix proposed is not considered inappropriate, notwithstanding the requirements of development plan policy including H18 of the UDP, given that policy H19 seeks an appropriate mix having regard to (inter alia) access to communal gardens and open spaces, in this case Holland Park.

Accessibility and lifetime homes

6.77 The planning brief for the site and the London Plan require the proposed dwellings to be lifetime home compliant and require 10% of the residential units to be designed to wheelchair standards. In addition, development plan policies require developments to be accessible to people with special mobility needs. The proposal has been reviewed by the Council's Access Officer (whose observations are attached). She has raised various concerns and seeks clarification on a number of

points. It is considered that all of these concerns could be addressed through further negotiation and/or the imposition of Conditions upon any grant of planning permission.

Residential amenity space

6.78 Of the proposed 72 dwellings 41 (57%) would have access to private outside space in the form of balconies. Development plan policy seeks amenity space for dwellings, particularly family housing but is not prescriptive about the amount or type of space provided. On this basis the proposal in respect of amenity space is considered acceptable.

Open space and play space

6.79 The Greater London Authority consider the application fails to comply with London Plan policy in respect of child play space as it does not propose any on-site or doorstep play space for children under 5 years old. They consider the proposal should be amended to include 160 square metres of child play space for children under 5 years old.

6.80 Given the proximity of Holland Park, it is considered that the needs of residents would be better served by contributing towards the facilities in the existing park, rather than the provision of dedicated on-site play provision. However, doorstep playable space should be included within the landscape design for the site. This does not necessitate the inclusion of dedicated play equipment but the careful consideration of an interesting landscape which can be stimulating for children.

6.81 It is considered that this aspect of the proposal could be secured through the receipt of further information following further negotiation with the applicant, and the imposition of planning Conditions if the application were considered acceptable in all other respects.

The alternatives considered

6.82 The Environmental Impact Assessment regulations require the applicant to outline the main alternatives to the development which have been considered together with an indication of the main reasons for the choice taking into account the environmental effects. The applicant has considered a number of scenarios including a 'no development' scenario which they conclude would result in the listed building being left unoccupied and in a state of disrepair which would worsen over time. It is considered there is merit in this argument and given the existence of the site specific planning brief and the

Council's clear aim for an 'enabling' development on the site, the consideration of alternative sites for this development is not considered appropriate.

- 6.83 What is considered appropriate is the consideration of alternative designs for the proposal. The applicant has outlined a number of alternative proposals which were presented as part of the competition to find an architect for the site. Following the competition the applicant appointed the current architect. The current architect has set out the evolution of the current proposal and the various design iterations which the proposal has gone through. In this respect it is considered the applicant has fulfilled the requirements of the Environmental Impact Assessment regulation but what is not agreed in principle is whether the volume of development proposed is the minimum necessary to secure the long term future of the tent, as explained above in the section of this report which addresses the volume of development on the site, because this is subject to the conclusions of the Valuation Office Agency.

Cumulative effects

- 6.84 The Environmental Impact Assessment regulations require an assessment of the cumulative impacts of the proposal with other existing, consented and planned developments as well as the interaction of individual effects of the development on receptors. The applicant reports that the temporary minor cumulative effects which could occur during the demolition and construction works of the development could be ameliorated through the details of a Construction Environmental Management Plan. This would contain measures to control and limit the effects and could be secured as part of any section 106 agreement for the proposal.

Sunlight and daylight

- 6.85 The planning brief states that any proposed building should be designed to ensure good light conditions for its internal and external spaces. Any proposal should not significantly reduce sunlight or daylight enjoyed by existing adjoining buildings and amenity spaces.
- 6.86 The planning brief advises that the gardens of nos. 47, 55 and 57 Melbury Road are already separated from the site to an extent by a garage block. This is not the case for no. 59 Melbury Road, where the brief advises particular attention should be paid and appropriate regard should be had to BRE Document 209 entitled 'Site Layout Planning for Daylight and

Sunlight' published in 1991 as the basis of the consideration of daylight and sunlight amenity.

- 6.87 The applicant has assessed the potential impact of the proposed development upon sunlight and daylight availability and overshadowing using a three-dimensional computer model of the development and its surroundings. The applicant reports that following completion of the development, levels of sunlight and daylight would for the vast majority of surrounding residential properties remain good. They report that the effects of the proposal on sunlight and shadowing of surrounding properties and open areas would be negligible in all cases and that with the exception of two locations the effects on daylight would be negligible.
- 6.88 The two primary locations of concern are the Coach House at the rear of 55-57 Melbury Road and one living room in 23-71 Melbury Court. The Coach House is close to the western boundary of the site and will experience a moderate adverse reduction in daylight levels as a result of the proposed development. A room in two dwellings within the Coach House would be affected. However, the applicant asserts that the rooms do not meet minimum ADF standards as existing due to them being illuminated by dormer style windows which the applicant considers inhibit the penetration of natural light.
- 6.89 The affected room in 23-71 Melbury Court is reported to be a living room. The applicant reports that this is one room out of 132 windows in Melbury Court which would not meet the guidelines for its use as a living room .This room is reported to fall short of the guidelines by 0.08% and is considered by the applicant to be a minor adverse effect.
- 6.90 In respect of the proposed residential units, the applicant reports that the overall level of compliance would be 97% in terms of daylight and sunlight within the habitable rooms. This is considered acceptable in respect of development plan policies which seek good light conditions for buildings.
- 6.91 The technical appendices upon which the applicant's assessment is based have not been formally submitted as part of the planning application of Environmental Statement. Nevertheless, the assessment appears reasonable. The BRE advise that their guidelines are not mandatory and should be interpreted flexibly because natural lighting is one of many factors in site layout and design. The benefits of the proposal

would need to be weighed-up against any disbenefits in respect of sunlight and daylight.

