

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 77
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE)
(ENGLAND) RULES 2000, RULE 14

CALL-IN INQUIRY BY DIRECTION OF THE SECRETARY OF STATE FOR
REDEVELOPMENT AT NEWCOMBE HOUSE, 45 NOTTING HILL GATE,
39-41 NOTTING HILL GATE AND 161 – 237 (ODD) KENSINGTON
CHURCH STREET, LONDON

APP/G6100/V/19/3225884

**STATEMENT OF COMMON GROUND BETWEEN THE
APPLICANT, THE GREATER LONDON AUTHORITY AND
THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA**

OCTOBER 2019

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1 INTRODUCTION

1.1 The Relevant Parties

1.1.1 This Statement of Common Ground ("**SoCG**") has been agreed between:

- **The Applicant:** Quod of Ingeni Building, 17 Broadwick St, London W1F 0AX, acting as agent on behalf of Notting Hill Gate KCS Limited (the "**Applicant**");
- **The Local Planning Authority:** The Greater London Authority ("**GLA**") acting on behalf of the Mayor of London (the "**Mayor**"); and
- **Rule 6 Party:** The Royal Borough of Kensington and Chelsea ("**RBKC**" or the "**Council**").

1.1.2 The Applicant submitted a planning application to RBKC on 8 September 2017 and it was given reference number PP/17/05782 (the "**Application**").

1.1.3 The agreed description of development (as amended¹) is:

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

1.1.4 Pursuant to the powers conferred on him by section 2A of the Town and Country Planning Act 1990, the Mayor became the local planning authority in respect of the Application following his issuing of a direction under those powers on 26 March 2018.

1.1.5 Pursuant to a direction dated 14 March 2019, the Application was subsequently called in by the Secretary of State under his powers in section 77 of the Town and Country Planning Act 1990.

1.1.6 The Mayor will, as the Local Planning Authority, be represented at the inquiry by officers of the GLA. RBKC was granted Rule 6 status by PINS on 3 May 2019.

¹ The description of development was amended in July 2018 following the submission of amendments to the Mayor of London. The amendment increased the number of residential units from 46 to 55.

- 1.1.7 The purpose and scope of this SoCG is to identify areas of common ground between the Applicant, the Mayor and RBKC in respect of the Application. The SoCG will also identify any issues of contention.
- 1.1.8 A separate Statement of Common Ground to cover Viability and Affordable Housing matters is agreed between the Applicant and GLA.
- 1.1.9 It is anticipated that a separate Statement of Common Ground to cover heritage matters would be prepared in advance of the inquiry following the exchange of evidence if expedient to do so to narrow the grounds of dispute.
- 1.1.10 The SoCG is being prepared in accordance with Rule 14 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and the Planning Inspectorate's Procedural Guide to Planning Appeals – England (19 March 2019), as required in the letter from PINS dated 14 March 2019.
- 1.1.11 This SoCG also refers to documents which are agreed to be relevant to this case.
- 1.1.12 The measurements within this document have been prepared in accordance with the RICS Code of Measuring Practice (6th Edition).

2 EXISTING SITE AND SURROUNDINGS

2.1 Location of the Site

- 2.1.1 The application site is an area of approximately 0.52 hectares in RBKC (the “**Site**”).
- 2.1.2 The Site is bounded by Notting Hill Gate to the north, Kensington Church Street to the east, Kensington Place to the south and the District and Circle Underground line and a London Underground Limited (“**LUL**”) substation to the west.
- 2.1.3 The Site is located adjacent to Notting Hill Gate Underground Station, which is on the Central, District and Circle lines. As a result, the Site has an excellent level of accessibility to public transport illustrated by a Public Transport Accessibility Level of 6b (the highest possible level).

2.2 Existing Buildings and Uses

- 2.2.1 The Site currently comprises the following:
- Newcombe House (43-45 Notting Hill Gate) – an office building of ground plus 11 storeys plus plant (B1 Use Class);
 - 39-41 Notting Hill Gate & 209-237 Kensington Church Street – a linear block of 1 to 2 storeys along Kensington Church Street accommodating shops and restaurants (A1 & A3 Use Class);
 - Royston Court (161-207 Kensington Church Street) – a building of ground plus 4 storeys with retail at ground floor (A1 & A3 Use Class) and 20 vacant bedsit residential units on upper floors (C3 Use Class);
 - A surface car park of 61 spaces; and
 - Newcombe Street and part of Uxbridge Street.
- 2.2.2 Collectively the buildings are often referred to as the “**Newcombe House site**”, having been constructed together in the late 1950s and early 1960s as part of a major redevelopment of Notting Hill Gate that followed a road widening scheme by the London County Council (“**LCC**”).
- 2.2.3 The slab form of Newcombe House, together with the large car park, undercroft and low-rise buildings are typical of a 1960s town centre design approach.

- 2.2.4 The setting back of Newcombe House from the existing building line on Notting Hill Gate arose due to the engineering challenge of building over the Underground's interchange tunnel in the 1960s. To access the set back of the existing Newcombe House, a podium has been constructed.
- 2.2.5 The area in front of Newcombe House, fronting Notting Hill Gate, detracts from the public realm and access arrangements limit permeability to the site.
- 2.2.6 The existing car park in the middle of the Site, including part of Uxbridge Street, is private land and is not public highway. The area provides 61 car parking spaces as well as space for the storage and collection of refuse and the provision of a farmers' market every Saturday morning. It is also used as an unofficial vehicular route through from Hillgate Village.
- 2.2.7 The existing buildings on the Application Site are in a poor state of repair.
- 2.2.8 The Site is in need of regeneration.

3 PLANNING APPLICATION BACKGROUND AND PROCESS

3.1 Introduction

3.1.1 The Site was acquired by the Applicant in 2011 and has subsequently been the subject of two applications for planning permission. This section provides a detailed account of the two applications, with a summary table of the more extensive planning history provided at Appendix 1. A table containing the relevant key dates for each application is also set out at Appendix 2.

3.2 The Previous Application (2015-2017)

3.2.1 On 30 November 2015, the Applicant submitted an application for planning permission to RBKC (ref: PP/15/076020) (the "**Previous Application**"). The Previous Application sought permission for substantially similar development to the Application, the main difference being that it included 46 housing units, all of which were for private sale. A Section 106 obligation was proposed, inter alia, to provide funds towards off site affordable housing. A table comparing the Previous Application with the 2017 submission and the 2018 amendments is provided below in table 3-1. It confirms that the height and massing of the Corner Building in the Previous Application was the same as the current Application and the materiality of the scheme was also retained.

3.2.2 The Previous Application was refused by RBKC on 29 April 2016, contrary to the recommendation of RBKC officers, who had recommended that the application be approved (CD 10.4 (Previous Application Committee Report) and CD 10.9 (Previous Decision letter)).

3.2.3 The Applicant appealed the refusal of the Previous Application (ref: APP/K5600/W/16/3149585). The appeal was heard by an Inspector appointed by the Secretary of State, Mr David Nicholson, at an inquiry on 14-17 February 2017.

3.2.4 The appeal was not recovered by the Secretary of State.

3.2.5 By a decision letter dated 12 June 2017, the Inspector dismissed the appeal (the "Inspector's Decision") (CD 10.22).

3.2.6 Following the dismissal of the Previous Application, the Applicant reengaged with the Council and the GLA in pre-application discussions in August 2017 for the Applicant to prepare a resubmission that sought to address the Inspector's comments.

3.3 The Current Application (2017-2019)

- 3.3.1 A second planning application (the “**Application**”) was submitted in September 2017, which retained the same scheme design as the previous application but included on site affordable housing in place of market housing previously proposed in Building KCS2 (RBKC ref: PP/17/05782, GLA ref: GLA/3109). All other public benefits were retained and a Financial Viability Assessment was submitted with the application to demonstrate that the nine affordable units proposed would be the maximum reasonable level that could be achieved (19.5% of units, 14% of floorspace).
- 3.3.2 On 29 November 2017 the Mayor published his Stage 1 report (CD 2.3) which advised that the overall redevelopment of the site was supported and considered to be compliant with the London Plan subject to issues around climate change and transport being addressed².
- 3.3.3 On 31 January 2018, against officer recommendation, RBKC resolved to refuse planning permission for the Development. The reasons for the decision are set out in the minutes of the Planning Committee (CD 3.5). The reasons for refusal related to the height of the tall building, the quality of the design and harm to the setting of nearby listed buildings and conservation areas, as well as concerns that the proposal would result in the loss of social rented homes and would not deliver the maximum reasonable amount of affordable housing.
- 3.3.4 In March 2018, having considered a report on the case, the Mayor notified RBKC that he would act as the local planning authority to determine the application (CD 2.4). In a statement released with the Stage 2 Report notifying the public of this action, the Mayor requested that the Applicant work with his planning officers to see if more genuinely affordable homes could be delivered within the development.
- 3.3.5 The Applicant worked with the Mayor’s officers and responded to the opportunity presented by the Mayor by amending the application to increase the delivery of on site affordable housing. The proposals increase the scale of two of the low rise perimeter buildings, West Perimeter Building 3 (“**WPB3**”) and Kensington Church Street 1 (“**KCS1**”), without significantly affecting the design principles which the Mayor supported in the Application as originally submitted.

