

# **King's Cross Central - Triangle Site**

Appeal by Argent (King's Cross) Limited  
London & Continental Railways Limited  
and Exel Limited

## **Proof of Evidence of Stuart J Robinson**

Planning Inspectorate References:  
**APP/X5210/A/07/2051898**  
**APP/V5570/A/07/2051902**

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# Contents

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CONTENTS	PAGE NUMBER
1. Qualifications and Experience .....	1
2. Scope of Evidence .....	2
3. The Relationship of The Appeal Proposal to the Wider King's Cross Regeneration.....	7
4. Affordable Housing Provision and Tenure.....	13
5. Conclusion .....	35

## Annexes:

- A. King's Cross Central Scheme – Overview of Key Dates and Events

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# 1. QUALIFICATIONS AND EXPERIENCE

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- 1.1 My name is Stuart James Robinson. I hold a Diploma in Town and Country Planning from Bristol Polytechnic (now the University of the West of England). I am a member of the Royal Town Planning Institute. I am also chair the London Office Review Panel advising the Mayor of London on planning and promotion in the capital. I am a former head of the Planning Working Party of the Westminster Property Owners Association and the CBI London Branch.
- 1.2 I am an Executive Director with CB Richard Ellis, the largest firm of property consultants in the world. The company deals with all aspects of land and property advice through over 400 offices in 58 countries, employing some 24,000 people. In the UK, CB Richard Ellis has 1,500 employees in 12 offices with revenue of £250 million. This is largely the result of its merger between CB Hillier Parker and Insignia Richard Ellis, which took place in 2003 and subsequent mergers and acquisitions.
- 1.3 I head the UK Planning Consultancy service within the company, having being recruited by Hillier Parker in 1982 and joining the partnership in 1990. I have been involved with property and town planning professionally in the private sector for over 30 years. During that time I have had considerable experience in a wide range of projects giving evidence at a number of public inquiries relating to development and the formulation of planning policy.
- 1.4 I have advised landowners, developers, local authorities and occupiers on planning matters including economic and environmental issues, planning applications, planning appeals and policy matters. In the last two years, CB Richard Ellis has provided regeneration and planning advice on over 20 square kilometres in the UK, the majority located within urban areas.
- 1.5 During my career I have had a particular interest in London, where I have been involved with a number of significant projects such as the planning and development of Regent Street, Woolwich Arsenal, White City, Croydon and Tate Modern in Southwark.
- 1.6 I have been involved in a number of schemes in both the London Borough of Islington and Camden administrative areas. This has included a variety of instructions on behalf of University College, London across its portfolio. I am the planning advisor to the consortium of medical research organisations involved in the establishment of the United Kingdom Centre for Medical Research and Innovation, on the land to the rear of the British Library, which was formally announced by the Prime Minister in December 2007.
- 1.7 I have acted as the strategic planning consultant for Argent (King's Cross) Limited on the King's Cross Central development since they were appointed as preferred developer in 2000. I have been engaged in every aspect of the scheme's evolution, particularly through the policy formulation process.

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## 2. SCOPE OF EVIDENCE

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### INTRODUCTION

- 2.1 My evidence focuses on the relationship of the development proposal to planning policy. I will demonstrate that the proposals accord with the statutory development plan and that there are no material considerations which could justify planning permission not being granted. I will also demonstrate that the material considerations applicable to the proposals reinforce the statutory presumption in favour of granting consent for proposals that accord with the development plan.
- 2.2 My evidence therefore analyses:
- the approach adopted in considering the proposals by both the London Boroughs of Camden and Islington,
  - the policy framework described within the Statement of Common Ground (SOCG) and its application to the proposals, concentrating particularly on:
    - the context that the appeal site holds within the wider regeneration of King's Cross;
    - the quantum of the proposed affordable housing provision having regard to relevant policy;
    - the policy framework in respect to tenure mix; and
  - other material considerations, including emerging policy and non-statutory guidance.
- 2.3 Evidence specifically regarding the nature of the affordable housing proposed and the application of relevant affordable housing policy is given separately by Mrs Dickinson of the RPS Group. Mrs Dickinson also demonstrates that provisions are in place to ensure the affordable homes proposed are retained in the long term. Her evidence complements mine.
- 2.4 In conjunction with the Greater London Authority and the London Boroughs of Camden and Islington, a comprehensive SOCG and Core Documents List have been produced.
- 2.5 The SOCG sets out the following:
- Description of the Site and Surroundings
  - The Development Proposals
  - Chronology and Decision Making
  - Planning Policy:

