

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 77**  
**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**  
**APPLICATION BY NOTTING HILL GATE KCS LIMITED**  
**FOR REDEVELOPMENT AT NEWCOMBE HOUSE, 45 NOTTING HILL GATE, 39-41 NOTTING**  
**HILL GATE AND 161 – 237 (ODD) KENSINGTON CHURCH STREET, LONDON (RBKC**  
**REFERENCE NUMBER PP/17/05782, GLA REFERENCE NUMBER 3109A)**  
**APPEAL REFERENCE: APP/G6100/V/19/3225884**

**APPLICANT'S STATEMENT OF CASE**

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**1. INTRODUCTION AND CONTEXT**

- 1.1 This Statement of Case is submitted on behalf of Notting Hill Gate KCS Limited (the "**Applicant**") in support of a planning application to be considered and determined by the Secretary of State pursuant to section 77 of the Town and Country Planning Act 1990 and in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000.
- 1.2 The Applicant submitted the planning application to the Royal Borough of Kensington and Chelsea ("**RBKC**") on 8 September 2017 (the "**Application**"). The Application was given reference number PP/17/05782 by RBKC.
- 1.3 The Application seeks planning permission for 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**").
- 1.4 The Applicant submitted an application for listed building consent to RBKC on 6 June 2019. That application seeks 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 application for listed building consent has not yet been determined by RBKC.
- 1.5 By virtue of a direction made on 26 March 2018 pursuant to the powers conferred on him by section 2A of the Town and Country Planning Act 1990, the Mayor of London became the local planning authority in respect of the Application.
- 1.6 There is substantial agreement in relation to the Development between the Applicant and officers at both RBKC and the Greater London Authority (the "**GLA**"):
- 1.6.1 RBKC officers recommended on two occasions that planning permission should be granted for the Development, both prior to and after the Mayor's direction that the Application be referred to him for determination, concluding that the Development would bring welcome benefits to Notting Hill Gate; and

- 1.6.2 GLA officers also recommended that planning permission should be granted for the Development, concluding that the Development was strongly supported by national, regional and local planning policy.
- 1.7 On 18 September 2018 the Mayor of London resolved that planning permission should be granted for the Development.
- 1.8 On 14 March 2019 the Secretary of State called in the Application for his own determination and directed that it should be referred to him instead of being dealt with by the Mayor of London. The call in direction only relates to the Application and does not cover the Applicant's application for listed building consent referred to in paragraph 1.4 above.
- 1.9 This Statement of Case begins by outlining the Applicant's case. It then goes on to respond to the four areas identified by the Secretary of State as matters on which he particularly wishes to be informed for the purposes of his consideration of the Application.

## 2. THE APPLICANT'S CASE

2.1 The Application responds directly to the significant pressure for growth within London by redeveloping a tired site in an important, highly sustainable brownfield location. The Development will deliver new homes (including affordable homes), modern employment floorspace, high quality retail and public realm, new community facilities and improvements to public transport infrastructure. The proposals directly facilitate the need for this key town centre site to act as a catalyst for the regeneration of Notting Hill Gate and, as such, there is support for the proposals at all levels of planning policy.

### 2.2 The Application Site

2.2.1 The site on which the Development is proposed to take place (the "**Application Site**") currently comprises:

- (A) an office building (Newcombe House) of ground plus 11 storeys plus plant (Use Class B1);
- (B) a linear block of one to two storeys on Kensington Church Street accommodating shops and restaurants (Use Classes A1 and A3);
- (C) a building of ground plus four storeys (Royston Court) which is now vacant but which was last used as accommodation for former rough sleepers (Use Class C3);
- (D) a surface car park with 61 spaces; and
- (E) Newcombe Street and part of Uxbridge Street.

2.2.2 The Application Site is located at the heart of the Notting Hill Gate district centre, adjacent to Notting Hill Gate underground station. It benefits from a Public Transport Accessibility Level ("**PTAL**") of 6b, the highest possible level.

2.2.3 The Application Site is greatly in need of regeneration. The existing buildings on the Application Site are ugly, outdated and unsuited to the needs of modern occupiers. They make no contribution to the local townscape. Much of the building fabric is tired and performs poorly from an environmental perspective.

- 2.2.4 The existing buildings on the Application Site cause harm to nearby conservation areas and listed buildings. RBKC's Consolidated Local Plan (the "**CLP**") acknowledges that these buildings are *"tired and unattractive"* buildings which *"negatively impact on the character of Notting Hill Gate and the wider area"*. The CLP refers to Newcombe House specifically as an *"eyesore"*.
- 2.2.5 Occupying the southern part of the Application Site is a private surface car park that is also used for servicing, the storage and collection of refuse and for a weekly Farmers' Market. The car park occupies almost a third of the Application Site, but makes a negligible contribution towards the vitality, viability and quality of life of Notting Hill Gate. As such, the existing arrangement is underutilising a highly sustainable town centre location.
- 2.2.6 In the 1960s, the plan form of the existing Newcombe House buildings arose as a direct consequence of the requirement to set the building line back from Notting Hill Gate due to the engineering challenge of building over the underground's pedestrian interchange tunnel. The consequential slab form, together with the surface car park, the undercroft and the low rise buildings along Kensington Church Street are typical of a 1960s 'solution'. This arrangement has created a poor quality built environment that is devoid of a positive 'edge' to the Application Site's two major street frontages and has resulted in a lack of identity for this key node above the underground station. The CLP describes the shopfronts at Notting Hill Gate as being *"generally of poor quality, with few helping to create a distinctive identity"*.
- 2.2.7 Furthermore, to mediate and access the set back of the existing Newcombe House, a podium was incorporated in the design of the original building. It acts as a physical barrier and creates a restricted sense of place. The entrance to the office accommodation is poor as a result, particularly for people requiring disabled access. This arrangement contributes to the impermeability of the Application Site and has created residual spaces under the building that are unsafe, unwelcoming and inaccessible.
- 2.2.8 The built form also gives rise to hostile wind conditions and a poor environment around the office entrance on the north face of Newcombe House and within the surface car park. The CLP acknowledges that the height and orientation of Newcombe House overshadows the public spaces below it and *"causes wind funnelling that makes them uncomfortable"*.

## 2.3 The Development

- 2.3.1 The Application responds directly to the urgent need for redevelopment of the Application Site. It represents the culmination of an exceptionally long period of pre-application consultation with RBKC for more than four years, as well as engagement with local communities, local businesses, Councillors and other key stakeholders.
- 2.3.2 As required by planning policy, the Development replaces a considerable amount (9,134 square metres GIA) of existing poor quality office, retail and residential floorspace with modern, flexible floorspace (CLP Policy CF3, Policy CF5 & Policy CH2) within a scheme that is of the *"highest architectural and urban design quality, taking opportunities to improve the quality and character of buildings and the area and the way it functions"* (CLP Policy CL2).

- 2.3.3 The Applicant has sought to achieve this with both quantitative and qualitative improvements, in addition to providing a new health centre, a new public square, public transport improvements, the delivery of market and affordable housing, space to accommodate the weekly Farmers' Market and other public benefits secured in the proposed section 106 agreement.
- 2.3.4 The Applicant has adopted a design-led approach to the redevelopment of the Application Site that responds to site-specific constraints and opportunities and delivers a composition of individual buildings that form a coherent urban quarter, with a new public square at its heart and an elegantly proportioned Corner Building to define the district centre of Notting Hill Gate.
- 2.3.5 The Application Site is excluded from but surrounded by four conservation areas, each different in character. The design's relationship with its context has been carefully developed in response to testing across more than 50 views from the surrounding area. The Perimeter Buildings, in their scale and the linear arrangement of their form, respond to the domestic scaled conservation areas to the south. The sculptural and slender Corner Building responds to the commercial scale of the district centre and there will be unique views of it from each conservation area. Within the immediate townscape context, the Development will enhance the character and setting of local conservation areas and the setting of nearby listed buildings.
- 2.3.6 The new public square will be fully accessible and highly permeable with level access through the Application Site. The creation of new connections between the Application Site and the existing street network responds to desire lines and will be a significant benefit particularly given the heavy resident, worker and visitor footfall in this location. The square will be pedestrianised except for emergency vehicles, allowing it to make a major contribution to the provision of quality public space within a dense urban area and will be the first meaningful new public space to be created for Notting Hill Gate.
- 2.3.7 The Development will provide a very significant public benefit through the Applicant's commitment to delivering step free access from street level to the eastbound (inner rail) Circle and District line platform.
- 2.3.8 A step free access route to the underground is a key local and regional objective, of London-wide significance, and has been explored and tested with Transport for London ("**TfL**") over more than five years of engagement. There is currently no step free access to the District and Circle line at Notting Hill Gate underground station. The station is heavily used, with the Mayor of London's representation hearing report (the "**Representation Hearing Report**") indicating that 44,599 customers use the eastbound/southbound platform weekly.
- 2.3.9 The route from the ticket hall level to the eastbound platform of the Circle and District line can be delivered within the basement of the Application Site. The opportunity for step free access to this platform is unique to this site and can only be delivered as part of its comprehensive redevelopment. The proposed improvements would also provide stair free access to the Central Line through the provision of a lift from street to ticket hall level, which would benefit passengers who struggle to use stairs but can use escalators. This would assist many people with mobility difficulties and would provide them with a direct link to all the Central

Line stations which are either step or stair free from Greenford in the west to Epping in the east.