² These topics were addressed by the Applicant prior to the RBKC Planning Committee on 31 January 2018 such that there were no outstanding matters at the time of the Council’s resolution.

3.3.6 The proposed amendments enabled the achievement of 35% affordable housing on site (41.8% by unit, 26.7% by floorspace (GEA)) whilst retaining all of the benefits of the submitted application. These amendments were formally submitted to the GLA on 9 July 2019 and a consultation period ran for seven weeks. The amendments can be summarised as:

- an increase in the number of homes (to a total of 55) and alterations to the housing mix;
- an increase in the proportion of affordable homes (to 35% by habitable room, 41.8% by unit number and 26.7% by floorspace (GEA));
- an increase in office floorspace of c. 414 sqm GEA (to a total of c. 5,306 sqm);
- the addition of one storey to Kensington Church Street Building 1 in C3 residential use (from four storeys to five);
- the addition of two storeys to West Perimeter Building 3 in B1 office use (from five storeys to seven);
- alterations to the layouts of Kensington Church Street Buildings 1 and 2, and West Perimeter Buildings 1 and 3, with associated changes to the facades;
- minor alterations to the façade of the Corner Building on levels 4, 5 and 6 which respond to the revised massing of West Perimeter Building 3; and
- minor alterations to the services strategy for West Perimeter Building 2.

3.3.7 A table comparing the Previous Application with the 2017 submission and the 2018 amendments is provided below in table 3-1.

3.3.8 To inform the Council's formal response to the Mayor's consultation, the amendments were presented to its Planning Committee on 7 August 2018. The Executive Director of Planning and Development recommended that the Council raise no objection to the amended application subject to the satisfactory completion of a Section 106 Agreement.

3.3.9 Acting against the officer recommendation, members of the committee resolved to object citing reasons related to the height of the tall building, WPB2 and KCS1, the quality of the design and harm to the setting of nearby listed buildings and conservation areas, as well as concerns that the proposal

would result in the loss of social rented homes and would not deliver the maximum reasonable amount of affordable housing.

3.3.10 A Representation hearing was held by the Mayor on 18 September 2018 (CD 3.12 (Representation Hearing Report)). The Mayor resolved to grant approval on the same day subject to the completion of a Section 106 Agreement.

3.3.11 On 14 March 2019, the Secretary of State (the “SoS”) called-in the application for his own determination. No reasons were given for why the application was called-in.

3.3.12 For a comprehensive timeline of the key dates see Appendix 4.

3.4 Schedule of Amendments

3.4.1 For ease of understanding, the differences between the Previous Application, the Application as submitted in 2017 and the Application now the subject of the Secretary of State’s direction (i.e. as amended in 2018), are summarised below in Table 3-1:

	Previous Application (2015)	Application (2017)	2018 Amendments to Application
Retail Floorspace (GEA)	3,138 sqm	3,138 sqm	2,935 sqm
Office Floorspace (GEA)	5,036 sqm	4,892 sqm	5,306 sqm
Surgery Floorspace (GEA)	1,003 sqm	1,003 sqm	1,075 sqm
Residential Floorspace (GEA)	9,848 sqm	9,992 sqm	10,585 sqm
Residential Units	46		55
On Site Affordable Housing	Nil on site	19.5% of units 16.8% of habitable rooms 14% of floorspace (GEA)	41.8% of units 35.3% of habitable rooms 26.7% of floorspace (GEA)
Off Site Affordable Housing	Payment in Lieu of on site provision (£2.5m)	10 units 30 hab rooms	
Corner Building: NHG Building Central Form East Form		Ground plus 3 Ground plus 17 Ground plus 13	
KCS 1	Ground plus 3		Ground plus 4
KCS 2		Ground plus 3	
WPB 1		Part ground plus 1 Part ground plus 2	
WPB 2		Ground plus 2	
WPB 3	Ground plus 4		Ground plus 6
Key Public Benefits	Step free access to Underground ticket hall and District and Circle Line (Southbound) Cycle hire stand Small independent retail units Public square with connecting routes Reprovision of space for Farmers' Market		
Car parking (GEA)	1,891 sqm	1,891 sqm	2,054
Servicing and centralised plant	1,284 sqm	1,284 sqm	1,302

Table 3-1 Schedule of differences between the applications

3.5 Application for Listed Building Consent

3.5.1 An application for Listed Building Consent was approved by the Council on 23 September 2019 (reference: LB/19/03662) in relation to works to the wall of the Grade II listed Notting Hill Gate Underground Station that adjoins the Site. Listed Building Consent would be necessary for the Application to be built out.

3.5.2 The application sought consent for:

*"Construction of new wall adjacent to wall of listed station building; associated flashing and rainwater collection guttering attached to listed wall. Creation of step-free access safeguarding zone between platform level and ticket hall level involving the construction of walls abutting the existing listed station building wall" (the "**Listed Building Consent**")*

3.5.3 The works entail the construction of a new wall adjacent to the listed building with associated flashing and rainwater collection guttering attached to the top of the listed wall. The alterations adjacent to the wall would not cause harm to the special architectural or historic interest of the listed structure.

3.5.4 Consent was previously granted by the Council for the same works to the wall of the listed station on 29 April 2016 (ref: LB/16/00466).

4 PROPOSED DEVELOPMENT

- 4.1.1 The Development comprises six buildings across the Site. A Key Building Plan is shown below at Figure 4.1. The 'Corner Building' is comprised of the Central Form, East Form, Notting Hill Gate building (NHG) and glass links (GL).

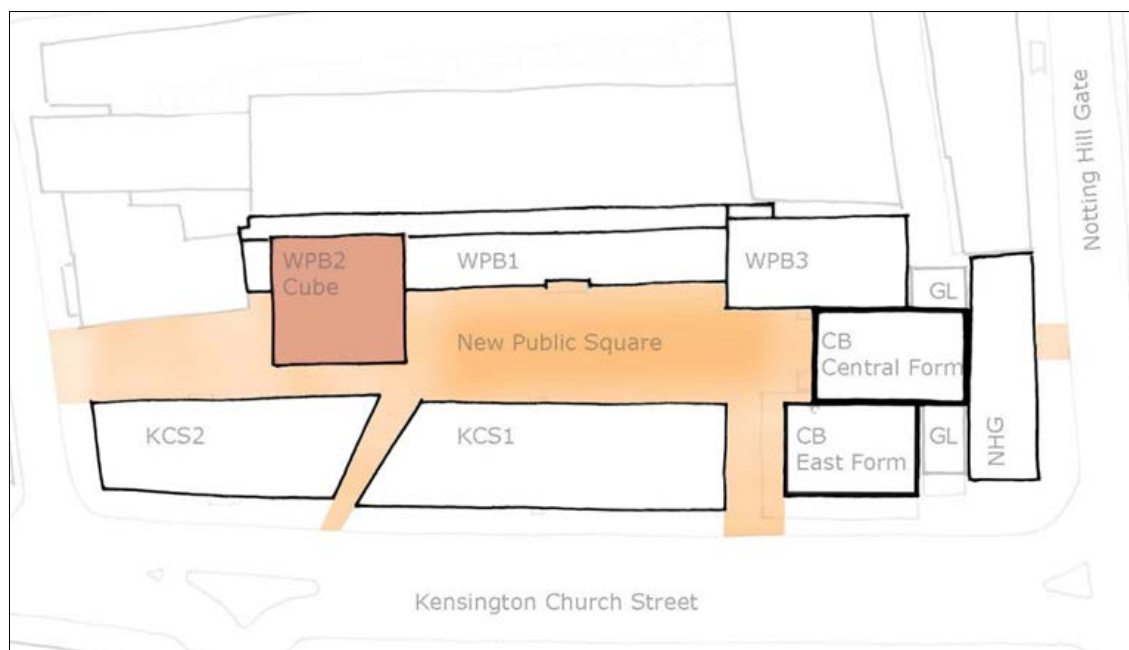


Figure 4-1 Key Building Plan

- 4.1.2 Existing and proposed floorspace areas of the Development are set out below in Table 4.1.