- The Statutory Development Plan, comprising:
  - The London Plan
  - Camden UDP
  - Islington UDP (saved)
- National Policy
- Supplementary Planning Guidance
- Emerging Policy/Other Guidance
- Matters not under Contention
- Draft Conditions

2.6 The evolution of the policy context set out in the SOCG informed and influenced the context in which the scheme was conceived and the proposals were made. A timeline illustrating the evolution of policy, events and the key dates in the King's Cross Central scheme proposals is set out in Annex A.

## **THE DEVELOPMENT PROPOSAL**

2.7 The SOCG sets out the development proposal, as amended in September 2005 and now forming these appeals. The Main and Triangle sites fall within an area designated as an Opportunity Area by the Greater London Authority. That Opportunity Area comprises Camden Council's 'King's Cross Area of Opportunity' and Islington Council's 'Triangle Area of Opportunity'. In general terms the wider area, as identified by the GLA, is collectively known as the King's Cross Opportunity Area.

2.8 The appellant's proposals seek to bring widespread benefits to the King's Cross area in establishing a sustainable mixed use scheme which includes:

- a step change in the quality of the public realm, with 20 new streets and 10 new public spaces within the development, designed and managed to world class standards, and through the S106, committed enhancements to both the Regent's Canal and surrounding streets in Camden and Islington (new paving, lighting and planting);
- a new business cluster with substantial critical mass, providing 25,000+ jobs;
- a flagship employment and training package, to include a skills and recruitment centre and new construction training centre. The latter will initially be on the Triangle Site.
- initiatives on business volunteering, community enterprise and local procurement;
- 1,946 new homes, including 536 social rented and 298 intermediate affordable homes, all built to high environmental and design standards and significantly extending choice within local housing provision;

- a new University complex for the University of the Arts London within the Granary complex;
- new community uses: a 2-form entry primary school; children's centre; two healthcare centres to be managed by the Primary Care Trust; an indoor sports hall; an indoor leisure (swimming pool and gymnasium) facility; and community meeting space;
- new shops and visitor attractions;
- low energy development with site-wide district heating/combined heat and power with a range of renewable technologies;
- transport improvements including funding for bus enhancements and a bicycle interchange; and
- retention, refurbishment and reuse of many listed and other historic buildings and related surfaces and features, a number of which are on the "at risk" register.

2.9 The Mayor specifically recognises the effects that these benefits will bring to King's Cross. At the London Planning Awards 2007 (15 January 2008), when the Deputy Mayor presented the Mayor's personal Award for Planning Excellence on his behalf, to King's Cross Central she stated:

*"I very much look forward to the continued transformation of King's Cross, and to it becoming a vibrant and thriving destination for Londoners and visitors for generations to come."*

2.10 The appellants have, together with the other authorities involved in the King's Cross Central scheme, been focused on ensuring the delivery of these wide ranging benefits. All parties, including the Greater London Authority and the London Boroughs of Camden and Islington, have viewed King's Cross Central as a single entity until Islington's decision in respect to the present case. This approach is clearly appropriate and conducive to the deliverability of the area's regeneration. The supporting information submitted for the King's Cross proposals was, as a consequence, identical to ensure that the context of each, embracing the wider scheme proposals, was firmly established. Indeed, the 'Main Site' consent<sup>1</sup> has been granted and the permission implemented. This not only establishes the appellants' commitment to the regeneration of the King's Cross Opportunity Area but provides the confidence that the proposals will be delivered.