Noise and vibration

- 6.92 The applicant has assessed the impacts of the development on 'Noise Sensitive Receptors' surrounding the site which includes the occupants of neighbouring property. Noise would be generated during the construction period but the applicant proposes a 'Construction Environmental Management Plan' which would contain measures to limit the effects of noise and vibration. This plan would be finalised once contractors have been selected by the applicant and would be subject to the agreement of the Royal Borough and secured as part of any section 106 agreement for the proposal.
- 6.93 Objections have been received in respect of noise. However it is considered all concerns relating to noise could be controlled by Conditions. Given the development envisaged by the planning brief, it is not considered that the provision of residential accommodation on the site or the commercial facilities proposed would result in a level of noise or disturbance to neighbouring occupiers which would warrant a refusal of planning permission.
- 6.94 The Council's Environmental Health Team have reviewed the submission and recommend that a detailed method statement including information on the basement construction and overall demolition and construction works is secured. The would appear to reflect what is proposed by the applicant in respect of a Construction Environmental Management Plan.
- 6.95 Environmental Health advise that the requirements of Building Regulations are adequate for sound insulation between adjoining proposed dwellings. However, they have identified non-uniform stacking between proposed dwellings which may lead to disturbance which could impact on the transmission of impact and airborne sound. They recommend securing full details of sound insulation between dwellings by Condition for subsequent approval by the Director of Environmental Health.
- 6.96 Environmental Health advise noise should not be a determining factor in considering the application and that Conditions can be imposed to ensure adequate levels of protection against external noise sources. They consider a suitable level of sound insulation to the façades of the buildings could be implemented and secured by Condition.

6.97 Various building services plant, ventilation equipment, extraction plant, air conditioning and kitchen extraction plant would be required for the development. Environmental Health advise a noise report and acoustic mitigation scheme would be required but could be secured by Condition and all other concerns in respect of plant related noise and odour could be controlled by Condition to ensure compliance with development plan policy.

Light pollution

6.98 Concerns have been raised about light pollution from the proposed new buildings. These buildings would be predominantly residential apart from the commercial uses proposed on the ground floor of the High Street Building. Given this, and the proximity of surrounding residential and commercial development, it is not considered that these buildings would worsen existing light pollution conditions to a significant degree.

Sense of enclosure

6.99 Development plan policy does not prescribe standards to calculate or assess sense of enclosure but instead advocates on-site judgement as the starting point for assessment. Based on an inspection of the site it is not considered the proposed Park Building or Garden Building would result in any significant sense of enclosure that would justify a refusal of planning permission given their distance and relationship to adjoining buildings relative to that of the footprint of the existing administration block. The impact from the proposed High Street Building would be more significant due to its proximity to Melbury Court and the residential windows on its north eastern side but it is not considered that this impact would be of sufficient harm to warrant a refusal of planning permission.

Microclimatic conditions

6.100 The comfort and safety of pedestrians within and around the proposed development has been assessed by the applicant as is appropriate for a development of this scale. They have assessed the effects using meteorological data and computational analysis. The assessment reveals that in the worst case scenario (i.e. in the absence of the landscaping measures proposed) the proposal would provide wind conditions equivalent to or better than those of the current site situation. The mitigation measures proposed include tree planting and other soft landscaping to provide shelter which would be expected to improve the local wind microclimate.

Given the nature of the proposal, the assessment and the methodology used is considered acceptable.

Safety and security

- 6.101 The planning brief aims to integrate the tent with the park and seeks to improve visual and physical links between the tent and the park by demolishing the northern and eastern boundary walls and reorganising the entrances to the site. It further states that forming a gated community on the site would not be an acceptable solution. There is clearly a need to be able to secure the various parts of the development but to some extent this would conflict with the desire to make the site permeable.
- 6.102 The proposal involves the division of the site into a private zone on the south-western half of the site and a public zone on the north-eastern side of the site. The general landscaping plan illustrates that the means of division toward the park end would be by a fence and the means of division toward the High Street end would be via a water feature formed of a line of spray jets. The effectiveness of this barrier is questioned and it is expected it would be likely to need to be supported by some form of physical barrier. The design and access statement alludes to a 'security line' being installed but it is not clear what this would consist of.
- 6.103 CABI are concerned about the privatisation of so much potential public space and suggest the substitution of public uses at ground floor level for the Garden Building and the Park Building to allow public access through the entire site.
- 6.104 Gates are proposed across the main site entrance between the High Street Building and Melbury Court and along the eastern boundary of the site where it adjoins with Holland Park. It is proposed that these would be open during the day to encourage permeability. At night these gates would be closed and access to the site would be controlled via the porter's office in the High Street Building. Access to the exhibition building would be controlled via the eastern portion of the ground floor of the High Street Building.
- 6.105 An external lighting strategy and closed circuit television strategy would be developed. At the time of writing no response had been received from the Police Community Liaison Officer. But it is considered that issues of safety and security could be addressed through further negotiation and/or the imposition of Conditions upon any grant of

planning permission or provisions in a section 106 agreement if necessary.