	Existing		Proposed	
	GIA (sqm)	GEA (sqm)	GIA (sqm)	GEA (sqm)
Office (use Class B1)	5,206	5,562	4,765	5,306
Surgey / Office (Use Class D1/B1)	-	-	952	1,075
Retail (Use Class A1/A3)	2,569	2,790	2,638	2,935
Residential (Use Class C3)	955	1,071	9,339	10,585
Car Park	-	-	1,953	2,054
Servicing and Centralised Plant	413	433	1,118	1,302
Total	9,143	9,856	20,765	23,257

Table 4-1 Existing and Proposed Floorspace

4.1.3 The height of the existing Newcombe House building is 73.8m (AOD). The level at the corner of Notting Hill Gate is 27.55m AOD (for reference).

4.1.4 The heights and uses proposed within the individual buildings are set out below in Table 4.2.

Building Name	Height (storeys)	Height (AOD)	Proposed Use
Corner Building, including: Notting Hill Gate Building Central Form East Form	Ground plus 3 Ground plus 17 Ground plus 13	45.93 m 99.35 m 82.78 m	Retail, office and residential
KCS 1	Ground plus 4	45.565 m	Retail and residential
KCS 2	Ground plus 3	42.29 m	Retail and residential
WPB 1	Part ground plus 1 Part ground plus 2	36.81 m 38.15 m	Retail and residential
WPB 2	Ground plus 2	39.71 m	Office
WPB 3	Ground plus 6	56.33 m	Retail, office and surgery

Table 4-2 Breakdown of building heights and uses

4.2 Public Realm

4.2.1 The layout of the Development has been arranged so that it would provide new level and accessible pedestrian routes through and around the Site.

4.2.2 The Development includes a new public square of 876sqm. The public square would be fully accessible and would be pedestrianised, except for emergency vehicles.

4.2.3 Thirty parking spaces are proposed within the basement (25 for residential use and 5 for surgery use), with access from Uxbridge Street at the northern end of the Site and an egress on to Newcombe Street at the southern end of the Site, thus avoiding the need for vehicles to cross the public square.

4.2.4 A total of 265 bicycle parking spaces are proposed across the development split between different uses. In addition, a new cycle hire docking station would be provided on Uxbridge Street to provide 25 spaces.

- 4.2.5 Servicing would be undertaken from the existing bays surrounding the Site on the surrounding road network, which have been demonstrated to have sufficient capacity.

4.3 Residential Accommodation

- 4.3.1 Fifty-five residential units would be provided within four of the buildings. The proposals deliver a range and mix of unit types and sizes. The proposed residential mix is set out below in Table 4-3.

Building Name	1 bed	2 bed	3 bed	4 bed	Total
Corner Building	-	-	18	3	21
KCS 1	7	6	2	-	15
KCS 2	12	3	-	-	15
WPB 1	-	-	4	-	4
Total	19	9	24	3	55

Table 4-3 Residential Mix

- 4.3.2 Of the fifty-five units, twenty-three units are proposed to be affordable (41.8%). The mix of units proposed as affordable and private is set out below in Tables 4-4 and 4-5.

Building Name (affordable)	1 bed	2 bed	3 bed	4 bed	Total
WPB 1	-	-	4	-	4
KCS 1	2	-	2	-	4
KCS 2	12	3	-	-	15
Total	14	3	6	0	23

Table 4-4 Affordable Residential Mix

Building Name (private)	1 bed	2 bed	3 bed	4 bed	Total
Corner Building	-	-	18	3	21
KCS 1	5	6	-	-	11
Total	5	6	18	3	32

Table 4-5 Private Residential Mix

4.3.3 The Applicant's proposed tenure split for the 23 affordable rented homes is:

1. 15 units at London Affordable Rent tenure, which is the most affordable tenure and is equivalent to Social Rent; and
2. 8 units Discounted London Living Rent tenure, which is intermediate tenure housing.

4.3.4 The split between these tenures is approximately 65% London Affordable Rent and 35% Discounted London Living Rent when calculated by units, or broadly 50:50 on the basis of habitable rooms or floorspace.

4.3.5 Further detail on the affordable housing proposals is set out in the Viability and Affordable Housing Statement of Common Ground agreed between the Applicant and the GLA.

4.3.6 The residential accommodation has been designed where possible to meet and exceed residential standards within the Mayor's Housing Supplementary Planning Guidance (2016). Further detail on how these standards are achieved is set out within Appendix 2 of the Planning Statement submitted with the Application in 2017.

4.3.7 There are multiple residential entrances around the public square. The buildings that form the eastern edge of the Site also have access to the residential lobbies from Kensington Church Street enabling greater permeability across and through the Site.

4.4 Office Accommodation

4.4.1 The development would provide 4,765 sqm (GIA) of office floorspace.

4.4.2 At the southern end of the Site, West Perimeter Building 2 ("**WPB 2**") would be developed as a self-contained office building across 3 storeys with additional support facilities at basement -1 level. The building is also referred to as the 'Cube Building'.

4.4.3 At the northern end of the Site, office floorspace is provided on floors one to three of the Corner Building and WPB3. The proposed office floorspace would be an improved quality to the existing floorspace and would provide flexible space that could be occupied by a range of tenants.

4.4.4 There would be entrances to the office space at either end of the public square and on to Kensington Church Street.

4.5 Retail Accommodation

- 4.5.1 The Development would provide 2,638 sqm (GIA) of retail accommodation. Larger floorplate convenience retail (i.e. supermarkets) has been explicitly avoided, with a collection of smaller retail units providing the anchor to this location.
- 4.5.2 The retail units would be appropriate for local, independent retailers, as secured through the retail strategy in the section 106 agreement. Further details on the retail accommodation are set out in Section 5 of the Planning Statement submitted with the Application in 2017.
- 4.5.3 Conditions are agreed to prevent amalgamation of retail units and to restrict occupation to tenants that do not already occupy more than three retail units in the Borough.

4.6 Surgery Accommodation

- 4.6.1 Space for a new doctors' surgery is proposed within the upper floors of WPB3. The space has been designed in consultation with the NHS Commissioning Group and the owners of the two existing practices that have an agreement in place to lease the space.
- 4.6.2 Ancillary space and dedicated car parking for the surgery would be provided at basement level. Further details on the surgery accommodation are set out in Section 5 of the Planning Statement submitted with the Application in 2017.

4.7 Step Free Access to NHG Station ticket hall and District and Circle Line (Southbound)

- 4.7.1 The Development would provide step free access to Notting Hill Gate Underground Station from street level to the southbound platform of the Circle and District Line. The route would be linked to the platform level with a new lift within the site beneath WPB3, and a new lift along Notting Hill Gate. The space required has been safeguarded within the proposal and the works are required to be completed prior to the occupation of the development.

5 OVERVIEW OF RELEVANT PLANNING POLICY

5.1 THE DEVELOPMENT PLAN

5.1.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for development to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this context, the statutory development plan currently comprises the following:

- London Plan (The Spatial Development Strategy for London Consolidated with Alterations Since 2011) (2016) (the “London Plan”) – This is the spatial development strategy for London. It sets out an integrated economic, environmental, transport and social framework for the development of London over the next 20-25 years.
- The RBKC Local Plan (2019) (the “LP”) – The LP sets out the Borough’s vision to 2028³.
- LP Proposals Map (2019) – The Proposals Map sets out the planning designations across the Borough.

5.2 London Plan March 2016

5.2.1 The current London Plan was published in March 2016, having been consolidated with all the alterations to the London Plan since 2011. Policies relevant to the Application are set out below.

- Policy 1.1 (Delivering the strategic vision and objectives for London)
- Policy 2.1 (London in its global, European and United Kingdom context)
- Policy 2.9 (Inner London)
- Policy 2.15 (Town centres)
- Policy 3.1 (Ensuring equal life chances for all)
- Policy 3.2 (Improving health and addressing health inequalities)
- Policy 3.3 (Increasing housing supply)
- Policy 3.4 (Optimising housing potential)
- Policy 3.5 (Quality and design of housing developments)

³ The Applicant has referred to the RBKC Local Plan 2019 as the Revised Local Plan in its evidence.