- 2.3.10 TfL is a strong supporter of the Application. GLA officers have concluded that the proposed improvements will enable a wide range of people with mobility difficulties, including those who are physically or visually disabled, parents/ carers with young children (especially in a buggy or pram) and those with heavy and awkward luggage, to use the underground safely and conveniently.
- 2.3.11 The Development includes a new health facility which has been designed in response to consultation with the NHS Commissioning Group. The need for a new health facility is urgent and the proposed facility will therefore meet an identified community need and deliver a significant public benefit. The Applicant has entered into an agreement for lease for the new health facility with two local GP surgeries.
- 2.3.12 The Development contributes to alleviating the pressing need for more market and affordable housing both in London generally and in RBKC in particular by providing 55 new residential units on the Application Site. These new homes will make a significant contribution towards RBKC's housing and affordable housing targets, in a borough which has consistently failed to meet the overall targets for new housing set out in the London Plan.
- 2.3.13 The proposed residential units comprise a diverse range and mix of unit types and sizes appropriate for the town centre location, all of which meet relevant policy standards and would provide a high standard of amenity.
- 2.3.14 The Development will provide a new 25-space cycle hire stand in close proximity to Notting Hill Gate underground station, in response to a particular need identified by TfL.
- 2.3.15 The Development will replace the outdated, inaccessible existing office floorspace with Grade A office space with flexible floor plates that will meet diverse local occupier requirements.
- 2.3.16 The Development will replace the existing poor quality retail space with high quality retail accommodation in a range of units fronting the major roads and the proposed public square. The 14 new retail units will be carefully curated with the intention of encouraging independent retailers appropriate for the local community. By optimising the use of the basement for ancillary space and carefully locating the residential and office cores, it has been possible to significantly increase the length of active frontages across the Application Site, which, in addition to the introduction of retail frontage to Notting Hill Gate and improvements to the Kensington Church Street frontage, will enhance the town centre and encourage pedestrians into the animated site, ensuring the creation of a new vibrant destination.
- 2.3.17 The Development has been designed to accommodate the weekly Farmers' Market and the operators of the Farmers' Market are supportive of the Application. The Applicant has entered into an agreement to grant a licence to operate the market on the public square in the completed Development.

### 3. THE PREVIOUS APPLICATION

- 3.1 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. The Application proposes and will deliver the maximum reasonable amount of affordable housing.
- 3.2 The Previous Application was refused by RBKC on 29 April 2016, contrary to the recommendation of RBKC officers, who had recommended that the Previous Application be approved.
- 3.3 The Applicant appealed the refusal of the Previous Application. The appeal was heard by an Inspector appointed by the Secretary of State, Mr David Nicholson, on 14-17 February 2017. The appeal was not recovered by the Secretary of State.
- 3.4 Over the course of the four day inquiry, the Inspector heard detailed evidence from five expert witnesses, representing the Applicant and RBKC, in relation to the Previous Application and its compliance with national, regional and local planning policy.
- 3.5 By a decision letter dated 12 June 2017, the Inspector dismissed the appeal on narrow grounds (the "**Inspector's Decision**"). The Inspector's Decision deals comprehensively with each of the planning issues relevant to the Previous Application.
- 3.6 The Inspector made detailed positive findings in respect of the Previous Application:
  - 3.6.1 the quantum of development proposed in the Previous Application is reasonable and, in principle, should not count against the scheme (paragraph 14);
  - 3.6.2 the overall design of the Previous Application would accord with policies 7.4, 7.5, 7.6 and 7.7 of the London Plan (consolidated with alterations) dated March 2016, which set criteria by which to judge local character, public realm, architecture and the location and design of tall and large buildings. These include a high quality design response and the highest standards of architecture (paragraph 30);
  - 3.6.3 the Previous Application would satisfy policy in chapter 7 of the National Planning Policy Framework 2012 ("**2012 NPPF**"), which requires good design (paragraph 30);
  - 3.6.4 the Previous Application would comply with CLP Policy CV16, which sets a vision for Notting Hill Gate to be strengthened as a District Shopping Centre, and a major office location, requiring development of the most exceptional design and architectural quality, and CLP Policy CP16 which seeks to strengthen Notting Hill Gate's role as a district centre and seek new high quality architecture and public realm (paragraph 31);
  - 3.6.5 the Previous Application would satisfy CLP Policies CL1, CL2, CL11 and CL12 which set criteria for context and character, design quality, views and building heights including: a comprehensive approach to site layout and design, that all development be of the highest architectural and urban design quality, protecting and enhancing views, and resisting buildings significantly taller than the surrounding townscape other than in exceptionally rare circumstances where the

- development has a wholly positive impact on the character and quality of the townscape (paragraph 31);
- 3.6.6 the effect of the Previous Application on the significance of the setting of the Kensington Conservation Area (paragraph 34), Pembridge Conservation Area (paragraph 35); and Kensington Palace Conservation Area (paragraph 37) as a whole would be neutral;
  - 3.6.7 the Previous Application would cause no harm to the settings of the majority of the listed buildings in the vicinity. In the case of Kensington Palace and Kensington Gardens there would be some minor or very slight harm to the settings of those heritage assets (paragraph 39);
  - 3.6.8 the Previous Application would cause some less than substantial harm to some designated heritage assets, including the Ladbroke Conservation Area and Royal Parks Conservation Area, for which there would be a small negative impact. In other conservation areas, the effects on some of the different views would pull in different directions so that there would be no overall harm to the settings or an enhancement. However, in each instance of harm, or even taken together, the substantial benefits of the scheme would clearly outweigh this (paragraph 63);
  - 3.6.9 the benefits of redevelopment would be substantial and be supported by a raft of development plan policies (paragraph 59);
  - 3.6.10 the scheme would be acceptable and accord with the development plan with regard to character and appearance, and design (paragraph 62);
  - 3.6.11 the impact on neighbouring residents would not be unacceptable. The Previous Application would comply with the criteria in CLP Policy CL5 on living conditions (paragraph 60);
  - 3.6.12 on the issue of settings, the Previous Application would be supported by 2012 NPPF paragraph 134 (paragraph 63); and
  - 3.6.13 the Previous Application would comply with London Plan policy 7.8 which expects development affecting heritage assets to conserve their significance. The scheme would accord with CLP Policies CL3a, and CL4 which require development to preserve or enhance the character or appearance of a conservation area and its setting; and protect the heritage significance of listed buildings and their settings (paragraph 63).
- 3.7 The Inspector ultimately dismissed the appeal, however, on the basis of his findings that:
- 3.7.1 there would be a loss of social rented housing floorspace within the Royal Borough of Kensington and Chelsea contrary to CLP Policy CH3b (paragraph 45); and
  - 3.7.2 the Inspector was not persuaded that at least some affordable housing could not be provided on site (paragraph 56).
- 3.8 The Inspector's decision stated that "*[s]ince dismissing the appeal for this reason should not necessarily prevent the development going ahead in its current form, but would only delay it slightly, I give little weight to the concern that the benefits of redevelopment of the site would be lost*" (paragraph 65).