Impact on transport infrastructure

- 6.106 The planning brief states that given the site's very good public transport accessibility the Council will require a zero or low level of residential car parking which should be provided underground. The proposal has been reviewed by the Director of Highways and Transportation who considers that the level of car parking should be reduced. He recommends by at least two spaces. However, he also advises that the minimum dimensions for disabled bays have not been met and that some of them require reconfiguration to remove obstructions which would hamper their use as disabled bays. The Greater London Authority consider the level of residential car parking is high and request a reduction.
- 6.107 The Director of Highways and Transportation advises that all car parking spaces should have access to charging points and that a permit free agreement would be needed for all the dwellings.
- 6.108 In respect of cycle parking the Director of Highways and Transportation advises that the space set aside is not sufficient to house the amount of cycles proposed, the number of which are necessary to make the proposal comply with policy. He also states that the area for cycle parking in the basement is enclosed with no overlooking and that ways of improving safety should be considered such as cages rather than walls as well as CCTV. Furthermore, the space set aside for motorcycle parking is not of suitable dimensions.
- 6.109 The Council's minimum cycle parking standards would require at least 50 cycle parking spaces for the D1 use. The site is considered an ideal location for a docking station as part of the Mayor of London's Cycle Hire Scheme. The applicant's offer of £10,000 towards the scheme is welcome. The space set aside could house 20 cycles and space for an additional 30 cycles should be provided in the form of 15 Sheffield stands. Secure cycle parking for staff should be provided along with showering and changing facilities. The Greater London Authority request further information to justify the proposed cycle parking for the exhibition building.
- 6.110 In respect of vehicular access to the basement, the Director of Highways and Transportation seeks clarification the ramp is no steeper than 1:10 and requires tracking diagrams to show

that all sizes of vehicles intended to use the ramp can do so. The space set aside in the car park for servicing is considered sufficient. Confirmation is sought on access arrangements for taxis as these are not clear as well as confirmation on how it is intended that coach visitors would be received given existing loading restrictions in the vicinity. A vehicle management plan is sought as part of any section 106 agreement.

6.111 The Greater London Authority request further information to justify the coach drop-off provision for the exhibition building. They seek a delivery and servicing plan, construction logistics plan and full travel plan for each use proposed and consider a financial contribution for bus stop upgrading works may be required. The Director of Highways and Transportation requests that Travel Plans and a Construction Traffic Management Plan is sought as part of any section 106 agreement.

6.112 In respect of trip generation, the Director of Highways and Transportation states that trip estimates for the residential accommodation appear high but provide a worse case scenario. Very few car trips would be generated by the exhibition use given the lack of car parking and the proposal would have a negligible impact on the local road network. The estimates for public transport trip generation from the residential accommodation are considered reasonable but over optimistic in terms of overland rail use. These trips should instead be assigned to bus and underground modes with the underground modes also added to the bus network to reflect the fact many underground users use buses upon exit from the underground. In respect of the exhibition use the numbers of annual visitors is expected to be 400,000 but the submission predicts the number of visitors would be the same every day of the week which is unrealistic. Confirmation is sought on the assumptions made by the applicant. The same observation is made in terms of public transport trip assignment for the exhibition use as for the residential accommodation. In the light of these comments and revised assessment of the impact of the development on the bus network is required.

6.113 The Director of Highways and Transportation is concerned that the applicant has only considered the potential visitor numbers for the D1 use if the Design Museum is the tenant. A further assessment should be made of alternative D1

exhibition or gallery uses to ensure the projections made for the Design Museum represent a reasonable worst case.

Planning obligations and social/community infrastructure

- 6.114 The planning brief sets out potential section 106 contributions which would be sought for development on this site. These would include the repair and refurbishment of the 'tent', its adaptation to secure the occupation of a new use and mechanisms to secure its future use and long term maintenance; modifications to Holland Park to integrate the 'tent' with the park; social and community infrastructure; contributions towards improvements to Holland Park; contributions to education and health and other commuted sums; and the usual requirements for a major development relating to travel and management plans, public art, construction training, permit free agreements and the cost of monitoring the development following approval.
- 6.115 The applicant has provided a draft Heads of Terms for a section 106 agreement and the proposal has been reviewed by the Council's section 106 officer and legal team. Key elements of the section 106 agreement includes works to the exhibition building for the occupant to the value of approximately £20 million, an exclusivity period for the Design Museum or an alternative public institutional use to be agreed by the Executive Director, and the lease of the building to the occupant for 175 years at a peppercorn rent.
- 6.116 All of the above matters and those raised by the section 106 officer and legal team would be negotiated if members instruct officers to prepare a report recommending the grant of planning permission, listed building consent and conservation area consent following this meeting.
- 6.117 Examples of contributions which would generally be sought for a major development including housing would include contributions for education, open space and health facilities. The applicant considers that the population of the proposal would generate approximately one-sixteenth of a General Practitioner. However, this calculation is based on the existing ratio of patients to GP and thus using this calculation would seek to replicate existing ratios which may not be favourable. Whilst the applicant considers the impact would be minor adverse it is considered the proposal in respect of contributions is negotiable.

6.118 In respect of education the applicant reports that existing primary and secondary schools in the surrounding area have spare capacity and the increased demand is therefore negligible. However, again, it is considered the proposal in respect of contributions is negotiable. It is noted however that the proposal, if resulting in the housing of the Design Museum, would provide very significant local benefits through programmed educational activities with local schools and this would need to be weighed in the balance when considering education contributions.

6.119 In respect of open space the applicant considers the landscaping proposed to be high quality and that the proposal would not result in the net loss of any open space (based on a comparison of the amount of open land on the site as existing compared to as proposed). The applicant considers the site's location in relation to Holland Park negates the need for on-site play space facilities.

Phasing

6.120 The submission outlines the intended phasing of the proposal. However, careful consideration would need to be given to the phasing of the development and how this would be secured to ensure the benefits promised were delivered if the proposal were approved. It is considered that this is a matter which could be negotiated further if necessary if the application were to be recommended for approval.