- Policy 3.8 (Housing Choice)
- Policy 3.12 (Negotiating affordable housing on individual private residential and mixed use schemes)
- Policy 3.14 (Existing Housing)
- Policy 3.16 (Protection and enhancement of social infrastructure)
- Policy 3.17 (Health and social care facilities)
- Policy 4.1 (Developing London's economy)
- Policy 4.2 (Offices)
- Policy 4.3 (Mixed use development and offices)
- Policy 4.7 (Retail and town centre development)
- Policy 4.8 (Supporting a successful and diverse retail sector and related facilities and services)
- Policy 5.2 (Minimising carbon dioxide emissions)
- Policy 5.3 (Sustainable design and construction)
- Policy 5.6 (Decentralised energy networks)
- Policy 5.9 (Overheating and cooling)
- Policy 5.10 (Urban greening)
- Policy 5.11 (Green roofs and development site environs)
- Policy 5.12 (Flood risk management)
- Policy 5.13 (Sustainable drainage)
- Policy 5.21 (Contaminated land)
- Policy 6.1 (Strategic Approach)
- Policy 6.2 (Providing public transport capacity and safeguarding land for transport)
- Policy 6.3 (Assessing effects of development on transport capacity)
- Policy 6.4 (Enhancing London's transport connectivity)
- Policy 6.5 (Funding Crossrail and other strategically important transport infrastructure)
- Policy 6.7 (Better streets and surface transport)
- Policy 6.9 (Cycling)
- Policy 6.10 (Walking)
- Policy 6.11 (Smoothing traffic flow and tackling congestion)
- Policy 6.13 (Parking)
- Policy 7.1 (Lifetime Neighbourhoods)
- Policy 7.2 (An inclusive environment)
- Policy 7.3 (Designing out crime)

- Policy 7.4 (Local character)
- Policy 7.5 (Public realm)
- Policy 7.6 (Architecture)
- Policy 7.7 (Location and design of tall buildings)
- Policy 7.8 (Heritage assets and archaeology)
- Policy 7.9 (Heritage led regeneration)
- Policy 7.12 (Implementing the London View Management Framework)
- Policy 7.13 (Safety, security and resilience to emergency)
- Policy 7.14. (Improving air quality)
- Policy 7.15 (Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes)
- Policy 7.21 (Trees and woodlands)
- Policy 8.2 (Planning obligations)
- Policy 8.3 (Community infrastructure levy)

5.3 RBKC LP (2019)

- 5.3.1 The LP was adopted in September 2019. It was prepared as a ‘Partial Review’ of the Consolidated Local Plan (“CLP”), and incorporates both the “main modifications” recommended by the Inspector, and the “minor/additional” modifications published by the Council into the Local Plan Partial Review (LPPR) Publication Policies (2017).
- 5.3.2 The adopted LP replaces parts of the Consolidated Local Plan (2015) and the remaining saved policies within RBKC’s Unitary Development Plan (2007).
- 5.3.3 Policies relevant to this Application are set out below.
- CV1 Vision for the Royal Borough: Building on Success
 - CO1 Strategic objective for Keeping Life Local
 - CO2 Strategic objective for Fostering Vitality
 - CO3 Strategic objective for Better Travel Choices
 - CO4 Strategic objective for An Engaging Public Realm
 - CO5 Strategic objective for Renewing the Legacy
 - CO6 Strategic objective for Diversity of Housing
 - CO7 Strategic objective for Respecting Environmental Limits

- CV11 Vision for Notting Hill Gate in 2028
- CP1 Core Policy Quanta of Development
- C1 Infrastructure Delivery and Planning Contributions
- CF1 Location of New Shop Uses
- CF2 Retail Development within Town Centres
- CF3 Diversity of uses within Town Centres
- CF4 Street Markets
- CF5 Business Uses
- CT1 Improving alternatives to car use
- CT2 New and enhanced rail infrastructure
- CR1 Street Network
- CR2 Three-Dimensional Street Form
- CR3 Street and Outdoor life
- CR4 Streetscape
- CR5 Parks, Gardens, Open Spaces and Waterways
- CR6 Trees and landscape
- CR7 Servicing
- CL1 Context and Character
- CL2 Design Quality
- CL3 Heritage Assets – Conservation Areas and Historic Spaces
- CL4 Heritage Assets – Listed Buildings, Scheduled Ancient Monuments and Archaeology
- CL5 Living conditions
- CL7 Basements
- CL10 Shopfronts
- CL11 Views
- CL12 Building Heights
- CH1 Increasing Housing Supply
- CH2: Affordable Housing
- CH3: Housing Size Mix and Standards
- CE1 Climate Change
- CE2 Flooding
- CE3 Waste
- CE4 Biodiversity

- CE5 Air Quality
- CE6 Noise and Vibration

5.3.4 The LP sets seven strategic objectives for the Borough that will be delivered by the policies of the Plan. The objectives particularly relevant for the Development are:

“CO 1 Strategic objective for Keeping Life Local

Our strategic objective to keep life local is for strong, effective local centres, for social and community facilities to be widely available, and for neighbourhood functions, including neighbourhood shopping facilities, to be easily accessible, so that residential communities can flourish.

CO 2 Strategic objective for Fostering Vitality

Our strategic objective to foster vitality is that the quality of life of our predominantly residential borough is enhanced by a wide variety of cultural, creative and commercial uses which can significantly contribute to the well-being of residents and to the capital’s role as a world city.

CO 3 Strategic objective for Better Travel Choices

Our strategic objective for better travel choices is that walking, cycling and public transport are safe, easy and attractive, and preferred by our residents to private car ownership and use.

CO 4 Strategic objective for An Engaging Public Realm

Our strategic objective for an engaging public realm is to endow a strong local sense of place by maintaining and extending our excellent public realm to all parts of the borough.

CO 5 Strategic objective for Renewing the Legacy

Our strategic objective to renew the legacy is not simply to ensure no diminution in the excellence we have inherited, but to pass to the next generation a borough that is better than today, of the highest quality and inclusive for all, by taking great care to maintain, conserve and enhance the glorious built heritage we have inherited and to ensure that where new development takes place it enhances the borough.

CO 6 Strategic objective for Diversity of Housing

Our strategic objective to have a diversity of housing is that at a local level it will cater for a variety of housing needs of borough residents, and is built for adaptability and to a high quality.”

5.3.5 The LP identifies eleven key 'places' in the borough which will undergo considerable change during the plan period. Notting Hill Gate is identified as one of these locations.

5.4 The Notting Hill Gate SPD

5.4.1 There are a range of RBKC supplementary planning documents which have been relevant to the issues in this case, involving in particular the Notting Hill Gate SPD, 2015.

5.5 EMERGING POLICY

New London Plan

5.5.1 The Mayor is currently preparing a new London Plan to update the adopted Plan (2016). The draft Plan is classed as a material consideration in planning decisions with the weight given to it a matter for the decision maker, however it gains more weight as it moves through the adoption process.

5.5.2 The Examination in Public took place between 15 January and 22 May 2019 and following this, the Mayor published a Consolidated Suggested Changes Version of the draft Plan in July 2019.

5.5.3 Policies from the draft London Plan Consolidated Suggested Changes Version July 2019 that are relevant to the proposal are:

- GG1 Building strong and inclusive communities
- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering the homes Londoners need
- GG6 Increasing efficiency and resilience
- SD6 Town centres and high streets
- SD8 Town centre network
- SD9 Town centres: Local partnerships and implementation
- SD10 Strategic and local regeneration
- D1 London's form, character and capacity for growth
- D1A Infrastructure requirements for sustainable densities
- D1B Optimising site capacity through the design-led approach
- D2 Delivering good design
- D3 Inclusive design
- D4 Housing quality and standards

- D5 Accessible housing
- D7 Public realm
- D8 Tall buildings
- D9 Basement development
- D10 Safety, security and resilience to emergency
- D11 Fire safety
- D13 Noise
- H1 Increasing housing supply
- H5 Delivering affordable housing
- H6 Threshold approach to applications
- H7 Affordable housing tenure
- H10 Loss of existing housing and estate redevelopment
- H11 Ensuring the best use of stock
- H12 Housing size mix
- H13 Build to Rent
- H14 Supported and specialised accommodation
- S1 Developing London's social infrastructure
- S2 Health and social care facilities
- E1 Offices
- E2 Providing suitable business space
- E9 Retail, markets and hot food takeaways
- E11 Skills and opportunities for all
- HC1 Heritage conservation and growth
- HC3 Strategic and Local Views
- HC4 London View Management Framework
- HC5 Supporting London's culture and creative industries
- HC6 Supporting the night-time economy
- G1 Green infrastructure
- G5 Urban greening
- G6 Biodiversity and access to nature
- G7 Trees and woodlands
- SI1 Improving air quality
- SI2 Minimising greenhouse gas emissions

- SI3 Energy infrastructure
- SI4 Managing heat risk
- SI5 Water infrastructure
- SI6 Digital connectivity infrastructure
- SI7 Reducing waste and supporting the circular economy
- SI8 Waste capacity and net waste self-sufficiency
- SI10 Aggregates
- SI12 Flood risk management
- SI13 Sustainable drainage
- T1 Strategic approach to transport
- T2 Healthy Streets
- T3 Transport capacity, connectivity and safeguarding
- T4 Assessing and mitigating transport impacts
- T5 Cycling
- T6 Car parking
 - T6.1 Residential parking
 - T6.2 Office parking
 - T6.3 Retail parking
 - T6.4 Hotel and leisure uses parking
 - T6.5 Non-residential disabled persons parking
- T7 Deliveries, servicing and construction
- T9 Funding transport infrastructure through planning
- DF1 Delivery of the Plan and Planning Obligations

5.6 Other Planning Policy Documents

5.6.1 The policy and guidance which is agreed to be relevant to the determination of this application is set out below.

5.6.2 The main national policy and guidance relevant to the Development comprises:

- National Planning Policy Framework (2019) (“NPPF”) sets the Government’s planning policies for England
- National Planning Practice Guidance (2019) (“PPG”) sets out more detailed guidance in relation to the policies set out in the NPPF. A number of amendments have been made since 2014.