- 3.9 The Inspector's decision, when read as a whole, was in effect an invitation to the parties to resolve the concerns he expressed with regard to affordable housing in a way which would swiftly allow the very significant benefits of the proposed development to be delivered.
- 3.10 The Application seeks to do exactly that. It directly addresses the previous Inspector's concerns, with minor consequential design changes to facilitate this. The Application is otherwise substantially identical to the Previous Application, which was comprehensively considered and largely endorsed by the previous Inspector. All of the public benefits of the Previous Application are retained in the Application.
- 3.11 The changes between the Previous Application and the Application can be summarised as follows:
- 3.11.1 an increase in the number of homes from 46 to 55, with alterations to the housing mix;
  - 3.11.2 an increase in the delivery of affordable housing, and an overall net gain of affordable housing in RBKC;
  - 3.11.3 an increase in office floorspace of 414 square metres (GEA) to a total of 5,306 square metres (GEA);
  - 3.11.4 the addition of one storey to Kensington Church Street Building 1 in C3 residential use (from four storeys to five storeys);
  - 3.11.5 the addition of two storeys to West Perimeter Building 3 in B1 office use (from five storeys to seven storeys);
  - 3.11.6 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;
  - 3.11.7 minor alterations to the facade of the Corner Building on levels 4, 5 and 6 which respond to the revised massing of West Perimeter Building 3; and
  - 3.11.8 minor alterations to the services strategy for West Perimeter Building 2.
- 3.12 The very close correlation between the Application and the Previous Application means that the Inspector's decision in relation to the Previous Application is a material consideration of particular importance and weight. Submissions will be made by the Applicant regarding the public interest in consistency of decision making and the consequent relevance of the Previous Application to the Secretary of State's determination of the Application.
4. **MATTERS WHICH THE SECRETARY OF STATE WISHES TO BE PARTICULARLY INFORMED ABOUT FOR THE PURPOSE OF CONSIDERATION OF THE APPLICATION**
- 4.1 In the call in letter dated 14 March 2019, the Secretary of State set out a list of the matters about which he particularly wishes to be informed for the purposes of the consideration of the Application, as follows:
- (i) policies in the National Planning Policy Framework on delivering a sufficient supply of homes;
  - (ii) policies in the National Planning Policy Framework on achieving well-designed places;



- (iii) policies in the National Planning Policy Framework on conserving and enhancing the historic environment; and
  - (iv) any other matters the Inspector considers relevant.
- 4.2 The Applicant will present evidence at the inquiry to demonstrate that the Application is in compliance with and supported by the National Planning Policy Framework (2019) ("**NPPF**") policies identified by the Secretary of State and that planning permission should be granted for the Development. The recommendation by both RBKC officers and GLA officers that planning permission should be granted was well founded. Particular weight should be given to these recommendations given the nature and extent of pre- and post-application engagement between the parties.
- 4.3 **Policies in the National Planning Policy Framework on delivering a sufficient supply of homes**
  - 4.3.1 The Applicant will present evidence to demonstrate that:
    - (A) The provision of 55 residential units will contribute to alleviating a pressing need for new homes in a borough which has consistently failed by some margin to meet the target level set out in the London Plan (Policy 3.3. of the London Plan and adopted by RBKC as its local target - CLP Policy CH1).
    - (B) The Royal Borough of Kensington and Chelsea is one of the most densely developed areas of the country, where the supply of land for housing is limited and is constraining development, particularly against a policy background that protects existing economic and social uses that make the borough a vibrant and successful place. The proposed redevelopment of under-utilised land and buildings is consistent with paragraph 118 of the NPPF, as it would help to meet identified needs for housing where land supply is constrained.
    - (C) The Application Site is brownfield land that is centrally located and highly accessible – such land is a very scarce resource and it is essential that its development potential is optimized. The proposal is entirely aligned with the ambitions of the NPPF, in particular paragraphs 118 and 103, by delivering a mix of uses layered across the highly sustainable site, whilst also providing a new public open space in an area of need.
    - (D) The application will include the maximum reasonable amount of affordable housing, in a range of tenures and a range of sizes, all of which would provide a high quality residential environment and respond to the varying needs of the borough.
  - 4.3.2 Furthermore, RBKC is currently unable to demonstrate a five year supply of deliverable housing sites. According to paragraph 11 and footnote 7 of the NPPF, the relevant policies of the CLP are therefore deemed to be out-of-date and the "tilted balance" will apply to the Secretary of State's determination of the Application.
  - 4.3.3 Paragraph 11(d) of the NPPF states that where the "tilted balance" applies, planning permission should be granted unless:

- (A) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the Development; or
- (B) any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

4.4 The Applicant will present evidence to demonstrate that there are no such clear reasons for refusing the Development and that any adverse impacts of granting planning permission would not outweigh the benefits. In the event that, contrary to the Applicant's case, the Application is found not to accord fully with the development plan, the application of the "tilted balance" and the substantial public benefits that would be delivered by the Application are material considerations which indicate that planning permission should be granted nonetheless.

#### 4.5 **Policies in the National Planning Policy Framework on achieving well-designed places**

4.5.1 The Applicant will present the following design and planning evidence:

- (A) The Application responds to the site-specific constraints and opportunities. It replaces and enhances the existing land uses and fulfils policy requirements to deliver a mixed use scheme with significant public benefits. This was agreed by RBKC and GLA officers and the Mayor of London.
- (B) The principle of intensifying uses on the Application Site within the highly accessible Notting Hill Gate District Centre through a residential-led, mixed use development is consistent with both strategic (London Plan) and local (CLP) planning policy.
- (C) The Development has been the subject of evolution over the course of seven years, through discussion between the Applicant, RBKC, the GLA, expert bodies such as Historic England and local communities. The Applicant has worked closely with local communities to develop a design that takes account of the views of the local community, consistent with paragraph 128 of the NPPF.
- (D) The Application provides for well-defined public and private amenity and play spaces, and landscaping elements that respond positively to the proposed distinctive character areas of the Application Site. The Development will be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, consistent with paragraph 27(b) of the NPPF. It will establish and maintain a strong sense of place, with the arrangement of streets, spaces, building types and materials creating an attractive, welcoming and distinctive place to live, work and visit, consistent with paragraph 27(d) of the NPPF. It will also create a place that is safe, inclusive and accessible, consistent with paragraph 27(e) of the NPPF. These issues were also agreed by RBKC and GLA officers and the Mayor of London.

- (E) The Application would create a coherent urban quarter with a public square at its heart and a slender, elegant tall Corner Building to define and landmark a regenerated and enhanced district centre linked to an enhanced Notting Hill Gate underground station.
- (F) The façade of the Corner Building has been developed to express the building's elegant proportions, with interventions to an established grid to express its mix of uses and to respond to its location, orientation and context.
- (G) The composition of the proposal, the stepping of the building forms and their location within the Application Site will have a positive environmental impact. The Development will allow good sunlight and daylight provision onto the public square, respond to the prevailing acoustic levels and help create calm wind conditions appropriate for the proposed street level uses.
- (H) High quality materials have been selected that draw inspiration from the local historic context to create a streetscape that enhances the identity of the district centre.
- (I) Crafted detailing has been developed across the proposed buildings and public realm to create an exceptional built environment that would endure over time.
- (J) The Applicant therefore agrees with the conclusions of:
  - (1) RBKC and GLA officers, the Mayor of London and the previous Inspector that the Development is well conceived and of a high quality design, is consistent with relevant planning policies and guidance, meets policy objectives and complies with NPPF, London Plan and CLP policies requiring exceptional design;
  - (2) RBKC and GLA officers and the previous Inspector that Notting Hill Gate is a suitable location for a tall building. The proposed tall building replaces the poorly designed existing 1950s tall slab block, in a similar location on the Application Site, and would provide a distinctive and high-quality landmark for Notting Hill;
  - (3) GLA officers and the previous Inspector that the design and layout principles of the Application are well-considered. The development will function well and add to the overall quality of the area for the lifetime of the development, consistent with paragraph 27(a) of the NPPF. The proposals optimise the potential of the Application Site to accommodate and sustain an appropriate amount and mix of development (including public space) and support local facilities and transport networks, consistent with paragraph 27(e) of the NPPF; and
  - (4) RBKC and GLA officers and the previous Inspector that the massing and layout responds to the Application Site's constraints and sensitivities including the character of the wider conservation areas and listed buildings in proximity to the Application Site.