2.11 The appellants' remain totally committed to delivering the proposed regeneration of the Triangle, as an integral and integrated part of the regeneration of the King's Cross Central development. In pursuing this appeal, the appellants have continued working with the relevant authorities in producing a draft Section 106 planning obligations and a range of proposed conditions to control the site's development and to ensure its delivery. Since the formal amendment to the description of development in September 2005 the proposals have evolved, as set out in the SOCG, in order to adopt the appropriate elements of the affordable housing package identified by the respective

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<sup>1</sup> The consented scheme for the 'Main Site' comprises a development of 713,090 square metres of floorspace, comprising business (B1), Residential (C3), Hotels/ Serviced apartments (C1), Shopping/food & Drink (A1-A5), D1, Leisure (D2 – incl Cinema, Night clubs) and miscellaneous other activities.

councils and the Housing Corporation. Mrs Dickinson addresses this and the issue of tenure and recycling of staircasing receipts in her evidence.

## **THE APPEALS**

2.12 Section 3 of the SOCG sets out the background to, and the grounds of, this appeal. It is my view that the principal issues arising from Islington's decision are:

- The proportion of affordable housing provided
- The affordable housing package proposed, in terms of:
  - Tenure mix, and
  - Recycling of staircasing receipts.

2.13 I consider from reading Islington Council's Rule 6 Statement that they are taking the position that the Triangle Site should be taken in isolation within both the context of the King's Cross Opportunity Area and King's Cross Central. This is contrary to the approach taken by all parties, including Islington, up to that point in time.

2.14 My analysis of the factual policies set out in the SOCG and the principal issues in the appeal are set out in this evidence. These demonstrate that the London Borough of Islington did not correctly apply planning policy in reaching its decision to refuse permission for the Triangle Site. Islington Council is thus:

- delaying delivery of the regeneration of the Triangle site as an integral component of the redevelopment of the Opportunity Area; and
- failing in its duty to contribute to increasing housing and affordable housing supply in London.

2.15 My evidence will show that the proposed development complies with the development plan in all aspects and specifically in terms of the proportion and mix of affordable housing proposed.

2.16 It should be noted that although an appeal has been lodged in respect of that part of the proposals relating to land in the London Borough of Camden, that Council has supported and continues to support these proposals. The Camden appeal arises solely because of the decision reached by Islington Council's members to refuse planning permission. As the proposal spans two administrative areas and is covered by identical applications to the two planning authorities, the refusal of one of the applications has necessitated an appeal in respect of the other. As a consequence, and as Camden support these proposals, I focus primarily on the Islington appeal and refer only to the Camden element of the proposed development when it is necessary to do so.

2.17 In my evidence I consider:

1. the context in which the Triangle Site should be considered against the wider King's Cross Central scheme and Opportunity Area;
2. whether the proposals conflict with policy;
3. the weight that should be attached to the documents used to justify the refusal; and
4. whether there are any other material considerations which influence the determination of the proposals and whether those material considerations support these proposals.

2.18 I have therefore structured my evidence to deal separately with the following issues:

- The proposal's relationship to the wider King's Cross regeneration (Section 3)
- Affordable housing provision and tenure (Section 4)

2.19 The SOCG sets out relevant national policy and guidance, including PPS1 and PPS3 (and its associated Companion Guide). These proposals are in full compliance with that policy and guidance, achieving or exceeding the standards or criteria contained in it.

2.20 Mrs Dickinson provides further detailed analysis of policy in so far as it applies to the appeal proposals in the context of her evidence.