Trees

6.121 All trees on the site are the subject of a tree preservation order. The proposal has been reviewed by the Council's Principal Arboricultural Officer. The proposal would result in the felling of 34 trees, the transplanting of 7 trees and the retention of 19 trees. The proposals for trees are illustrated in the Design and Access Statement. Generally speaking, all trees on the south-western boundary would be felled, all trees on the south-eastern boundary (i.e. those at the front of the site) would be felled or transplanted, most trees on the north side of the exhibition building would be felled and some trees on the north-eastern boundary would be felled.

6.122 Of the 7 trees to be transplanted; three are London Plane trees which would be moved further forward to the front of the site in front of the proposed High Street building; one is an elm tree which would be moved from the west corner to the north corner of the site; one is a Lime tree which would be moved from the north-eastern boundary to the southeast

corner of the exhibition building; one is a Lime tree which would be moved from the front of the site to the southeast corner of the exhibition building and one is a Alianthus tree which would be moved from the north-eastern boundary to the northe corner of the site.

6.123 There is disagreement between the Principal Arboricultural Officer and the applicant over several of the assessments relating to the condition and categorisation of trees on and around the site. The Principal Arboricultural Officer considers the documentation to be inconsistent in its findings and considers the documentation to be deficient by reason of the absence of a Tree Constraints Plan and an Arboricultural Implications Assessment. This is regarded as a serious omission. It is considered the proposal would result in the loss of a number of trees which make a significant contribution to the amenity of the Conservation Area which would be contrary to development plan policies.

6.124 In addition, the Principal Arboricultural Officer raises specific concerns about the applicant's proposal to fell two and transplant three of the group of five London Plane Trees at the front of the site. These trees are considered to have a significant amenity value as a group of five. These trees are considered to be in very good condition and are considered to have a remaining lifespan of well over a century or even two. Such large trees have never before been moved in the UK and it is considered that the transplanting proposed stands little chance of success and is considered to be a risky and complicated proposal. It is considered possible that one or more of the trees to be transplanted will not survive. There is no guarantee of success. The Principal Arboricultural Officer objects to the proposal and the proposal is considered contrary to development plan policies.

Nature conservation and ecology

6.125 The proposal has been reviewed by the Council's Ecology Service Manager who supports the views of the Principal Arboricultural Officer in respect of the tree issues noted above but otherwise supports the proposal providing the mitigation measures detailed in the Environmental Statement are incorporated into the design. She recommends preferable plant species to those proposed and recommends that the boundary treatment with Holland Park is a green wall. She seeks a variety of nest boxes for birds and bats as nature conservation enhancement measures and an Ecological Management Plan containing detailed information on

landscaping, planting and biodiversity. It is considered that, aside from the tree matters noted above, all of these issues could be addressed through further negotiation and/or the imposition of Conditions upon any grant of planning permission.

6.126 Natural England have reviewed the application and consider the proposal would not significantly affect any priority areas for Natural England and therefore do not object. They welcome the proposed green roofs and mitigation measures providing these are secured.

Structural stability

6.127 The proposal involves the provision of a double-height basement extension to the exhibition building and the provision of two basement levels for each of the three residential blocks to provide car parking and ancillary accommodation. All of the basement accommodation would be physically linked underground. The planning brief states that a basement extension of the exhibition building might be a possibility, subject to structural considerations. The applicant has provided a basement construction statement and a building structural engineering report which set out how the basement accommodation on the site would be constructed. These documents have been prepared by a qualified structural engineer and show that the development could be carried out successfully without damage to surrounding property.

Flooding and drainage

6.128 The site is located in Flood Zone 1 which is the lowest risk flood zone as shown on the Environment Agency flood maps. In this category a Flood Risk Assessment is required for sites over 1 hectare.

6.129 The applicant proposes a 'Construction Environmental Management Plan' to protect groundwater beneath the site from pollution. This plan would be finalised once contractors have been selected by the applicant and would be subject to the agreement of the Royal Borough and secured as part of any section 106 agreement for the proposal. During excavation temporary subsurface water control would be likely to be required which may result in the lowering of the water table in the vicinity of the excavations.

6.130 The applicant considers the proposal would attenuate surface water run-off via the use of buried tanks linked to the surface

drainage system which would reduce existing surface run-off rates. The applicant has also illustrated that the proposal would result in a net increase in the area covered by soft landscaping which would reduce surface water run-off flow. This would be further assisted by implementation of the green roofs proposed for the three new buildings.

6.131 The Environment Agency object to the proposal as they consider the Flood Risk Assessment submitted by the applicant fails to maximise the use of Sustainable Urban Drainage Systems required by development plan policy and fails to achieve a significant reduction in surface water run off. In order to resolve their objection the Environment Agency require revised information which further explains the reasoning why more sustainable drainage solution such as soakaways cannot be achieved on the site. They consider that shallow swales could be included within the landscape strategy and as incidents of surface water flooding in the area surrounding the site have been recorded they are seeking a betterment on discharge rates and volumes proposed compared to existing rates.

6.132 The Council's Forward Planning Team confirm the site has a potential to be affected by surface water flooding and confirm that the Council's Strategic Flood Risk Assessment has identified that all development should consider the vulnerability to flooding and the potential to increase flood risk elsewhere. They consider the flood risk assessment needs to focus on vulnerability to flooding from surface water and sewer water flooding as well as from river and sea flooding. Appropriate sustainable urban drainage techniques are recommended. In the light of the above objections the submission is considered deficient.

Land contamination

6.133 The submission has been reviewed by the Council's Environmental Health Team. The site has no history of industrial or other major polluting activities. As such, it has very little potential for any significant on-site contamination. The applicant proposes a 'Construction Environmental Management Plan' which would contain a contamination watching brief. This plan would be finalised once contractors have been selected by the applicant and would be subject to the agreement of the Royal Borough and secured as part of any section 106 agreement for the proposal.