Consistent with paragraph 27(c) of the NPPF, the Development is sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

#### 4.6 Policies in the National Planning Policy Framework on conserving and enhancing the historic environment

4.6.1 The Applicant will present design, heritage, townscape and planning evidence to demonstrate that:

- (A) The existing tall building on the Application Site can already be seen from the surrounding four conservation areas and within the same views as a variety of listed buildings. Where it can be seen in the same view as these heritage assets, it has a harmful impact on their setting. This is partly due to its poor design and the disposition of its bulk and mass across the Application Site, and partly due to its unattractive materials.
- (B) The proposed tall building forming part of the Development will be taller and more slender than the existing building (the east and central forms of the Corner Building are higher than the existing building by 9m and 25.5m respectively) but it has been designed in the round to respond positively to key views agreed with RBKC officers and will sit more comfortably in relation to its heritage context than the existing development.
- (C) The Development has been conceived throughout as an integral part of the townscape of the locality. It will have a distinctive character and sense of place, drawn from the location of the Site and the existing and emerging local identity. The high quality of the architectural and urban design proposals and the creation of a new public square within the Development will significantly enhance the local townscape and the character and quality of Notting Hill Gate. The proposed materials and details of the taller and lower set buildings that comprise the Development have been conceived as a specific response to the setting of the Application Site and will be of the highest quality.
- (D) Overall, the architecture of the Development will provide visual interest to the local townscape and enhance the identity of the district centre, in accordance with objectives of the London Plan and the CLP. Paragraph 192(c) of the NPPF provides that in determining applications account should be taken of the desirability of new development making a positive contribution to local distinctiveness.
- (E) The impact of the Development on designated and undesignated heritage assets has been carefully considered and will be addressed in detail in evidence.
- (F) Overall in heritage terms, the Development constitutes a very significant enhancement to the interests of the surrounding conservation areas and listed buildings. The removal of an eyesore building and its replacement with an elegant, well designed family of buildings has produced a

significant improvement to the way in which the area's heritage assets are seen and appreciated. At worst, as the previous Inspector concluded, there would be some localised instances of very slight harm to the setting of some heritage assets. However, there would also be a high degree of enhancement, while in other instances the effect would be neutral.

- (G) The Applicant further agrees with the previous Inspector that the benefits of redevelopment would be substantial and be supported by a raft of development plan policies. These benefits were summarised by GLA officers in the representation hearing report to the Mayor of London as including: the provision of much-needed housing in a borough that has consistently failed to meet its targets for the provision of additional homes and affordable housing; the provision of modern, flexible office floorspace; an uplift in small-scale retail units; the provision of a modern GP surgery; the creation of a new public square that will accommodate the Farmers' Market; and the provision of step free and stair free access to the southbound District and Circle Line platform at Notting Hill Gate underground station.

#### **4.7 Other matters the Inspector considers relevant**

- 4.7.1 The Applicant will address in evidence the representations made by statutory consultees and third parties, including those received in respect of the Application and any further representations received as part of the inquiry process.
- 4.7.2 The Applicant will seek to address matters relating to daylight/sunlight, overshadowing, overlooking and sense of enclosure, wind and microclimate, transport and servicing and construction impacts in a Statement or Statements of Common Ground with the GLA and RBKC.

#### **5. SECTION 106 AGREEMENT**

- 5.1 At the time the Application was presented to the Mayor of London on 18 September 2018, heads of terms for planning obligations had been agreed between the GLA and the Applicant. These were included in the GLA officer's report at paragraph 9.
- 5.2 The Applicant will continue discussions with the GLA and RBKC to settle the detail of these planning obligations.
- 5.3 A draft of the proposed legal agreement will be submitted to the Inspector at least 10 days prior to the opening of the inquiry as required by Appendix B.1 of the Planning Inspectorate's Procedural Guide (dated 23 March 2016).

#### **6. PLANNING CONDITIONS**

The Applicant is prepared to accept the conditions as set out at Annex A to this statement.

#### **7. CONCLUSION**

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 11 of the NPPF confirms that

development proposals that accord with an up-to-date development plan should be approved without delay.

- 7.2 The Application proposals accord fully with the development plan and planning permission for the Development should therefore be granted.
- 7.3 There are no material considerations which indicate otherwise. Other material considerations, namely the substantial public benefits that would be delivered by the Development, in fact reinforce the presumption in favour of the grant of planning permission.
- 7.4 Furthermore, RBKC is currently unable to demonstrate a five year supply of deliverable housing sites. According to paragraph 11 and footnote 7 of the NPPF, the relevant policies of the CLP are therefore deemed to be out-of-date and the "tilted balance" will apply to the Secretary of State's determination of the Application. In the event that, contrary to the Applicant's case, the Application is found not to accord fully with the development plan, the application of the "tilted balance" and the substantial public benefits that would be delivered by the Application are material considerations which indicate that planning permission should be granted nonetheless.

## 8. DOCUMENTS TO BE REFERRED TO

- 8.1 The Applicant intends to refer to the following documents:
  - 8.1.1 documents comprising or accompanying the Application (the "**Application Documents**");
  - 8.1.2 the report to the Mayor of London prior to the representation hearing at which the Application was considered on 18 September 2018 (the "**Representation Hearing Report**");
  - 8.1.3 the Inspector's Decision;
  - 8.1.4 adopted and draft national, regional and local planning policy and guidance documents as referred to in the Application Documents, Representation Hearing Report and Inspector's Decision;
  - 8.1.5 any documents submitted by the parties to the inquiry at which the Previous Application was considered or in any representations to that inquiry (including, but not limited to, any statements of case, proofs of evidence and rebuttal proofs).
- 8.2 The Applicant reserves the right to add to, amend or otherwise supplement this list.

**Herbert Smith Freehills LLP**

14 June 2019

Ref: 2461/13597/30971926

## ANNEX A – PROPOSED CONDITIONS

1. **Time limit**

This development must be commenced within three years from the date of this permission.

**Reason:** *To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.*

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2. **Approved plans and documents**

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

**Site location plans**

P-SITE-AA(0-)001 A

P-SITE-AA(0-)002 A

**Proposed floorplans**

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-)114

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

**Proposed site 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

**Proposed 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

**Individual buildings**

P-KCS1-AA(0-)100 A  
P-KCS1-AA(0-)101 A  
P-KCS1-AA(0-)102 A  
P-KCS1-AA(0-)201 A  
P-KCS1-AA(0-)202 A  
P-KCS1-AA(0-)203  
P-KCS1-AA(0-)301 A  
P-KCS1-AA(0-)302 A  
P-KCS1-AA(0-)303 A  
P-KCS2-AA(0-)100 A  
P-KCS2-AA(0-)101 A  
P-KCS2-AA(0-)102 A  
P-KCS2-AA(0-)201 A  
P-KCS2-AA(0-)301 A  
P-KCS2-AA(0-)302 A  
P-KCS2-AA(0-)303 A  
P-WPB1-AA(0-)100 A  
P-WPB1-AA(0-)101 A  
P-WPB1-AA(0-)301 A  
P-WPB1-AA(0-)302 A  
P-WPB2-AA(0-)100 A  
P-WPB2-AA(0-)101 A  
P-WPB2-AA(0-)102 A  
P-WPB2-AA(0-)200 A  
P-WPB2-AA(0-)201 A  
P-WPB2-AA(0-)300 A  
P-WPB2-AA(0-)301 A  
P-WPB3-AA(0-)301  
P-WPB3-AA(0-)302  
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



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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-)201 A  
P-CB-AA(0-)202 A  
P-CB-AA(0-)203  
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-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

**Demolition Plans**

ARP-S-B1-ML-GA-8001/ P1  
ARP-S-ZZ-ML-SX-8002/ P1  
ARP-S-ZZ-ML-SX-8003/ P1  
ARP-S-ZZ-ML-SX-8004/ P1  
ARP-S-ZZ-ML-SX-8005/ P1  
ARP-S-ZZ-ML-SX-8006/ P1  
ARP-S-ZZ-ML-SX-8007/ P1  
ARP-S-ZZ-ML-SX-8009/ P1

**Landscape Plans**

0586.SK12  
0586.SK13  
0586.SK14  
0586.SK15  
0586.SK16 B  
0586.SK17 A  
0586.SK18  
0586.SK19  
0586.SK20

0586.SK21

0586.SK22

0586.SK23

**Supporting Documents – for information purposes**

Planning application form and certificates

Cover Letter

CIL Additional Information Form

Design and Access statement (and Addendum)

Demolition Plans

Access Statement

Statement of Community Involvement

Updated Financial Viability Assessment

Revised Daylight, Sunlight and Overshadowing Report

Technical Report Summary – Addenda to Planning Submission

Fire Safety Strategy (and Addendum)

Pedestrian level Wind Microclimate Assessment (and Addendum)

Archaeological Desk Based Assessment

Flood Risk Statement

Drainage Statement

Historic Buildings and Conservation Areas Assessment

Energy Strategy (and Addendum)

Transport Assessment (and Addendum)

Landscape Strategy (and Addendum)

Basement Construction Method Statement

Delivery Servicing Plan

Interim Workplace Travel Plan

Interim Residential Travel Plan

Bat Survey Report and Initial Ecological Appraisal

Townscape and Visual Impact Assessment (and Addendum)