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### **3. THE RELATIONSHIP OF THE APPEAL PROPOSAL TO THE WIDER KING'S CROSS REGENERATION**

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#### **INTRODUCTION**

- 3.1 In my view the Triangle Site can only sensibly be viewed in the context of the wider regeneration of the King's Cross Central scheme. Indeed King's Cross Central scheme has always been viewed in a single comprehensive manner. Not to do so would compromise the opportunity for, and imperatives of, comprehensive regeneration identified by the Mayor and both Camden and Islington Councils in the preparation and adoption of the planning policy framework for the area. The delivery of the regeneration of the Triangle Site and associated benefits, relies on the delivery of the regeneration of the Main site and its relationship with it.
- 3.2 Many of the benefits incorporated in the regeneration proposals relate to the wider scheme but are proportionately of greater benefit to the Triangle site. This includes the routing of new bus routes along York Way to serve both the Triangle and Main sites and the provision of facilities of benefit to both. Had the Triangle site not been included in the concept of the total scheme, simpler and cheaper options could have been explored to the detriment of any development proposals on the Triangle.
- 3.3 Had the Triangle site been treated in isolation, there would be no assurance as to when it might be developed. The inclusion of the Triangle site within the wider King's Cross Central development provides the commitment and assurance that the proposals will be delivered, and delivered without unnecessary delay.

#### **POLICY GUIDANCE AND OTHER DOCUMENTS**

##### Islington UDP

- 3.4 Both the London Borough of Camden and the London Borough of Islington have adopted statutory policy and supplementary guidance that requires the Triangle site to be considered as part of the wider King's Cross scheme.
- 3.5 Islington's UDP was adopted in 2002 and remains an integral part of the statutory development plan. It identifies King's Cross as a regeneration 'Priority Area' (SOCG Section 5.60) and contains a "saved" policy which specifically states that *"the north-east part of the [Triangle] site is fully integrated into the future development of the area"* (SOCG Section 5.61). The reasoned justification to these policies states that *"a holistic approach must be adopted to regeneration and that the council must work in partnership with others to deliver real benefits"*.

3.6 In 2007 Islington Council applied to the Government Office for London under the provisions of Schedule 8 to the Planning and Compulsory Purchase Act 2004 for these policies to be 'saved', which they duly were. This included, specifically, policy Imp 18 which requires the Triangle site to be treated in a holistic and comprehensive manner with the wider King's Cross site and proposals. The council's approach to its UDP and specifically policy Imp 18 demonstrates that it is the council's position in its statutorily adopted policy that the Triangle site must be treated as an integral part of the wider King's Cross scheme. This policy is one which the council continues to support and which it has made no attempt to amend.

#### Supplementary Planning Guidance

3.7 Having regard to UDP policy, Islington Council prepared supplementary planning guidance for the 'Triangle Site' in conjunction with Camden Council. The King's Cross Opportunity Area Planning and Development Brief (SOCCG, section 7.29) evolved from two briefs entitled 'The Railway Lands' (Camden, 1996) and 'Triangle Site' (Islington, 1998) which were produced respectively by Camden and Islington Councils. It also included extensive consultation within a six stage programme of public consultation conducted as a continuous sequence for King's Cross from the identification of an initial vision and issues through the adoption of Camden's UDP policies to the joint brief itself.

3.8 The 'Triangle Site' Brief was considered by the Islington West Area Committee on the 23 November 2003 (Core Document 5.6). At that meeting members also considered the content of Camden's 'Railway Lands' Brief. As a result of the *"generally positive feedback on the two planning briefs a clear message from local consultation in both Camden and Islington has been to press ahead, subject to some amendments, with combining the two briefs to create a joint planning and development brief for the whole of the King's Cross Central Site"* (paragraph 3.5).

3.9 This approach was recommended, and adopted by members, for the following reasons (paragraph 3.6):

- *"The sub-division of the 'Triangle site' between the two Boroughs makes it a logical approach;*
- *Potentially, it could strengthen Islington Council's negotiating position with any developer;*
- *It demonstrates 'joined up' working between the two authorities;*
- *Feedback from community groups at the King's Cross Development Forum indicates strong support for this approach;*
- *Both briefs have been generally well received by community groups and residents in Islington and Camden;*

- *There are no significant planning policy issues that would make securing a joint planning brief problematic"*

3.10 Following that committee meeting Islington officers advised their counterparts at Camden Council of Islington Council's and the two briefs were merged to create a single document.