6.134 The Environmental Health Team recommend that a combined geotechnical and environmental ground investigation is undertaken to ensure that any potential risks are explored. Providing this is done they have no objections in respect of land contamination and they recommend various Conditions which should be imposed on any grant of planning permission. They are satisfied that the applicant's desk study adequately explores the history of the site and the potential sources and pollutant pathways but they require the ground investigation to include analysis of the ground water samples in order to show that the previous use of the site has not impacted on the minor aquifer beneath the site.

Air quality

6.135 The entire borough is an Air Quality Management Area. Changes in traffic flows resulting from the development and emission from the on-site boilers proposed could impact on air quality, as could dust generating activity during construction. The applicant proposes best practice measures to mitigate these impacts and a 'Construction Environmental Management Plan' which would contain measures to control and limit the effects of the demolition and construction works. This plan would be finalised once contractors have been selected by the applicant and would be subject to the agreement of the Royal Borough and secured as part of any section 106 agreement for the proposal.

6.136 The submission has been reviewed by the Council's Environmental Health Team who consider that many of their concerns raised at the pre-application stage still apply. In particular they have concern over the modelling of the air quality impact of the development. The proposal would increase emissions over the existing situation as the building has been vacant for many years. A low emission strategy is required. The level of car parking is considered excessive. There are discrepancies between documents in respect of biomass emissions and clarification on several details is required. The maximisation of energy efficiency and a reduction in heating and cooling demand are necessary to reduce emissions. More information for construction traffic is required and a method statement for the control of emissions.

Archaeology

6.137 The southern edge of the site lies within an Archaeological Priority Area which relates to the route of a major Roman Road following the line of Kensington High Street. No built development took place on the site until the construction of

the former Commonwealth Institute in the early 1960's. The present buildings are substantial and have basements. The applicant considers these would have truncated any archaeological remains within their footprint but that there is potential for remains to survive in other areas of the site.

6.138 The proposal would result in major ground disturbance which could have a significant effect on any buried archaeological remains. However, it is considered that a watching brief requiring a programme of archaeological evaluation and if necessary mitigation could be secured via Condition if the application were considered acceptable in all other respects and this is general practice for any major development of this nature on a site with these characteristics.

Energy and sustainability

6.139 The planning brief requires that the energy, heating and cooling requirements for the site are met from a site-wide Combined Cooling, Heat and Power (CCHP) plant fuelled by renewable sources of energy or natural gas. London Plan policy 4A.7 states that boroughs should adopt a presumption that developments should achieve a reduction in carbon dioxide emission of 20% from on site renewable energy generation unless it can be demonstrated that such provision is not feasible. The CCHP proposed would only contribute to this target if fuelled by sustainable sources of energy, such as hydrogen or biofuels, but does not include natural gas. Other sources of renewable energy which the Council would expect the applicant to explore would include, but not be limited to, photovoltaic panels, solar thermal heating and ground source heating.

6.140 In addition, the residential component should meet or exceed level 4 of the Code for Sustainable Homes; and any non residential development should be rated as 'Excellent' in the appropriate BREEAM assessment.

6.141 The Greater London Authority consider that the compatibility of combined heat and power plant and biomass boiler technology is a concern as is the deliverability of a biomass boiler in this location.

6.142 The submission has been reviewed by the Council's Forward Planning Team in respect of energy. Various discrepancies are highlighted in the documentation. It is proposed the residential accommodation would achieve a Code for Sustainable Homes Level 3 rating with an aspiration to

achieve level 4 and the exhibition building would achieve BREEAM rating 'very good' with an aspiration to achieve 'excellent'. However, further assessment is sought relating to different energy types. The energy efficient measures proposed are welcomed which are expected to result in a 10% reduction of the energy demand. However, analysis of this part of the submission has highlighted further discrepancies in the documents. The aspiration rather than commitment of the applicant to reach these higher levels of performance is disappointing.

6.143 The gas fuelled CHP system proposed is not a renewable energy source and so does not count towards meeting the renewable energy target of 20% from London Plan policy 4A.7. A biomass boiler is the only renewable technology proposed but would only provide CO2 emission savings of 2% which is far from the 20% emissions reduction stated in London Plan policy 4A.7. Moreover, concerns are raised related to this technology including the negative effect on almost all pollutants which is important given the borough's designation as an Air Quality Management Area. The flues required would rise up to a height of 2.4 metres above roof level giving rise to a significant visual impact. A back-up gas boiler is proposed which is only supposed to operate when the heat demand is higher than the CHP and biomass boiler than supply yet this is three times the size of the systems proposed to provide most of the heating demands.

6.144 Overall, in respect of energy and sustainability, it is considered that the applicant has more work to do to either improve the performance of the development such that 20% of the peak energy demand is met by renewable sources and the BREEAM/Code for Sustainable Homes ratings are improved or demonstrate that such improvement is not feasible.

Utilities

6.145 The applicant has undertaken an assessment to evaluate the effects of the development on the existing local utilities and services network including power, gas, telecommunications and water.

6.146 Thames Water have reviewed the application and recommend a Condition in respect of the proposed swimming pool. They request that the applicant incorporates protection by installing a non-return valve to avoid the risk of backflow from the sewerage network. They recommend that oil interceptors are

fitted in all car parking areas. They have no objection with regard to water infrastructure.

Waste, refuse and recycling

6.147 The submission states that the site would generate approximately 134.4 tonnes of waste each year and that 71.5 tonnes would be generated by the residential element of the proposal. A waste management strategy is proposed as mitigation and this could be secured by a section 106 agreement if the application were considered acceptable in all other respects. This strategy could contain details and obligations relating to waste segregation and recycling. The applicant also proposes a Green Procurement Code and Resource Waste Management Strategy which could also be secured by section 106 agreement.