- Historic England: Historic Environment Good Practice Advice in Planning 2 (2015) – Managing Significance in Decision Taking in the Historic Environment
- Historic England: Historic Environment Good Practice in Planning 3 (2017) – The Setting of Heritage Assets (2nd Edition)
- Historic England: Advice Note 1 (2019) – Conservation Area Designation, Appraisal and Management (2nd Edition)
- Historic England: Advice Note 2 (2016) – Making Changes to Heritage Assets
- Historic England: Advice Note 4 (2015) – Tall Buildings
- Historic England: Conservation Principles, Policy and Guidance (2008)
- Department of Culture, Media and Sport Circular (2018) Principles of Selection for Listing Buildings
- Royal Parks: Kensington Gardens Management Plan (2007)
- British Research Establishment (‘BRE’) Update Guidance on Daylight and Sunlight (2011).

5.6.3 London Plan Supplementary Planning Guidance relevant to the Development comprises:

- Affordable Housing & Viability SPG (2017)
- Culture and Night-Time Economy SPG (2017)
- Mayor’s Housing SPG (2016)
- Mayor’s Crossrail Funding SPG (2016)
- Mayor’s Social Infrastructure SPG (2015)
- Mayor’s Accessible London: Achieving an Inclusive Environment SPG (2014)
- Mayor’s Town Centres SPG (2014)
- Mayor’s Sustainable Design and Construction SPG (2014)
- Mayor’s Character and Context SPG (2014)
- Mayor’s Planning for Equality and Diversity in London SPG (October 2007)

5.6.4 Local Guidance relevant to the Development comprises:

- RBKC’s Basements SPD (2016)
- RBKC’s Transport and Streets SPD (2016)
- RBKC’s Notting Hill Gate SPD (2015) (“NHG SPD”)
- RBKC’s Streetscape Guide SPD (2012)
- RBKC’s Building Height SPD (2010)
- RBKC’s Trees and Development SPD (2010)

- RBKC's Access Design Guide SPD (2010)
- RBKC's Planning Contributions SPD (2019)
- RBKC's Air Quality SPD (2009)
- RBKC's Designing Out Crime SPD (2009)
- RBKC's Noise SPD (2009)
- Kensington Conservation Area Appraisal (2017)
- Pembridge Conservation Area Appraisal (2017)
- Ladbroke Conservation Area Appraisal (2015)
- Kensington Palace Conservation Area Proposals Statement (1996)
- Royal Parks Conservation Area Mini Guide and Conservation Area Directory (Westminster City Council) (undated)
- Strategic Housing Market Assessment for the Royal Borough of Kensington and Chelsea (SHMA) (2015)
- Code of Construction Practice (2019)

5.7 Westminster City Council

5.7.1 The development plan for the adjoining local planning authority (Westminster City Council):

- WCC City Plan (2016)
- WCC saved Unitary Development Plan (2007)

5.7.2 Local Guidance relevant to the Development comprises:

- WCC Hallfield Estate Conservation Area Audit SPD
- WCC Royal Parks Conservation Area Mini Guide
- WCC Westbourne Conservation Area Audit
- WCC Revision Booklet 15: Heritage, Views and Tall Buildings
- WCC Draft Metropolitan Views SPD

5.8 The Planning (Listed Buildings and Conservation Areas) Act 1990

5.8.1 Section 66 of the Planning Act 1990 imposes a general duty as respects listed buildings in the exercise of planning functions. Subsection (1) provides that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of

State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

- 5.8.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas which may be affected by the proposed development.

6 SITE DESIGNATIONS

6.1.1 The site is covered by the following designations in the London Plan:

- District Centre

6.1.2 The Site is covered by the following designations in the RBKC Local Plan:

- District Shopping Centre (LP); and
- Tier II Archaeological Priority Area (LP)

6.1.3 An extract of the LP Proposals Map is provided at Appendix 3.

6.1.4 The site is designated in the Notting Hill Gate SPD as an allocated site.

6.1.1 The Site does not contain any designated or formally identified non-designated heritage assets. The site does not contain any statutory listed buildings, and does not fall within the designated boundaries of a conservation area. The Site does, however, adjoin the east boundary wall of the Listed Building Notting Hill Gate Underground Station (Grade II), and also falls within the setting of (and views to and from) a number of other listed buildings, conservation areas and a registered park and garden of historic interest, within its wider surroundings.

6.1.2 The site does not fall within the Landmark Viewing Corridor or Wider Setting Consultation Area of any protected views as identified in the LVMF 2012.

7 MATTERS AGREED BY ALL PARTIES

- 7.1.1 This section sets out those issues that have been agreed between the parties as being non-contentious.

7.2 Land Use

- 7.2.1 The proposed uses would be appropriate for the Site and are acceptable.
- 7.2.2 A mixed use scheme would contribute to the function and vitality of the district centre.

Retail

- 7.2.3 The proposals would increase retail floorspace by 69 sqm (GIA) and increase the commercial units on site from 11 to 14 in accordance with London Plan Policy 4.7 and LP Policies CF1 and CF2.
- 7.2.4 The proposals would reinstate a constant building line on Notting Hill Gate and introduce a retail use where the steps and podium entrance to Newcombe House currently exist.
- 7.2.5 The units could accommodate a range of occupiers. The development has a focus on smaller retail units in conformity with London Plan Policies 4.8, 4.9 and LP Policy CF3. The Notting Hill Gate SPD acknowledges this to be one of the characteristics of Notting Hill Gate (para 2.15).
- 7.2.6 The diverse retail units would represent an overall improvement to the function and vitality of the Notting Hill Gate area in accordance with London Plan Policy 4.8 and LP Policy CF3.
- 7.2.7 The composition of units (ten units in A1 use, and four units in A3) is acceptable.

Farmers' Market

- 7.2.8 The proposed public square would allow the reprovion of the Farmers Market.

Health Centre

- 7.2.9 The Notting Hill Gate SPD recognises the need for a new primary healthcare centre in the area (paragraph 3.6). The provision of the doctors' surgery will fulfil this need, and as such, London Plan Policies 3.16, 3.17 and LP Policy CF5 are satisfied.

- 7.2.10 The proposed doctors' surgery forms would be part of the NHS West London Clinical Commissioning Group's strategic delivery service plan and would be designed in consultation with the NHS, fitted to NHS-approved specifications with capacity to accommodate nine GPs and serve up to 18,000 patients.
- 7.2.11 The proposed doctors' surgery would replace two existing facilities which are currently undergoing challenges in relation to space and layout.

Offices

- 7.2.12 The scheme proposes 4,765 sqm (GIA) of office accommodation. This is a reduction of 441 sqm from the existing 5,206 sqm (GIA) of existing office floorspace. The proposed floorspace is compliant with LP Policy CF5 when proposed alongside the surgery floorspace of 952 sqm (total provision of 5,717 sqm employment and community floorspace) as Policy CF5 supports the replacement of office floorspace by a social and community use which predominantly serves, or which provides significant benefits to Borough residents.
- 7.2.13 The layout of the office floorspace is flexible with opportunities for subdivision to accommodate a number of occupiers in accordance with London Plan Policy 4.2 and LP Policy CF5.
- 7.2.14 Restrictions on the layout and future amalgamation of office units are not necessary as the site, being in a higher order town centre location, is appropriate for 'large office premises'.
- 7.2.15 The Development will replace and modernise existing offices in a viable town centre location in accordance with London Plan Policies 4.2 and 4.3 and LP Policy CF5.
- 7.2.16 The mixed types and size of the office provision will allow a greater range of businesses to potentially occupy the floorspace in accordance with London Plan 4.2 and LP Policy CF5.