3.11 It is to be noted that initially separate briefs were being prepared for the two sites within the King's Cross scheme and that Islington Council took the initiative in recognising the importance of a comprehensive approach. It was Islington Council which sought to merge the Triangle Brief into Camden's 'Railway Lands Brief' to create a single document to cover the whole King's Cross Opportunity Area and Camden Council agreed to this proposal. The two were merged together (Core Documents 5.6 and 5.7) with Camden Council adopting the merged brief in December 2003 and Islington Council, due to the Committee schedules, in January 2004.

3.12 The brief envisages residential development 'around 200 units', although no specific target has been set. As to affordable housing the brief comments that regard will be had to 'prevailing UDP policies'. The brief also states (SOCG paragraph 7.39) that "*outline planning applications should thus include the Triangle and [that] the councils would welcome development in an early phase to help define the regeneration area more definitively*". It is clear, therefore, that the brief confirms that certainty in the delivery of development on the Triangle site is a concern of both Councils involved.

#### One Islington Corporate Plan

3.13 In June 2006, Islington Council published its 'One Islington Corporate Plan 2006-09' and amongst its main objectives indicated (Objective 2.3.5) that the council would work with "*Argent and the London Development Agency to bring benefits to Islington residents and businesses*" through the regeneration of King's Cross (Core document 5.2). This objective reinforces the Planning and Development Brief's requirement that the Triangle site should be brought forward within the wider King's Cross proposals and requires all elements of the council, members and officers, to work towards that objective.

3.14 The week before the West Area Planning Sub-committee reached its decision on these proposals the council's key Performance Review Committee, a strategic committee which is charged with reviewing the wider service, financial and corporate planning processes of the council, and which sets the service lines and objectives for cross-council activities, considered its performance objectives for its first year (Core document 5.4). Reporting in the knowledge of the proposals in late June 2007, that committee considered the council's performance on objective 2.3.5 and recognised that work was "*going very well and the key milestones have been achieved*". That committee sat on the 2 July 2007. On the 10 July 2007 the West Area Planning Sub-committee reconsidered the proposals now forming this appeal and without regard to considering the alternative options available to them, specifically to seek further clarification from the developer, resolved to refuse planning permission. This decision was regrettable in light of the joint working

which had occurred to date and the corporate objective of the council. In so doing, the sub-committee brought to an end seven years of ongoing negotiations in respect to what is arguably a perfectly satisfactory scheme.

#### Islington's Annual Monitoring Report 2007

- 3.15 In December 2007, Islington published its Annual Monitoring covering the period from 1 April 2006 to 31 March 2007. Section 2/4 reports on 'Planning in Islington' and identifies (paragraph 2.33) that King's Cross is one of the largest redevelopment schemes in Europe and now has planning permission [on the Main Site]. The report identifies that:

*"Part of the scheme extends into Islington, in an area known as the King's Cross Triangle."*

#### Established Precedence

- 3.16 The Secretary of State has previously considered appeal proposals where applications for the regeneration of a larger site cross the boundary of two differing authorities and where two separate applications were submitted. In the matter of the call-in inquiry involving Circadian Limited, the London Borough of Hammersmith and Fulham and the London Borough of Kensington and Chelsea (APP/K5600/A/04/1146268 & APP/H5390/A/04/1148781 dated 30 January 2006) (Core Document 7.13) relating to proposals at the former Lots Road Power Station the Planning Inspector [paragraph IR 19.5] and Secretary of State [paragraph 5] agreed that the proposal "*must be viewed as a single scheme*". In reaching his recommendation the Inspector stated [paragraph IR 19.5]:

*"The proposals must be viewed as a single scheme, which required two applications simply because the site straddles the boundary between two administrative areas – RBKC and LBHF. The Environmental Statement (ES) has been prepared for the whole scheme. I do not believe it is open to the First Secretary of State to grant permission on one application but not the other."*

- 3.17 I consider that this decision sets a valuable precedent to this case. In the Lots Road applications, separate applications comprising two different developments were submitted to the respective authorities. The Secretary of State however accepted that whilst they might consist of two development proposals, they do, together, comprise a single scheme for the wider site and associated regenerative benefits. This is to the same as the situation at King's Cross Central where the approach to the applications has been the same as Lots Road. Common supporting material and ES was produced and the applications for the Main and Triangle Sites were submitted concurrently as a single scheme.