6.148A dedicated waste store is proposed within the exhibition building and space is proposed within the basement for residential waste storage.

7.0 PUBLIC CONSULTATION

7.1 Full consultation responses from key consultees are appended to this report.

7.2 Before and after the submission of the applications, the applicant undertook their own public consultation, separate from the Local Planning Authority's statutory public consultations.

7.3 Beginning in 2007, prior to submission, the applicant set up a project email address, telephone number and freepost postal address to answer queries about the proposal. They prepared newsletters and a website and have undertaken various community involvement activities including introductory meetings, site tours, informal briefings to Councillors and Amenity Groups, and public exhibitions. The purpose of these activities was to explain the project to local people and stakeholders, answer questions and provide clarification, obtain feedback from the local community and stakeholders and to generate input to the design process based on local view and concerns.

7.4 Separate from the applicant's consultations, the Local Planning Authority sent letters of notification about this proposal to 244 addresses within the vicinity of the application site, in accordance with statutory requirements, a site notice

was displayed at the entrance to the site on Kensington High Street and the applications were advertised in the local press.

- 7.5 At the time of writing 137 representations had been received, of which 1 representation was commenting on the proposal, 2 representations were in support of the proposal and 134 were objecting to the proposal.
- 7.6 The representations received in support of the proposal state that the proposed development would:
- (1) provide a contemporary museum/exhibition space;
 - (2) retain the roof and shell of the building;
 - (3) meet the Council's vision for the site;
 - (4) provide a new home for the Design Museum;
 - (5) provide residential accommodation which is a suitable use for the site;
 - (6) provide an opportunity which should be seized; and
 - (7) end neglect of the site.
- 7.7 One letter of comment has been received which observes the number of documents and drawings submitted with the applications and asks that a general overview document is made available for public scrutiny as well as 3D images so that the proposal may be better understood.
- 7.8 The remaining letters received in response to the proposal all object on the grounds that the proposed development would:
- (1) only focus on preservation of the roof of the exhibition building;
 - (2) not be based on a proper conservation assessment;
 - (3) be contrary to advice in PPG15;
 - (4) be based on an assessment following English Heritage's 2005 letter but conservation has moved on since then;
 - (5) conflict with the planning brief;
 - (6) be contrary to English Heritage's 'Conservation Principles';
 - (7) be contrary to the Holland Park Conservation Area Proposals Statement;
 - (8) affect views from Holland House;
 - (9) affect the sylvan setting of the area;
 - (10) render the main building unusable because of the demolition of the administration block;
 - (11) result in invasive and expensive alterations to the building which would render it unusable;

- (12) overwhelm the roof of the main building;
- (13) include new blocks which would dominate and which would be out of scale and character with the area;
- (14) fail to respect the character of the area;
- (15) not respect the importance of the link between the High Street and Holland Park;
- (16) be based on a submission in which the proposed listed building works are only indicative;
- (17) result in the removal of work of one of the foremost post-war exhibition designers;
- (18) result in an uncertain future for the building;
- (19) increase traffic, congestion, pollution and parking stress;
- (20) be contrary to the London Plan;
- (21) be contrary to the UDP;
- (22) have an environmental impact worse than that reported by the applicant's Environmental Statement;
- (23) be unacceptable as it is accompanied by supporting documents which contain spurious assumptions in support of the proposal on planning policy grounds;
- (24) affect the Air Quality Management Area and worsen air quality;
- (25) block out light for neighbouring occupiers;
- (26) result in an unusable building whilst the developer benefits from a gross overdevelopment of the site;
- (27) result in a substantial number of significant losses;
- (28) result in a loss of the majority of the architectural and historic interest of the grade II* listed building which has been defined by English Heritage as one of the most important post-war buildings;
- (29) result in the destruction of views identified as sacrosanct;
- (30) result in the destruction of open space;
- (31) overwhelm the iconic qualities of the parabolic roof;
- (32) result in a loss of space accessible to the public;
- (33) swamp the listed building;
- (34) pay no respect to its context;
- (35) overshadow the listed building;
- (36) be a lost opportunity for other uses such as a winter indoor Holland Park Opera, art gallery, exhibition space, covered farmers' market, theatre or convention centre;
- (37) affect views through and across the park;
- (38) affect the setting of Holland House;
- (39) threaten wildlife and the natural environment;
- (40) cause disruption, noise and dust during construction;
- (41) affect the ecological balance of the woodland and wildlife environment;
- (42) not relate well to the surrounding environment;
- (43) threaten the sense of tranquillity in the surrounding area;

- (44) aggressively clash with the surrounding low rise period buildings;
- (45) deny the listed building the space it deserves;
- (46) overshadow surrounding properties;
- (47) result in an increased sense of enclosure;
- (48) result in a loss of privacy to neighbouring buildings and property;
- (49) affect the openness of the adjacent Metropolitan Open Land of Holland Park;
- (50) affect public enjoyment of Holland Park;
- (51) integrate the tent with the park which is an entirely spurious proposal as the boundary walls are necessary to shield the park from the noise and bustle outside it;
- (52) harm Kensington High Street by removing the square formed by the forecourts of the Commonwealth Institute and the Odeon;
- (53) be the result of the lack of a proper conservation assessment of the building and the site;
- (54) fail to reach the Code for Sustainable Homes level required by the planning brief;
- (55) not be an energy efficient form of development;
- (56) result in 'urbanisation' of the park;
- (57) be the result of insufficient evidence that refurbishment and extension of the administration and conference wings are not a viable alternative to demolition;
- (58) be based on insufficient regard to the planning brief;
- (59) be based on documents which do not show views of the proposal from Melbury Court;
- (60) be reliant upon the considerate behaviour of residents of the development to mitigate the impact of noise on neighbouring occupants and this is unacceptable;
- (61) include major air-conditioning extracts against neighbour's boundary walls;
- (62) affect the security of neighbouring properties;
- (63) have a grain which conflicts with that of the surrounding development;
- (64) provide dark and confined spaces between buildings;
- (65) be based on drawings which misrepresent the proposal;
- (66) repeat the mistake of the Park Close tower blocks;
- (67) include roof terraces which would result in disruption and a loss of privacy to neighbouring occupiers;
- (68) result in the loss of the flagpoles, the covered walkway and the Sylvia Crowe garden;
- (69) result in the loss of space and openness which visitors to the site currently enjoy;
- (70) result in the substantial loss of trees;