Residential

- 7.2.17 The proposed development provides 198 units per hectare and 665 habitable rooms per hectare. This is within the appropriate range contained in the London Plan density matrix, thus in accordance with London Plan Policies 3.3, 3.4 and LP Policies CH1 and CH2.
- 7.2.18 The mix is acceptable for this site, which is less suitable for family accommodation due to its location and restraints to providing high quality outdoor space, thus satisfying London Plan Policies 3.8, 3.9, 3.11 and LP Policies CH1, CH2 and CH3.

- 7.2.19 The Development provides an increase in 35 residential units on the Site which will positively contribute towards the housing supply in the Borough, in accordance with London Plan Policy 3.3 and LP Policy CH1.
- 7.2.20 The proposed residential units are designed and will be built to a high quality in accordance with London Plan Policy 3.5 and LP Policies CL2 and CL5.
- 7.2.21 There are no single aspect north facing units and 82% of the units are dual or triple aspect in accordance with London Plan Policy 3.5 and LP Policies CL2 and CL5.
- 7.2.22 There would be a maximum of five units per core with dual lifts, except for KCS2 which has one lift to serve a total of 15 units. This level of provision accords with the Mayor's Housing SPG standard.
- 7.2.23 The affordable housing would share the same entrance as the market housing in building KCS 1. In the two buildings that provide solely affordable housing (KCS2 and WPB1), prominent doors into the public square and on to Kensington Church Street provide high quality, well designed access to the residential areas. There are no 'poor doors'. The development therefore conforms with London Plan Policy 3.1, 3.2, 3.5 and LP Policies CH1 and CH2.

7.3 Quality of the Public Square

7.3.1 It is common ground that:

- the new public square is designed to a high quality, which would be secured by condition, in accordance with London Plan Policy 7.5 and LP Policy CL1;
- the results of the microclimate testing demonstrate that the public square would provide a suitable public amenity space for outdoor use in accordance with London Plan Policy 7.6, 7.7 and LP Policies CR3 and CR4;
- a space for the Farmers' Market would be retained, preserving and improving an important community use in accordance with London Plan Policy 4.8 and LP Policy CF4;
- the active frontages, mix of uses and natural surveillance will ensure the space is vibrant and safe in accordance with London Plan Policy 7.3 and LP Policy CL2; and
- the square would refresh this tired part of the Borough and contribute to securing the long term success of Notting Hill Gate. It would be a benefit of the Development.

7.4 Site Layout

7.4.1 It is common ground that:

- the plan form layout constitutes good urban design in accordance with London Plan Policy 7.6 and LP Policy CL2;
- the arrangement of the blocks that define Kensington Church Street, Notting Hill Gate and the new public square is acceptable;
- re-establishing the building line with David Game House is acceptable;
- improving the site permeability and accessibility is acceptable; and
- the increase in active ground floor uses and active frontages will contribute towards the vitality and function of Notting Hill Gate in accordance with London Plan policies 7.1, 7.2 and LP Policy CF2;

7.5 Height and Massing

7.5.1 It is common ground that:

- the principle of a tall building on this site is acceptable subject to compliance with the wider development plan;
- perimeter buildings WPB1, WPB2, KCS1 and KCS2 are of an appropriate height and massing for the Site and integrate with the existing buildings surrounding the Site in accordance with London Plan Policies 7.4, 7.6, 7.7 and LP Policies CL1, CL2 and CL12;
- an increase in height compared to the existing tall building could be acceptable at the Site depending on its quality and visual impact in accordance with London Plan Policies 7.6, 7.7, 7.8 and LP Policies CL11 and CL12, and section 4.17 of the Notting Hill Gate SPD and Building Heights in the Borough SPD; and
- the presence and visual impact of the existing district scaled tall building on the site is an important material consideration.

7.6 Detailed Design & Materiality

7.6.1 It is common ground that:

- with the exception of the elevation along Kensington Church Street, the grounding of the Corner Building is supported, and complies with London Plan Policies 7.4, 7.6, 7.7 and LP Policies CL1 and CL2;
- the use of Portland stone on the Corner Building is agreed, subject to an appropriate colour and architectural treatment being secured by condition, therefore being in accordance with London Plan Policies 7.4, 7.6, 7.7 and LP Policies CL1 and CL2; and
- with the exception of WPB3, the legibility of entrances and different uses in each building works well and is supported, therefore being in accordance with London Plan Policies 7.1, 7.6 and LP Policy CL2.

7.7 Townscape and Heritage Assets

7.7.1 An assessment of the existing buildings on the Site is set out in the Historic Buildings Assessment submitted with the Application in 2017.

Corner Building

7.7.2 It is common ground that:

- the location of the tallest building adjacent to the station is an appropriate design response;
- the principle of a tall building on this site is acceptable subject to compliance with Local Plan Policy CL1, CL2, CL3, CL4, CL11 and CL12, the Building Heights in the Royal Borough SPD and Notting Hill Gate SPD; and
- the site is well located for public transport and the Corner Building would landmark the station and junction, as existing Newcombe House is doing, assisting in wayfinding to the underground station and the Farmers' Market in accordance with London Plan Policy 7.7.

Perimeter Buildings

7.7.3 It is agreed that KCS2 will enhance the townscape views of the Site from the south in accordance with London Plan Policies 7.4, 7.6, 7.7 and 7.8 and LP Policy CL1, CL2, CL3 and CL4.

Heritage Assets

- 7.7.4 The existing buildings on the site do not make a positive contribution to the significance of any heritage assets within the surrounding area, as part of their respective settings and views.
- 7.7.5 The proposed development has the potential to affect a number of designated heritage assets, arising from change in the character of the site as part of their respective settings and views.

7.8 Basement Development

- 7.8.1 The Site is a 'large site' for the benefit of LP Policy CL7 and it is acceptable for the Site to accommodate two levels of basement. The impact of the construction of the basement on the surrounding area, including the adjoining buildings, is acceptable and appropriate demolition and construction methodology can be secured by condition in accordance with London Plan Policies 5.3 and 5.18 and LP Policy CL7.

7.9 Transport and Servicing

- 7.9.1 It is common ground that:

- the details of the proposed transport and servicing strategy are agreed – they provide an acceptable solution in accordance with London Plan Policies 2.15, 6.2, 6.3, 6.4, 6.5, 6.7, 6.9, 6.10, 6.11, and LP Policy CR7;
- there is sufficient capacity within the on-street servicing bays to accommodate the proposed servicing strategy in accordance with London Plan Policy 6.13 and LP Policy CR7;
- the level of proposed vehicle parking is compliant with London Plan Policy 6.13 and LP Policy CT1;
- the level of proposed cycle parking (265 spaces and 25 hire docking spaces) is not compliant with the London Plan but is justified;
- the level of electric vehicle charging points is compliant with London Plan Policy 6.13 and LP Policy CT1;
- the level of proposed motorcycle parking is compliant with London Plan Policy 6.13 and LP Policy CT1;

- the provision of 25 cycle hire docking stations is a public benefit that can be satisfactorily provided on the Site in accordance with London Plan Policy 6.9 and LP Policy RT1;
- the proposal sufficiently encourages walking, cycling and the use of public transport in accordance with London Plan Policy 6.2 and LP Policy CT1;
- the public square would not be dedicated as public highway. However, a section 106 agreement will be entered into securing public access 24/7, subject to permitted closures; and
- a Stopping Up Order under section 247 of the Town and Country Planning Act will be required to carry out the development.

7.10 Step Free Access to NHG Underground Station ticket hall and District and Circle Line (Southbound)

7.10.1 It is common ground that:

- the step free access (SFA) proposals are a benefit of the application proposals and accords with London Plan Policies 3.1 and 6.1, Policy CT1 of the LP and the Full Council objective agreed in January 2016⁴;
- the proposals would preserve the significance of the Listed Building Notting Hill Gate Underground station; and
- the delivery of step free access would be a public benefit secured through the completion of a legal agreement.

⁴ A full Council objective to work with TfL, developers and local residents to achieve accessible transport in the Borough was agreed at a meeting of the Full Council on 27 January 2016 at which a petition of more than 1,500 signatures was presented in respect of accessibility to London Underground. The prayer of the petition stated that works should begin at four major stations, including Notting Hill Gate, and that the issue of accessibility required urgent action in order to meet the needs of all Londoners and visitors without prejudice. The minutes of the meeting include reference to discussion of opportunities for improved access to Notting Hill Gate station from the development of Newcombe House.