Revised Air Quality Report

Sustainability Statement (and Addendum)

Planning Statement (and Addendum)

Archaeological Evaluation

Construction Traffic Management Plan

Environmental Noise and Vibration Strategy (and Addendum)

MEP Servicing Strategy

Cumulative Effects Assessment (and Addendum)

***Reason*** – *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the application as assessed in accordance with policies CP16, CL1 and CL2 of the Kensington and Chelsea Consolidated local Plan and Policy 1.1 of the London Plan (2016)*

3. **Detailed drawings, external materials and balcony screens**

Notwithstanding the details shown on the plans, hereby approved, prior to the commencement of the development (other than demolition, site clearance and ground works):

- a. details and appropriate samples of the materials to be used for the external surfaces of the buildings and hard surfaced areas including details of change in elevational treatment shall have been submitted to and approved in writing by the Local Planning Authority; and
- b. sample panels shall be constructed on site of building materials and hard surfacing, to be inspected and approved in writing by the Local Planning Authority.
- c. details of the following features and elements of the scheme must be submitted to Local Planning Authority and approved by the Local Planning Authority in writing:
  - i. Brick bonding and brick and cladding detailing (annotated plans at a scale of not less than 1 :20 unless otherwise agreed in writing with the Local Planning Authority).
  - ii. External windows, balconies, winter gardens, doors, screens, louvres and balustrading (annotated plans at a scale of not less than 1:10 unless otherwise agreed in writing with the Local Planning Authority).
  - iii. Depth of window reveals, colonnades and soffits (annotated plans at a scale of not less than 1 :20 unless otherwise agreed in writing with the Local Planning Authority).
  - iv. Rainwater goods (annotated plans at a scale of not less than 1: 10 unless otherwise agreed in writing with the Local Planning Authority).
  - v. external plant
  - vi. Shop fronts, entrances and openings (annotated plans at a scale of not less than 1 :20 unless otherwise agreed in writing with the Local Planning Authority).
  - vii. The development shall be implemented in full accordance with the approved details prior to the first occupation of the development hereby approved.

**Reason:** *To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CC1 and CC2 of the Kensington and Chelsea Consolidated Local Plan and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan (2016).*

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4. **Building and Site Management**

Prior to the first occupation of the development a Management Strategy for the building and site shall be submitted to and approved in writing by the Local Planning Authority.

The strategy should include:

- a. Details of security measures including location of security / concierge office, location and details of CCTV;

- b. Details regarding the receipt, management and distribution of post, parcels, supermarket and other deliveries to the residential units;
- c. Different controlled areas of the development and details of those who will have access to each of the identified zones;
- d. Points of access and how access will be controlled;
- e. Confirmation of disabled access arrangements;
- f. Refuse and Recycling Storage and Collection; and
- g. Measures and procedures to prevent and deal with antisocial behaviour and crime.

The site shall be managed in accordance with the approved strategy for the life of the development or as otherwise agreed in writing by the Local Planning Authority.

**Reason:** *In the interests of the proper maintenance, safety and security of the site and to ensure that the quality of the public realm is appropriately safeguarded and that that access is maintained for disabled people and people with pushchairs, in accordance with policies 3.1, 3.8, 3.16, 7.2, 7.3, 7.5 and 7.8 of the adopted London Plan (2016) and Kensington and Chelsea Consolidated Local Plan policies.*

5. **Drainage Strategy**

Prior to commencement of works (excluding site investigations and demolition), the applicant must submit a drainage strategy including drawings and supporting calculations for review and approval, in consultation with the sewerage undertaker, aligned with the June 2018 Revised Surface Water Drainage Strategy and associated drawings. Evidence must also be included to demonstrate that the offsite surface water sewers are suitable to receive the runoff. A detailed management plan confirming routine maintenance tasks for all drainage components, including the green / blue roofs, permeable paving and attenuation tank, must be submitted to demonstrate how the drainage system is to be maintained for the lifetime of the development.

**Reason:** *To prevent the risk of flooding to and from the site in accordance with relevant policy requirements including but not limited to London Plan Policy 5.13, its associated Sustainable Design and Construction SPG, the Non-Statutory Technical Standards for Sustainable Drainage Systems and Kensington and Chelsea Consolidated Local Plan Policy CE1.*

6. **Implementation of drainage design**

No building hereby permitted shall be occupied until evidence (photographs and installation contracts) is submitted to demonstrate that the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan for all of the proposed drainage components.

**Reason:** To comply with the Non-Statutory Technical Standards for Sustainable Drainage Systems, the National Planning Policy Framework (Paragraph 103), the London Plan (Policies 5.12 and 5.13) along with associated guidance to these policies and Kensington and Chelsea Consolidated Local Plan Policy CE1.

**7. Landscaping, public realm, play space and boundary treatments**

A landscaping and public realm scheme for the public and private areas in the development shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development above ground floor slab level.

The detailed plan shall include the following details:

- a. The overall layout, including extent, type of hard and soft landscaping and proposed levels or contours;
- b. The location, species and sizes of proposed trees and tree pit design
- c. Details of soft plantings, including any grassed/turfed areas, shrubs and herbaceous areas;
- d. Enclosures including type, dimensions and treatments of any walls, fences, screen walls, barriers, railings and hedges;
- e. Hard landscaping, including ground surface materials, kerbs, edges, ridge and flexible pavements, unit paving, steps and if applicable, any synthetic surfaces;
- f. Street furniture, including type, materials and manufacturer's spec if appropriate;
- g. Details of children's play space equipment and structures, including key dimensions, materials and manufacturer's spec if appropriate;
- h. Any other landscaping features forming part of the scheme, including amenity spaces and green/brown roofs;
- i. A statement setting out how the landscape and public realm strategy provides for disabled access, ensuring equality of access for all, including children, seniors, wheelchairs users and people with visual impairment or limited mobility;
- j. A wayfinding and signage strategy.

All landscaping in accordance with the approved scheme shall be completed/ planted during the first planting season following practical completion of the development. The landscaping and tree planting shall have a two-year maintenance/watering provision following planting and any trees or shrubs which die within five years of completion of the development shall be replaced with the same species or an approved alternative, to the satisfaction of the local Planning Authority.

The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

**Reason:** *In the interest of biodiversity, sustainability, and to ensure that the landscaping is of high design quality and provides satisfactory standards of visual amenity in accordance with London Plan Policies 7.3, 7.4, 7.5 and Policies CC1 and CC2 of the Kensington and Chelsea Consolidated Local Plan.*

8. **Cycle parking**

Details of the secure/enclosed cycle parking spaces for the residential units, visitors' spaces and spaces for the commercial/retail tenants, including their location and type of storage, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved measures shall be installed prior to occupation of the relevant phase of the development, and maintained permanently thereafter unless otherwise approved, in writing, by the Local Planning Authority.

**Reason:** *To ensure satisfactory provision of cycle storage facilities, in accordance with Policies CT1 and CR4 of the Kensington and Chelsea Consolidated Local Plan and Policy 6.9 of the*

9. **Office Travel Plan**

Prior to the first occupation of any office accommodation, an office travel plan shall be submitted to and approved in writing by the Local Planning Authority. The office use shall be carried out in accordance with the approved travel plan.

**Reason:** *To ensure the end use would have an acceptable impact on local traffic and parking and to comply with policy CT1 of the Kensington and Chelsea Consolidated Local Plan.*

10. **No Vehicles in the Public Square**

The public square hereby approved shall be accessible only to emergency vehicles, vehicles required for maintenance of the development, and vehicles necessary for the set-up and breakdown of events within the public square. It shall not be used by any other vehicles.

**Reason:** *To ensure the provision of highest possible public space and to comply with policies CR3, CRS and CT1 of the Kensington and Chelsea Consolidated Local Plan.*

11. **Noise fixed plant**

Any fixed external plant shall be designed and installed to ensure that noise emanating from such plant is at least 10 dB below the background noise levels when measured from the nearest sensitive receptors. All plant shall be installed in accordance with the approved plans. No further fans, louvres, ducts or other external plant shall be installed without the written prior approval of the Local Planning Authority.

**Reason:** to protect the amenities of existing and future residents and ensure that the development provides a high-quality design in accordance with Policies CC1, CC2 and EQS of the Kensington and Chelsea Consolidated Local Plan and Policy 3.5 of the London Plan.