- (71) affect the use of Holland Park including during the construction period;
- (72) radically change the skyline and the character of this part of the park;
- (73) be a crude design;
- (74) over 'urbanise' the site;
- (75) not provide enough space for the Design Museum;
- (76) be contrary to English Heritage advice;
- (77) affect views from Earl's Court Road;
- (78) affect views from the Holland Park, Kensington, Edwardes Square, Scarsdale and Abingdon Conservation Areas;
- (79) include inadequate open space for the public;
- (80) include unacceptable levels of public access;
- (81) privatise the southern part of Holland Park;
- (82) affect the architectural significance of the building;
- (83) fail to provide affordable housing;
- (84) be based on unacceptable documents;
- (85) result in the loss of views of the building because of the enabling development;
- (86) be on too small a site;
- (87) be based on an inadequate Environmental Impact Assessment;
- (88) be contrary to the Council's Tall Building's guidance;
- (89) follow a Supplementary Planning Document which has never been adopted and so does not follow its requirements;
- (90) result in the destruction of the historic gardens and landscape;
- (91) be a departure from development plan policies and should have been advertised as such during the consultation period and should be called-in for determination by the Secretary of State;
- (92) have an architectural style which is not in-keeping with the neighbourhood;
- (93) result in the erection of residential blocks the design of which is 'common';
- (94) disrupt the tranquil and rural space of Holland Park;
- (95) not be occupied by the Design Museum who lack commitment to the proposal;
- (96) provide a cinema which is not needed as there is one on the opposite side of the road as well as ample health and beauty and fitness facilities; and
- (97) destroy the homes of wildlife including woodpeckers, owls and sparrows.

- 7.9 Councillor Lightfoot objects to the proposal in particular the erection of blocks of flats within the curtilage of the building and the substantial changes to the principle listed building.
- 7.10 Councillor Levitt does not support an objection raised by an occupant of Park Close. The main objection is that the Park Building would be 10 storeys high which is misleading as it would only be six storeys above ground level.
- 7.11 A sample of the representations received are attached to this report. With the exception of the points noted below, all of the above points have been discussed in section 6 of this report and will be further discussed and addressed in any further report pursuant to the determination of these applications.
- 7.12 Points raised above not specifically addressed in section 6 of the report relate to noise, dust and disruption during the construction period and whether or not the proposal represents a 'departure' from the development plan. Noise, dust and disruption experienced during construction is a matter generally dealt with by Environmental Protection Act 1990 and/or the Control of Pollution Act 1974. However, for this proposal the applicant proposes a 'Construction Environmental Management Plan' which would be subject to agreement by the Royal Borough and which would set out how noise, dust and disruption during construction would be mitigated. In respect of whether the proposal represents a 'departure' from development plan policy, the Council's position is being considered and will be reported in the Pre-Committee Memo.
- 7.13 Any further representations received after this report has been written will be reported in the Pre-Committee Memo. Any letters received after this report and the Pre-Committee Memo have been written will be reported verbally at the Major Planning Development Committee where this report will be considered.

8.0 CONCLUSIONS

- 8.1 An enabling development package is proposed for this site in order to secure the future of the listed building. A key issue is whether this radical approach to the site would meet that aim.
- 8.2 There are positive aspects of the proposals including the main selling point of the scheme, the re-use of the tent, potentially

by the Design Museum, better links to the park and potentially the creation of an interesting and lively public space and a strong contribution to the vitality and viability of Kensington High Street. In terms of the listed building, the duty to preserve its special architectural or historic interest would be fulfilled.

- 8.3 However, the proposal is let down by the wholesale changes to the cladding. This needs further consideration by the applicant. In addition, in the opinion of the Conservation and Design Manager, the enabling residential development would not be subservient to the tent and would not preserve or enhance the character or appearance of the Conservation Area nor would it preserve the setting of the listed building. The design of the open areas also needs to be reviewed.
- 8.4 That said, in order to secure the future of the listed building some enabling development would be required which would affect the character and appearance of the Conservation Area and the setting of the listed building. The conservation arguments therefore pull in different directions.
- 8.5 The proposal as presented would provide the very significant benefit of a new visitor attraction in the Royal Borough which would create jobs and has the potential to bring a significant amount of additional visitors and cultural enrichment to Kensington High Street. This would in turn make a contribution to the vitality and viability of this Principle Shopping Centre and help it compete with rival centres.
- 8.6 There are, however, outstanding issues which officers consider need to be resolved either through amendments to the proposal and/or further negotiation in respect of section 106 planning obligations or Conditions if the committee believes the application should continue to be negotiated. There are key outstanding issues aside from the works to the listed building; the impact of the proposal on the listed garden; the impact on the setting of Conservation Areas and the listed building and the impact of the proposal on trees.
- 8.7 These outstanding issues include: the volume of development on the site and if and how this should be reduced; the mechanism by which the Design Museum as the proposed occupant can be secured as far as possible; landscaping; security; public realm; section 106 contributions; transport issues relating to parking and vehicle movements; flooding and drainage; air quality; and energy and sustainability.