7.11 Energy and Sustainability

- 7.11.1 The Development demonstrates that a high standard of sustainable design and construction would be achieved, and has an appropriate Energy and Sustainability strategy that will be secured by condition. The Scheme is therefore compliant with LP Policy CE1 and London Plan Policy 5.2.

7.12 Flood Risk

- 7.12.1 The measures proposed as part of the Development are not compliant with LP Policy CE2 albeit the details of the proposed measures are anticipated to be secured by condition. An update will be provided ahead of the Inquiry, including confirmation of compliance of the proposed measures with London Plan policies 5.12 and 5.13.

7.13 Sunlight, Daylight & Overshadowing

- 7.13.1 The daylight and sunlight levels within both the proposed residential units and the existing units surrounding the Site would be acceptable and the Development is compliant with London Plan Policies 7.6, 7.7 and LP Policy CL5.
- 7.13.2 The public square will benefit from appropriate daylight and sunlight conditions and satisfy the tests recommended in the BRE guidance.

7.14 Privacy & Overlooking

- 7.14.1 Overall the proposals would have an acceptable impact on neighbouring living conditions in compliance with LP Policy CL5 and London Plan Policy 7.6.

7.15 Noise

- 7.15.1 Subject to compliance with conditions, the noise impact of the proposals on neighbouring living conditions and future residential and commercial occupiers would be acceptable and in compliance with London Plan Policy 7.15 and LP Policies CE6 and CL5.

7.16 Air Quality

- 7.16.1 Subject to compliance with conditions, the impact of the proposals on air quality would be acceptable and compliant with London Plan Policy 7.14 and LP Policy CE5 and the RBKC Air Quality SPD.

7.17 Landscaping and Trees

7.17.1 Subject to conditions, the Development would have an acceptable impact on trees and would provide soft landscaping and is compliant with London Plan Policies 5.10, 7.19, 7.21 and LP Policy CR4, CR5, and CR6. Appropriate measures to protect the retained trees will be secured by condition.

7.18 Microclimate

7.18.1 The Scheme would achieve an acceptable microclimatic condition in accordance with London Plan Policies 7.6, 7.7 and LP Policies CR3 and CR4.

7.19 Archaeology

7.19.1 The site is within an area of archaeological importance. The Greater London Archaeological Advisory Service has advised that the Development is unlikely to have a significant effect on heritage assets in accordance with London Plan Policy 7.8 and LP Policy CL4. The majority of the site has been significantly impacted by previous development. On this basis it is agreed that no archaeological conditions are required.

7.20 Play Space

7.20.1 The Development would provide a sufficient level of playspace, as calculated using the Mayor's Play Space Requirement calculator, and is therefore in accordance with London Plan Policy 3.6.

7.21 Consultation

7.21.1 The design went through an extensive consultation process prior to the submission of the Previous Application and officers of the Council and GLA provided a high level of scrutiny.

8 ISSUES AGREED BY THE APPLICANT AND THE GLA

8.1 Height and Massing

- 8.1.1 The Corner Building, WPB3 and KCS1 are of an appropriate height and massing for the Site. The proposed buildings would integrate with the Site and existing surrounding buildings successfully in accordance with London Plan Policies 7.4, 7.6, 7.7 and LP Policies CL11 and CL12.

8.2 Townscape and Heritage Assets

Corner Building

- 8.2.1 It is common ground between the Applicant and the GLA that:
- the massing of the proposed Corner Building would have an appropriate relationship with surrounding buildings;
 - the grounding of the Corner Building is supported;
 - the tall building is consistent with the criteria set out in London Plan Policies 7.4, 7.6, 7.7, 7.8 and LP Policies CL1, CL2, CL3, CL4, CL11 and CL12;
 - there is no disagreement with the Inspector's Decision conclusion that *"the proposed tower would not be excessively tall or bulky but would have a positive impact and be a benefit to the character and appearance of the wider area"* (paragraph 29); and
 - The proposed Corner Building would provide a distinctive, high-quality design and landmark for Notting Hill. (London Plan Policy 7.11)

Perimeter Building

- 8.2.2 The Perimeter buildings would all have an acceptable massing and relationship to the surroundings in accordance with London Plan Policies 7.4, 7.6, 7.7 and 7.8 and LP Policies CL1, CL2, CL3, CL4, CL11 and CL12.
- 8.2.3 The legibility of entrance to WPB 3 and different uses in each building works well and is supported, therefore is considered to be in accordance with London Plan Policies 7.1, 7.6 and LP Policy CL1 and CL2.

Notting Hill Gate Underground Station

- 8.2.4 The step free access proposals would increase the resilience of the Grade II Listed Underground Station by reducing the risk of pressure for further, potentially inappropriate alterations in the future. The proposals therefore comply with LP Policy CL4.

8.3 Detailed Design and Materiality

- 8.3.1 The detailed design and materiality of the Corner Building and Perimeter Buildings is agreed, subject to an appropriate colour and architectural treatment of the stone being secured by condition, and is compliant with London Plan Policies 7.4, 7.6, and 7.7 and LP Policies CL1 and CL2.

9 ISSUES IN DISPUTE (THE APPLICANT AND THE GLA) WITH RBKC

- 9.1.1 This section sets out the principal issues between the Council and the two other parties (the Applicant and the GLA) who have an agreed position on a number of planning matters.

9.2 Principle of Redevelopment

- 9.2.1 The Applicant, GLA and Council (all parties) agree that the redevelopment of Newcombe House with the right scheme could facilitate the wider regeneration of the area, which is a policy objective of the Council's.
- 9.2.2 The Council considers that refurbishment of the existing building could also achieve this. The Applicant and GLA do not agree that a refurbishment would be able to deliver the public benefits sought by the Development Plan.

9.3 Height and Massing

- 9.3.1 The Council considers that the height of the Corner Building would significantly exceed the height of the existing building and the surrounding townscape.
- 9.3.2 The Council considers that the height and massing of WPB3 is also unacceptable.
- 9.3.3 In response, the Applicant and GLA do not consider the Corner Building to be excessively tall or bulky and they consider the use of a landmark building to be appropriate for the Site.
- 9.3.4 The Council does not agree with the conclusions of the Inspector with regard to the determined appeal in 2017 on this matter, namely that *“the proposed tower would not be excessively tall or bulky but would have a positive impact and be a benefit to the character and appearance of the wider area”* (paragraph 29). The GLA and Applicant support the Inspector's conclusions.

9.4 Townscape and Heritage Assets

Corner Building

- 9.4.1 The Council does not agree that the height and architectural quality of the proposed tall building would have a positive impact on the surrounding townscape.

- 9.4.2 The Council considers that the height of the tall building would cause “less than substantial” harm to the significance of designated heritage assets (both listed buildings and conservation areas); through change to setting and views. This harm would not be outweighed by the public benefits that would be delivered by the scheme, as part of the overall planning balance.
- 9.4.3 The Council does not agree that the proposed tall building would comply with London Plan Policy 7.4, 7.6, 7.7 and 7.8 and LP Policies CL1, CL2, CL3, CL4, CL11 and CL12 and the Notting Hill Gate SPD and Building Height in the Royal Borough SPD.
- 9.4.4 In response, the Applicant and GLA considers that any potential harm caused to the significance of designated heritage asset(s) could only be “less than substantial” in magnitude, and at a low level within that scale, and also that any such harm to heritage significance would be clearly and decisively outweighed by the substantial wider public benefits of the scheme as a whole.
- 9.4.5 The Applicant and GLA considers that the Corner Building would have a positive impact and be a benefit to the character and appearance of the wider area in conformity with London Plan Policies 7.4, 7.6, 7.7 and 7.8 and LP Policies CL1, CL2, CL3, CL4, CL11 and CL12.
- 9.4.6 The list of designated heritage assets identified for further consideration in relation to the potential heritage impacts of the proposed development is yet to be agreed between all parties but will be provided ahead of the inquiry.

Perimeter Buildings

- 9.4.7 The Council believes that the height and massing of WPB3 would fail to relate positively to their context, and so cause “less than substantial” harm to the significance of nearby designated heritage assets through change to their settings, contrary to London Plan Policies 7.4, 7.6, 7.7 and 7.8 and LP Policies CL1, CL2, CL3, CL4, CL11 and CL12.
- 9.4.8 In response, the Applicant and GLA considers that the Perimeter buildings would have an acceptable massing and relationship to the surroundings in conformity with London Plan Policies 7.4, 7.6, 7.7 and 7.8 and LP Policies CL1, CL2, CL3, CL4, CL11 and CL12.

9.5 Appearance & Materiality

- 9.5.1 The Council consider the architectural quality of the Corner Building to be insufficient to justify a tall building of this scale in this position.