12. **Noise, vibration and internal residential environment**

Prior to the commencement of development above ground floor slab level, details of the built fabric and ventilation strategy within the scheme to ensure:

- a. The approved residential units are insulated against external noise which achieves internal noise levels which do not exceed the guidelines values contained in table 4 of BS 8233:2014;
- b. The approved residential units are insulated by noise insulation measures of the A 1- A3, B1 and O1 uses to provide effective resistance to the transmission of airborne and impact sound horizontally and/or vertically between those uses; and

shall be submitted to and approved, in writing, by the Local Planning Authority. The approved measures shall be installed prior to the occupation of the residential units and thereafter retained.

**Reason:** To protect the amenities and health of the occupiers of the building(s), in accordance with Policies CL5 and CH2 of the Kensington and Chelsea Consolidated local Plan and London Plan Policies 7.14 and 7.15.

13. **External lighting and security**

Notwithstanding the plans hereby approved, details of

- a. CCTV;
- b. General external lighting;
- c. Security lighting;
- d. Access control measures for residential core entrance; and
- e. Secured by Design accreditation measures and counter terrorism measures;

on or around the buildings or within the public realm in the development shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the first

occupation of the development. The details shall include the location and full specification of all lamps; light levels/spill; illumination; cameras (including view paths); and support structures. The details will also include an assessment of the impact of any such lighting on the surrounding residential environment.

The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

**Reason:** To safeguard the security of the development and to ensure that any resulting general or security lighting and CCTV are appropriately located, designed to not adversely impact on neighbouring residential amenity or ecology, and are appropriate to the overall design of the development in accordance with policies 7.3, 7.4, 7.6 and 7.19 of the London Plan and Policies CL1, CL2, CR4, CR3 and CR5 of the Kensington and Chelsea Consolidated Local Plan. CC2 of the Kensington and Chelsea Consolidated Local Plan.

14. **Sustainability standards for non-residential uses**

The development shall achieve an 'Excellent' rating under BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) for the Shell/Shell and Core stage and an 'Excellent' rating under BREEAM Refurbishment and Fit-out 2014.

- a. Within 6 months of work starting on site, unless otherwise agreed in writing, a BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) Shell and Core Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE), must be submitted, by the developer, and approved in writing by the Local Planning Authority to show that a minimum 'Excellent' rating will be achieved.
- b. Within 3 months of first occupation of the building, unless otherwise agreed in writing, a BREEAM UK New Construction 2014 (or such equivalent standard that replaces this) Shell and Core Final (Post-Construction) Certificate, issued by the BRE, must be submitted, by the developer, and approved in writing by the Local Planning Authority to demonstrate that an 'Excellent' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.
- c. Prior to commencement of the fit-out of the building, unless otherwise agreed in writing, a BREEAM Refurbishment and Fit-out 2014 Parts 3 and 4 Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE), must be submitted, by the fit-out contractor, and approved in writing by the Local Planning Authority to show that a minimum 'Excellent' rating will be achieved.
- d. Within 6 months of first occupation, unless otherwise agreed in writing, a BREEAM A Refurbishment and Fit-out 2014 Parts 3 and 4 Final (Post-Construction) Certificate, issued by the BRE, must be submitted, by the fit-out contractor, and approved in writing by the Local Planning Authority to demonstrate that an 'Excellent' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.

**Reason:** In the interests of sustainable development and in accordance with London Plan Policies 5.2-5.7 and Kensington and Chelsea Consolidated Local Plan Policies CE1.



15. **Compliance with energy strategy**

The development shall be built in accordance with the Energy Strategy approved by the Local Planning Authority, demonstrating how the development will follow the hierarchy of energy efficiency, decentralised energy and renewable energy technologies to secure a minimum 35% reduction in CO2 emissions below the maximum threshold set in Building Regulations Part L 2013.

Prior to occupation, evidence (e.g. photographs, copies of installation contracts and as-built worksheets prepared under SAP or the National Calculation Method) should be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved Energy Strategy unless otherwise agreed by the Local Planning Authority in writing.

**Reason:** *In the interests of sustainable development and in accordance with London Plan Policies 5.2-5.7, and Kensington and Chelsea Consolidated Local Plan Policy CE1.*

16. **Accessible and adaptable dwellings**

A minimum of 10% of all dwellings shall be built to requirement M4(3) wheelchair user dwellings contained within Part M volume 1 of the Building Regulations, as identified on the plans approved under condition 2. All other dwellings shall be built to requirement M4(2) accessible and adaptable dwellings contained within Part M volume 1 of the Building Regulations.

**Reason:** *To ensure a socially inclusive and sustainable development in accordance with Kensington and Chelsea Consolidated Local Plan Policy CH2(b) and Policies 3.8 and 7.2 of the London Plan.*

17. **Wind Mitigation**

The mitigation measures identified in section 33 of the 'Pedestrian Level Wind Microclimate Assessment' by RWDI dated 6 September 2017 shall be implemented in full prior to the first occupation of the development.

**Reason -** *To ensure a high quality outdoor public space around the site and ensure compliance with Policies CR3 and CR4 of the Kensington and Chelsea Consolidated Local Plan and London Plan Policy 7.7.*

18. **Air Quality**

Prior to the occupation of any residential unit, details of ventilation designed to supply air into the residential units shall be submitted to and approved, in writing, by the Local Planning Authority. The system shall be so maintained in accordance with the

submitted details. The ventilation system must be designed to supply clean air which does not exceed the national Air Quality Objectives for Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>10</sub>) into residential units.

The details must demonstrate that:

- a. the overall efficiency of the system at least meets the details set out in the energy strategy; and
- b. the proposed system will provide sufficient ventilation air for all habitable the nursery and other publicly accessible areas.

**Reason:** *To ensure that the development meets the requirements of London Plan Policies 7.14 (Air Quality), Policy 5.2 (Minimising Carbon Dioxide Emissions) and Policy CE5 of the Kensington and Chelsea Consolidated Local Plan.*

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19. **Air Quality CHP**

Prior to the occupation of the development the applicant must provide details of tests undertaken on the installed boiler and CHP systems for the approval of the local planning authority. The tests must demonstrate that the installed boiler and CHP systems meet, or exceed, the emissions rates and other parameters set out in the Air Quality Assessment.

The development shall not be occupied until these details have been approved, in writing, by the local planning authority.

**Reason:** *To ensure that the development is undertaken in accordance with the application details provided and meets the requirements of London Plan Policy 7.14 (Air Quality) and Policy CES of the Kensington and Chelsea Consolidated Local Plan.*

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20. **Non Road Mobile Machinery**

All Non Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall

meet at least Stage IIIA of EU Directive 97 /68/EC (as amended) if in use before 1 September 2020 or Stage 1118 of the directive if in use on 1 September 2020 or later.

If NRMM meeting the relevant Stage in paragraph 1 above is not available the requirement may be met using the following techniques:

- Reorganisation of NRMM fleet
- Replacing equipment (with new or second hand equipment which meets the policy)
- Retrofit abatement technologies
- Re-engineering

This is subject to the local planning authority's prior written consent.

If **NRMM** meeting the policy in the paragraph above is not available every effort should be made to use the least polluting equipment available including retrofitting technologies to reduce particulate emissions. This is subject to the local planning authority's prior written consent.

Unless it complies with the above standards, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>

**Reason:** *To protect local amenity and air quality in accordance with London Plan policies 5.3 and 7.14 and Kensington and Chelsea Consolidated Local Plan Policy CE5.*

21. **Biodiversity enhancement plan**

Prior to occupation, details of the ecological enhancements as outlined in the Bat Survey Report and Initial Ecological Appraisal, shall be submitted to and approved, in writing, by the local planning authority prior to occupation of the relevant building. The approved provisions shall be implemented in full and thereafter permanently maintained unless otherwise agreed in writing with the local planning authority.

**Reason:** *In the interests of ecology and habitat preservation and enhancement, in accordance with London Plan Policy 7.19 and Kensington and Chelsea Consolidated Local Plan Policy CR5, CR6 and CE4.*

22. **Open space and landscaping management and maintenance plan**

An open space and landscaping management plan, setting out a maintenance schedule for all landscaped areas (public and private) shall be submitted to the Local Planning Authority for approval prior to occupation of development. The landscaping shall be maintained in accordance with the details approved by the Local Planning Authority.