- 8.8 A steer is sought on how members wish officers to proceed in respect of the above issues or whether the applications should be determined as they are.

9.0 **RECOMMENDATION**

That the Committee agree on how Officers should proceed with the applications, and decide on one of three courses of action as follows:

- (1) Comment on the proposal and provide officers with direction on those matters which members wish officers to **negotiate** on with the applicant before bringing the applications back to a future committee for a formal decision.

or

- (2) Instruct officers to prepare a report recommending the **grant** of planning permission, listed building consent and conservation area consent, subject to Conditions and Heads of Terms for a Section 106 Planning Obligation which would be drafted by officers, on the basis of reasons highlighted by members as to why they consider the proposal to be acceptable, with the benefits and disbenefits of the proposal in mind.

or

- (3) Instruct officers to **refuse** the applications so that officers may then proceed to prepare a delegated report refusing planning permission, listed building consent and conservation area consent for reasons highlighted by the committee in addition to any other matters which officers identify in this report or which come to light following the meeting, with the benefits and disbenefits of the proposal in mind.

- 9.1 If members decided on course of action (1) i.e. to **negotiate**, guidance on the following would be helpful:

- 9.2 Does the committee agree the internal works to the listed building are acceptable given the importance of the building is its roof and its iconic external appearance and that the proposal would secure this as far as could be expected?

- 9.3 Does the committee agree the loss of the listed garden is acceptable given development on the site is required to fund the repair and long term future of the 'tent'?
- 9.4 Does the committee agree the volume of development proposed should be reduced by the amount identified by the VOA to be the minimum necessary to secure the repair and long term future of the tent?
- 9.5 Does the committee agree the loss of trees and the risk of losing the trees which would be transplanted is acceptable to enable the development of the residential accommodation?
- 9.6 Does the committee agree the benefits of the proposal to Kensington High Street Principle Shopping Centre are sufficient to outweigh the visual harm which would be caused by the development and the adverse impact on the listed building?
- 9.7 Does the committee agree the opportunity of providing a new home for the Design Museum and the risk of the building remaining empty if this proposal is not approved are sufficient to outweigh the conservation cost of the works to the listed building and the impacts on it setting and that of the park, garden and Conservation Areas and that therefore officers should negotiate with the applicant to resolve all outstanding matters?
- 9.8 Does the committee have any comments on the following?
- (a) The design of the High Street Building
 - (b) The public realm
 - (c) Landscaping and security
 - (d) Parking provision for cars and cycles
 - (e) Renewable Energy Regeneration
- 9.9 Does the committee agree that, if approved, the proposal's section 106 agreement should secure (inter alia) the following?
- (1) Air Quality Measures and Low Emission Strategy
 - (2) Car Club
 - (3) Children's Play Space
 - (4) Community Facilities
 - (5) Construction Environmental Management Plan
 - (6) Construction Traffic Management Plan

- (7) Construction Training
- (8) Cycle Hire Scheme
- (9) Detailed Schedule of Works to the 'Tent'
- (10) Ecological Management Plan
- (11) Education Contribution
- (12) Employment and Training
- (13) Energy Efficiency Plan
- (14) Exclusivity Period for the Design Museum
- (15) Future Use of the Exhibition Building to a Public Institutional Use to be agreed by the Executive Director
- (16) Green Procurement Code
- (17) Health Facilities
- (18) Holland Park Contribution
- (19) Kensington High Street Revitalisation Contribution
- (20) Legal Costs of Council
- (21) Libraries
- (22) Maintenance Plan for the 'Tent'
- (23) Monitoring Fee
- (24) Occupant lease and rent details
- (25) Open space contributions
- (26) Permit Free
- (27) Phasing and timing of works to the listed building
- (28) Phasing Plan
- (29) Policing/crime prevention
- (30) Public art Contribution
- (31) Security Strategy (to include CCTV)
- (32) Servicing, Delivery and Vehicle Management Plan
- (33) Site Waste Management Plan
- (34) Sport and Leisure Facilities Contribution
- (35) Streetscape Improvement
- (36) Traffic Management Plan
- (37) Travel Plans
- (38) Tree works phasing and contingency
- (39) Viability Assessment Fee
- (40) Waste Management Strategy

10.0 APPENDICIES

- 1. Planning Application Drawing Numbers
- 2. Listed Building Consent Application Drawing Numbers
- 3. Conservation Area Consent Application Drawing Numbers
- 4. RBKC Access Comments
- 5. RBKC Arboricultural Observations
- 6. RBKC Architectural Appraisal Comments
- 7. Commission for Architecture and the Built Environment (CABE) Response

8. Demolition Bodies – Ancient Monument Society
9. Demolition Bodies - Council for British Archaeology
10. Demolition Bodies - Twentieth Century Society Response
11. RBKC Design Observations
12. RBKC Ecology Observations
13. RBKC Energy Assessment
14. English Heritage Response (16 January 2009)
15. Environment Agency Response
16. RBKC Environmental Health Observations – Air Quality
17. RBKC Environmental Health Observations – Land Contamination
18. RBKC Environmental Health Observations – Noise and Vibration
19. RBKC Flooding Assessment
20. Greater London Authority Response
21. Natural England Response
22. Thames Water Response
23. RBKC Transportation Observations

**DAVID PROUT
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH
DEVELOPMENT**

List of Background Papers:

The contents of files PP/09/00839, LB/09/00840 and CC/09/00841 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

**Report Prepared By: LP
Report Approved By: DT/DP
Date Report Approved: 25/06/2009**