- 9.5.2 The Council consider the detailed design and materiality of the perimeter buildings lack consideration of the character of the existing area.
- 9.5.3 The Council consider the elevation along Kensington Church Street fails to ground the Corner Building successfully.
- 9.5.4 The Council consider the legibility of the entrance to WPB3 to lack visibility across the site, particularly given the proposed surgery use in the building.
- 9.5.5 In response, the Applicant and GLA considers that the Development is designed to a high standard having selected high quality materials and detailing that draw inspiration from the surrounding townscape, in accordance with London Plan Policies 7.4, 7.6, and 7.7 and LP Policies CL1 and CL2.

9.6 5-year Housing Land Supply

- 9.6.1 The Council and GLA consider that the Council has a 5-year Housing Land Supply. The Applicant does not agree but will not be calling evidence on this matter.

9.7 Other matters in dispute

- 9.7.1 While this SoCG seeks to outline the main matters of dispute, the parties reserve the right to raise further matters of dispute within their respective Proofs of Evidence.

9.8 Section 106 Agreement

- 9.8.1 Until such time as the section 106 has been entered into securing the Heads of Terms in section 10 of this SOCG, this remains a matter in dispute.

10 APPLICATION DRAWINGS

10.1 Demolition Drawings

ARP-S-ZZ-ML-GA-8001/ PO

ARP-S-ZZ-ML-SX-8002/ PO

ARP-S-ZZ-ML-SX-8003/ PO

ARP-S-ZZ-ML-SX-8004/ PO

ARP-S-ZZ-ML-SX-8005/ PO

ARP-S-ZZ-ML-SX-8006/ PO

ARP-S-ZZ-ML-SX-8007/ PO

ARP-S-ZZ-ML-SX-8009/ PO

10.2 Proposed Floor Plans

SKP533

P-SITE-AA(0-)001_A

P-SITE-AA(0-)002_A

P-SITE-AA(0-)011_A

P-SITE-AA(0-)021_A

P-SITE-AA(0-)100_A

P-SITE-AA(0-)101_A

P-SITE-AA(0-)102_A

P-SITE-AA(0-)103_A

P-SITE-AA(0-)104_A

P-SITE-AA(0-)105_A

P-SITE-AA(0-)106_A

P-SITE-AA(0-)107_A

P-SITE-AA(0-)108_A

P-SITE-AA(0-)109_A

P-SITE-AA(0-)110_A

P-SITE-AA(0-)111_A

P-SITE-AA(0-)112_A

P-SITE-AA(0-)113_A

P-SITE-AA(0-)114

P-CB-AA(0-)011_A

P-CB-AA(0-)100_A

P-CB-AA(0-)101_A

P-CB-AA(0-)102_A

P-CB-AA(0-)103_A

P-CB-AA(0-)104_A

P-CB-AA(0-)105_A

P-CB-AA(0-)106_A

P-CB-AA(0-)107_A

P-CB-AA(0-)108_A

P-CB-AA(0-)109_A

P-CB-AA(0-)110_A

P-CB-AA(0-)111

P-CB-AA(0-)112

P-WPB2-AA(0-)100_A

P-WPB2-AA(0-)101_A

P-WPB2-AA(0-)102_A

P-WPB1-AA(0-)100_A

P-WPB1-AA(0-)101_A

P-KCS2-AA(0-)100_A

P-KCS2-AA(0-)101_A

P-KCS2-AA(0-)102_A

P-KCS1-AA(0-)100_A

P-KCS1-AA(0-)101_A

P-KCS1-AA(0-)102_A

Proposed Site Elevations

P-SITE-AA(0-)301_A

P-SITE-AA(0-)302_A

P-SITE-AA(0-)303_A
P-SITE-AA(0-)304_A
P-CB-AA(0-)301_A
P-CB-AA(0-)302_A
P-CB-AA(0-)303_A
P-CB-AA(0-)304_A
P-WPB3-AA(0-)301
P-WPB3-AA(0-)302
P-WPB2-AA(0-)300_A
P-WPB2-AA(0-)301_A
P-WPB1-AA(0-)301_A
P-WPB1-AA(0-)302_A
P-KCS2-AA(0-)301_A
P-KCS2-AA(0-)302_A
P-KCS2-AA(0-)303_A
P-KCS1-AA(0-)301_A
P-KCS1-AA(0-)302_A
P-KCS1-AA(0-)303_A

Proposed Sections

P-SITE-AA(0-)201_A
P-SITE-AA(0-)202_A
P-SITE-AA(0-)203_A
P-SITE-AA(0-)204_A
P-SITE-AA(0-)205_A
P-SITE-AA(0-)206_A
P-CB-AA(0-)201_A
P-CB-AA(0-)202_A
P-CB-AA(0-)203
P-WPB2-AA(0-)200_A
P-WPB2-AA(0-)201_A

P-KCS2-AA(0-)201_A

P-KCS1-AA(0-)201_A

P-KCS1-AA(0-)202_A

P-KCS1-AA(0-)203

Proposed Details

P-CB-AA(4-)400_A

P-CB-AA(4-)401_A

P-CB-AA(4-)402_A

P-KCS1-AA(4-)400_A

P-KCS1-AA(4-)401_A

P-KCS1-AA(4-)402_A

P-KCS1-AA(4-)403_A

P-WPB2-AA(4-)400_A

P-WPB2-AA(4-)401_A

Landscaping Drawings

0586.SK12D

0586.SK13A

0586.SK14B

0586.SK15D

0586.SK16A

0586.SK17A

0586.SK18B

0586.SK19A

0586.SK20D

0586.SK21E

0586.SK22A

0586.SK23A

11 PLANNING CONDITIONS

11.1 A list of agreed conditions is set out at Appendix 4.

12 PLANNING OBLIGATIONS AND CIL

12.1 The following heads of terms have been agreed:

- i. Twenty-three affordable homes (35% by habitable room) on site with nomination rights granted to the Council.
- ii. Two-stage Viability Review Mechanism with trigger points set in accordance with the Mayor's affordable Housing and Viability SPG [details of the mechanism are still to be agreed between the Mayor, the Applicant and the Council].
- iii. Provision of a step-free access route between street level to the southbound (inner rail) platform of the District & Circle line.
- iv. Provision of a Medical Centre (790 sqm) with five parking spaces, constructed to shell and core standard and fit out to a specification approved by the NHS with a minimum spend of £1.5m.
- v. Public Art Contribution: £100,000 - £150,000 with a Public Art Strategy
- vi. Legible London Contribution: £3,017 towards providing Legible London signage at the development.
- vii. Demolition/ Construction Traffic Management Plan Assessment Fee: £2,800 fee payable per plan submitted by the developer.
- viii. Safeguarding of land for cycle hire scheme and contribution of £200,000.
- ix. No residents' parking permits to be applied for in respect of 35 residential units at the development (to be defined by reference to a plan).
- x. One free car club membership to be provided for each residential unit at the development for a minimum period of 12 months from the date of occupation of each unit.
- xi. Submission of and compliance with a Public Square Plan, detailing the maintenance of the Public Square, details of its use as a venue for public events, details of the steps the owners shall take to encourage the Farmers' Market, restriction on the market operating no more

than once a week, requirements for holding public events, and requirements for the placement of tables and chairs.

- xii. Deed of dedication to secure public access over the new areas of footway around the outside of the site (exact areas to be agreed by the developer and the Council and to be defined by reference to a plan).
- xiii. Section 106 Monitoring Fee: Amount to be agreed
- xiv. Office Travel Plan Monitoring Fee: £1,000.00.
- xv. Construction Training Plan and Contribution: £295,071
- xvi. Carbon offsetting Contribution: £124,959
- xvii. Compliance with Local Procurement Code
- xviii. Submission of a Small Independent Retail Units Marketing Strategy
- xix. Compliance with Local Procurement Code

12.2 Additional Heads of Terms have been agreed between the Applicant and GLA, however the Council does not agree that it should be taken into account:

- xx. Minimum of ten x two-bed affordable homes off site with nomination rights granted to the Council.

12.3 An update to the Heads of Terms in accordance with the Planning Obligations SPD (2019) is required and will inform the draft S106.

12.4 A draft section 106 agreement was issued to the GLA by Herbert Smith Freehills on behalf of the Applicant.

12.5 Further Section 106 Agreement related discussions and negotiations are expected to take place between the Applicant, the GLA and the Council prior to the beginning of the inquiry.

12.6 The development would be liable for a Borough CIL payment of £2,637,690 (index linked).

12.7 The development would be liable for a Mayoral CIL payment of £879,736 (index linked).