**Reason:** *In the interests of local amenity and visual appearance, and in accordance with Policy CR6 of the Kensington and Chelsea Consolidated Local Plan.*

23. **Land contamination**

Prior to commencement of works (excluding site investigations and demolition):

- a. A contaminated land Phase 1 desk study report shall be submitted to, and approved in writing by the Local Planning Authority. Should the Phase 1 report, recommend that a Phase 2 site investigation is required, then this shall be

- carried out and submitted to, and approved in writing by the Local Planning Authority. The site shall be investigated by a competent person to identify the extent and nature of contamination. The report should include a tiered risk assessment of the contamination based on the proposed end use of the site. Additional investigation may be required where it is deemed necessary; and
- b. If required a scheme for decontamination of the site shall be submitted to the Local Planning Authority, for written approval. The scheme shall account for any comments by the Local Planning Authority before the development hereby permitted is first occupied.

During the course of the development:

- c. The Local Planning Authority shall be notified immediately if additional contamination is discovered during the course of the development. A competent person shall assess the additional contamination, and shall submit appropriate amendments to the scheme for decontamination in writing to the Local Planning Authority for approval before any work on that aspect of the development continues.

Before the development is first brought into use:

- d. The agreed scheme for decontamination referred to in clauses b) and c) above, including amendments, shall be fully implemented and a written validation (closure) report submitted to the Local Planning Authority for approval

**Reason:** *For the protection of Controlled Waters and to ensure the site is deemed suitable for use, in accordance with Kensington and Chelsea Consolidated Local Plan Policy CE7 and London Plan Policy 5.21.*

24. **Protection of trees during construction**

No development shall commence until full particulars of the methods by which the retained street trees adjacent to the site on Kensington Church Street are to be protected during site preparation, demolition, construction, landscaping, and other operations on the site including erection of hoardings, site cabins, or other temporary structures, have been submitted to and approved in writing by the local planning authority and the development shall be carried out only in accordance with the details so approved.

**Reason:** *To ensure that the trees are adequately protected, to safeguard their contribution to the appearance and amenity of the area and accord with policies of the development plan, in particular Policy CR6 of the Kensington and Chelsea Consolidated Local Plan.*

25. **Piling**

No piling work shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be

carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

**Reason:** *the proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.*

26. **Piling - LUL Infrastructure Protection**

No development shall commence until a detailed method statement which accommodates the location of the existing London Underground structures has been agreed with London Underground limited and has then been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of all foundations, basement and ground floor structures and any other structures below ground level, including piling (temporary and permanent). The development thereafter shall be carried out in accordance with the approved design and method statements.

**Reason:** *To ensure that the development does not impact on existing London Underground transport infrastructure in accordance with London Plan Policy 3C.4 and 'Land for Transport Functions' Supplementary Planning Guidance. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Development Plan.*

27. **Demolition environmental management and logistics plan**

The development shall not commence until a demolition management and logistics plan is submitted to and approved in writing by the Local Planning Authority in consultation with TfL. The demolition works shall be carried out in accordance with the details approved.

The plan shall include specific details relating to the, logistics and management of all works associated with the demolition phase and aim to minimise road vehicle movements, traffic congestion, pollution and adverse amenity impacts. It should be produced in accordance with TfL's latest Construction logistics Plan Guidance. The plans should include:

- a. Details of the site manager, including contact details (phone, email, postal address) and the location of a large notice board on the site that clearly identifies these details and a 'Considerate Constructors' contact telephone number;
- b. The parking of vehicles of site operatives and visitors;
- c. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing;
- d. Wheel washing facilities;
- e. A scheme for recycling/disposing of waste resulting from demolition and construction works;
- f. Any means, such as a restriction on the size of construction vehicles and machinery accessing the site, required to ensure that no damage occurs to adjacent highways through the construction period;
- g. Any means of protection of services such as pipes and water mains within adjacent highways;
- h. Measures to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of building plants and materials and similar demolition/ construction activities;
- i. Measures to ensure that pedestrian access past the site on the public footpaths is safe and not obstructed during construction works;
- j. Location of workers' conveniences (e.g. temporary toilets);
- k. Ingress and egress to and from the site for construction vehicles;
- l. Proposed numbers and timings of truck movements throughout the day and the proposed routes;
- m. Procedures for controlling sediment runoff, dust and the removal of soil, debris and demolition and construction materials from public roads or places;
- n. Details of the mitigation for dust and emissions as well as methodology for monitoring during construction;
- o. Measures to minimise disruption to neighbouring and adjoining residential and commercial occupiers.

The development shall be carried out in accordance with the approved details.

**Reason:** *To safeguard the amenity of adjacent residents, to ensure efficient and sustainable operation of the borough's highway system and to safeguard pedestrian and highway safety and to prevent or reduce air pollution during demolition in accordance with Policies CE3, CES, CE6, and (LS of the Kensington and Chelsea Consolidated Local Plan and London Plan Policies 6.14 and 7.14.*

28. **Construction environmental management and logistics plan**

The development shall not commence until a construction management and logistics plan is submitted to and approved in writing by the Local Planning Authority in consultation with TfL. The construction works shall be carried out in accordance with the details approved.

The plan shall include specific details relating to the construction, logistics and management of all works associated with the proposed development and aim to minimise road vehicle movements, traffic congestion, pollution and adverse amenity impacts. It should be produced in accordance with TfL's latest Construction logistics Plan Guidance. The plans should include:

- a. Details of the site manager, including contact details (phone, email, postal address) and the location of a large notice board on the site that clearly identifies these details and a 'Considerate Constructors' contact telephone number;
- b. The parking of vehicles of site operatives and visitors;
- c. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing;
- d. Wheel washing facilities;
- e. A scheme for recycling/disposing of waste resulting from demolition and construction works;
- f. Any means, such as a restriction on the size of construction vehicles and machinery accessing the site, required to ensure that no damage occurs to adjacent highways through the construction period;
- g. Any means of protection of services such as pipes and water mains within adjacent highways;
- h. Measures to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of building plants and materials and similar demolition/ construction activities;
- i. Measures to ensure that pedestrian access past the site on the public footpaths is safe and not obstructed during construction works;
- j. Location of workers' conveniences (e.g. temporary toilets);
- k. Ingress and egress to and from the site for construction vehicles;
- l. Proposed numbers and timings of truck movements throughout the day and the proposed routes;
- m. Procedures for controlling sediment runoff, dust and the removal of soil, debris and demolition and construction materials from public roads or places;
- n. Details of the mitigation for dust and emissions as well as methodology for monitoring during construction;
- o. Measures to minimise disruption to neighbouring and adjoining residential and commercial occupiers.

The development shall be carried out in accordance with the approved details.

**Reason:** *To safeguard the amenity of adjacent residents, to ensure efficient and sustainable operation of the borough's highway system and to safeguard pedestrian and highway safety and to prevent or reduce air pollution during construction in accordance with Policies CE3, CES, CE6, and (LS of the Kensington and Chelsea Consolidated Local Plan and London Plan Policies 6.14 and 7.14.*

29. **Water efficiency measures**

Prior to first occupation of the building(s) evidence (schedule of fittings and manufacturer's literature) should be submitted to the Local Planning Authority and approved in writing to show that the development has been constructed in accordance with the approved internal water use calculations.

**Reason:** *In the interests of sustainable development and in accordance with London Plan Policies 5.3 and 5.15 and Kensington and Chelsea Consolidated Local Plan Policy CE1.*

30. **Water supply and wastewater capacity**

Development shall not commence (excluding demolition works above existing ground level) until impact studies of the existing water supply infrastructure have been submitted to and approved, in writing, by the local planning authority in consultation with Thames Water. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

**Reason:** *To ensure that the water supply infrastructure has sufficient capacity to accommodate the additional demand in accordance with Kensington and Chelsea Consolidated Local Plan CE1, London Plan Policies 5.13, 5.14, 5.15 and to ensure accordance with the Flood and Water Management Act 2010.*

31. **Sourcing of materials**

The development shall not be occupied until evidence (e.g. photographs and copies of installation contracts) have been submitted to the Local Planning Authority to demonstrate that the development has been carried out in accordance with the approved sustainable sourcing of materials standards.

**Reason:** *in order to ensure the sustainable sourcing of materials in accordance with the London Plan Policy 5.3 and the Sustainable Design and Construction SPG*

32. **Fire Safety**

Prior to commencement of the development (excluding demolition works above existing ground level) a Fire Statement approved by the London Fire Brigade shall be submitted to and approved in writing by the Local Planning Authority. The statement should detail how the development proposal will function in terms of:

- a. The building's construction: methods, products and materials used;
- b. The means of escape for all building users: stair cores, escape for building users who are disabled or require level access, and the associated management plan approach;
- c. Access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of



equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these; and

- d. How provision will be made within the site to enable fire appliances to gain access to the building.

**Reason:** *To ensure that development achieves the highest standards of fire safety, reducing risk to life, minimising the risk of fire spread, and providing suitable and convenient means of escape which all building users can have confidence in.*

33. **Opening Hours**

All ground floor commercial uses and events in the public square hereby approved shall not operate between 23:00 hours and 07:00 hours the following day, unless otherwise approved, in writing, by the Local Planning Authority.

**Reason:** *To safeguard the amenities of neighbouring residents and future residents of the development, in accordance with Policy CL5 of the Kensington and Chelsea Consolidated Local Plan.*

34. **Ventilation (AI -A3 uses)**

Details of external ventilation equipment, including ducting, shall be submitted to the Local Planning Authority for approval prior to commencement of above ground works on each building, and shall be installed in accordance with those details approved by the Local Planning Authority

**Reason:** *In the interests of local amenity and visual appearance, and in accordance with Policy CL 1 and CL2 of the Kensington and Chelsea Consolidated Local Plan.*

35. **Delivery and servicing plan - Commercial**

A delivery and servicing plan (DSP) for the commercial uses, shall be submitted to and approved, in writing, by the Local Planning Authority prior to occupation of the commercial part of the development. The DSP shall cover the following items:

- a. Deliveries and collections;
- b. Servicing trips (including maintenance); and
- c. Monitoring and review of operations.

The DSP shall be implemented once the commercial part of the development is occupied and shall remain in place unless otherwise agreed in writing.

**Reason:** *To ensure that the impacts of delivery and servicing on the local highway network and general amenity of the area are satisfactorily mitigated in accordance with Policies CR7 and CT1 of the Kensington and Chelsea Consolidated Local Plan and London Plan Policy 6.14.*

36. **Delivery and servicing plan - Residential**

A delivery and servicing plan (DSP) for the residential uses shall be submitted to and approved, in writing, by the Local Planning Authority prior to occupation of the residential part of the development. The DSP shall cover the following items:

- a. Deliveries and collections;
- b. Servicing trips (including maintenance);
- c. Details for management and receipt of deliveries for the residential properties; and
- d. Monitoring and review of operations.

The DSP shall be implemented once the residential floorspace is occupied and shall remain in place unless otherwise agreed in writing.

**Reason:** *To ensure that the impacts of delivery and servicing on the local highway network and general amenity of the area are satisfactorily mitigated in accordance with Policies CR7 and CT1 of the Kensington and Chelsea Consolidated Local Plan and London Plan Policy 6.14.*

37. **Car park management plan**

Prior to the first use of the basement car park, a Car Park Management Plan should be submitted to, and approved in writing by the Local Planning Authority, and must include at least the following details:

- a. Details of the layout;
- b. The proposed allocation of and arrangements for the management of parking spaces including disabled parking bays serving the residential development;
- c. The provision of Electric Vehicle Charging Points (EVCP) including both active and passive provision for both the residential and office parking areas in accordance with adopted London Plan Guidance;
- d. Details of the controls of means of entry to the car park, and a proactive regime of car lift maintenance; and
- e. The safety and security measures to be incorporated within the development to ensure the safety of car/cycle parking areas;

The car parking shall be provided and managed in accordance with the approved strategy for the life of the development, or as otherwise agreed in writing by the Local Planning Authority.

**Reason:** *to ensure inclusive, safe and adequate parking is provided and retained in conjunction with the development in the interests of the general amenities of the locality, the flow of traffic and conditions of pedestrian and general highway safety within the site and on neighbouring highways, a sustainable development and where appropriate constrain local highway impact in accordance with policies 6.3, 6.9 and 6.13 of the London Plan and Policy CT1 of the Kensington and Chelsea Consolidated Local Plan*

38. **Rooftop TV equipment details**

A scheme for the provision of communal/centralised satellite and television reception equipment to be installed on the roof of all buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the development proceeding above ground floor slab level of each building. The development shall be implemented in accordance with the approved scheme and the equipment shall thereafter be retained and made available for use by all occupiers of the development.

***Reason:** To ensure that the development makes appropriate provision for such equipment, so as to not impact adversely on the character of the area and architectural quality of the buildings, in accordance with London Plan policies 7.4, 7.6 and 7.7 and Kensington and Chelsea Consolidated Local Plan Policy CL 1.*

39. **Restriction of rooftop plant and equipment**

No water tanks, plant, lift rooms or other structures, other than those shown on the approved drawings, shall be erected upon the roofs of the approved buildings without the written approval of the local planning authority.

***Reason:** In the interests of the appearance of the buildings and to safeguard the appearance of the area, in accordance with London Plan policies 7.4, 7.6 and 7.7 and Kensington and Chelsea Consolidated Local Plan Policy CL1.*

40. **Operational waste management and recycling strategy**

Notwithstanding the approved drawings, a waste and recycling strategy for the development shall be submitted to and approved in writing by the Local Planning Authority. The waste and recycling strategy shall be implemented approved, unless otherwise agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details, made available for use prior to the first occupation of the development, and managed and operated in accordance with the approved strategy in perpetuity.

***Reason:** To ensure adequate refuse storage is provided on site and can be readily collected, to accord with Kensington and Chelsea Consolidated Local Plan Policy CE3.*

41. **Use of Flat Roofs**

The areas of flat roof adjacent to the western site boundary at second floor level shall not be used at any time as a roof terrace except in case of emergency escape or for maintenance.

***Reason:** To protect the living conditions of those properties on Jameson Street and to comply with policy CL5 of the Kensington and Chelsea Consolidated Local Plan.*

42. **Road Safety Audit**

Prior to commencement of the development (save for demolition, below ground works and temporary works) a Stage 2 (detailed design) safety audit of the junction of Newcombe Street and Kensington Place junction shall be undertaken and submitted to, and approved in writing by the Local Planning Authority.

***Reason:** To inform the layout of the new junction and to ensure the creation of a safe and high quality pedestrian environment, to comply with policies CT1 and CR3 of the Consolidated Local Plan.*

43. **Sewer water flooding**

No part of the development hereby permitted shall be occupied until a positively pumped device has been installed within the development to prevent sewer water flooding to the basement levels.

***Reason:** To protect future occupants and users of the development against sewer flooding and to comply with policies CE2 and, CL5, CL7 of the Kensington and Chelsea Consolidated Local Plan.*

44. **Professional management of engineering works**

No development shall commence (save demolition) 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 will cease until a replacement chartered engineer of the afore described qualification 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 this Authority in accordance with this condition.

***Reason:** The details are considered to be material to the acceptability of the proposal, and for safeguarding the amenity of neighbouring residential properties and to comply with the Basements SPD and policy CL7 of the Consolidated Local Plan.*

45. **Retention of scheme architects**

The existing architects or other such architects as approved in writing by the Local Authority, acting reasonably, shall undertake the detailed design of the project.

***Reason:** In order to retain the design quality of the development in the interest of the visual amenity of the area, in accordance with London Plan policies 7.4, 7.6 and 7.7 and Kensington*

and Chelsea Local Plan CL 1 and CL2.

46. **Retail tenant mix**

The units annotated as “retail” on drawing nos. P-SITE-AA(0-)011A and P-SITE-AA(0-)100A shall not be occupied by tenants that operate more than three other retail units in the Royal Borough of Kensington and Chelsea at the time of first occupation by the relevant tenant.

**Reason:** *In order to create the desired retail composition within the development in accordance with Policy CF2 of the Consolidated Local Plan*

47. **Retail Amalgamation**

The units annotated as “retail” on drawing nos. P-SITE-AA(0-)011A and P-SITE-AA(0-)100A shall be constructed in accordance with the approved drawings and shall not be amalgamated at ground floor level thereafter.

**Reason:** *To maintain the number of retail units within the development in order to support the vitality of any existing centre and to safeguard the amenities of occupiers of neighbouring residential properties in accordance with policies CF1 and CL5 of the Consolidated Local Plan*

48. **Health Facility Use**

Notwithstanding condition 2, the areas annotated as ‘Flexible Surgery/ Office’ at fourth, fifth and sixth floor levels on approved drawings P-SITE-AA(0-)104 A, P-SITE-AA(0-)105 A and P-SITE-AA(0-)114, shall only be used as a health facility and not for any other use which falls within Class D1 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 and any subsequent amendments to the use classes order.

**Reason:** *To protect the living conditions of nearby properties and ensure an acceptable impact on local transport, traffic and parking to comply with policies CL5, CE6 and CT1.*