#### Conclusion on the General Context

- 3.18 It is clear that through the evolution of planning policy the approach has been to consider the Triangle site as an integral part of the King's Cross proposals. It is my view that the approach is the right one, and has also been adopted in respect to the handling of the present proposal.

Indeed, if the Triangle site was being considered in isolation from the wider King's Cross site then there would have been no requirement to refer the proposals to the Mayor as the 500 unit or building height thresholds defined under the Town & Country Planning (Mayor of London) Order 2000 would not have been reached.

3.19 The Mayor has always approached the Triangle Site in the same manner, as confirmed by the Head of Planning Decisions on the 13 December 2007 (Core Document 3.6):

*"The Mayor has consistently treated the King's Cross Central scheme as a single strategic scheme referable to the Mayor under the Mayor of London Order (2000), irrespective of administrative boundaries. The scheme, and the many submission documents which underpin it, have always been framed in these terms.*

3.20 This approach is wholly consistent with approach endorsed by the Secretary of State at Lots Road and underpins London Plan Policy 3A.8. The Head of Planning Decisions at the GLA goes on to confirm that considering the Main and Triangle Sites as a single scheme is (Core Document 3.6:

*"The correct operation of policy 3A.8 and London Plan housing policies that are deliberately framed in the context of 'other scheme requirements'".*

3.21 This point was re-emphasised by the Head of Planning Decisions in his letter of the 21<sup>st</sup> January 2008 when he stated that (Core Document 3.20):

*"I would also confirm, that the GLA's position remains unchanged, in that the Triangle Site must be considered in the context of the wider King's Cross Central scheme. Policy 3A.8 is very much drafted on that basis".*

## **SUMMARY**

3.22 Regeneration can only achieve its full potential where all statutory authorities agree to work together to deliver wider strategic benefits, and do so. Regeneration proposals on the scale of King's Cross are about creating new places, incorporating a mix and range of uses integrated with transport and community facilities and enhanced areas of public realm and open space. An integrated approach is essential to achieve this, a piecemeal approach would fail. Moreover a piecemeal approach to regeneration projects would frustrate opportunities to deliver high quality integrated comprehensive mixed use schemes with statutory authorities operating independently, and potentially to different agendas.

3.23 All the authorities involved in King's Cross has statutory policies recognising the need for an integrated approach and requiring them to work in partnership to deliver a comprehensive regeneration package, one which sees and secures wider benefits for the whole.

3.24 Both Camden and Islington Councils have extant planning policies requiring a comprehensive approach and Islington Council actively sought to ensure that the Triangle Site was incorporated

totally within the wider King's Cross scheme in order to ensure that the Triangle was brought forward for development and not blighted. It should be noted that the Triangle site accounts for only 4% of the land area, within the total King's Cross scheme, with less than 3% within Islington.

- 3.25 In policy terms it is my view that it is wholly appropriate and correct for the Triangle site to be considered and assessed as an integral part of the wider King's Cross proposals. The application reflects statutory policy, including that of Islington Council, and every analysis, study and survey has approached the site's development on that basis. This is the approach which the Secretary of State advocates and which Islington Council has consistently endorsed and supported through its decision making in the past four years, as highlighted in the SOCG. Islington's change in approach was, for the first time, apparent from its Rule 6 Statement [paragraph 4.3].
- 3.26 The consideration of the Triangle site as part of the wider King's Cross scheme is statutory policy, which should be given considerable weight in terms of this appeal, given that the Council sought and achieved the saving of policy Imp 18 under the provisions of the Planning and Compulsory Purchase Act 2004 and its incorporation into the Council's Strategic Corporate Plan.
- 3.27 The supplementary planning guidance reinforces that policy and, its evolution emphasises the importance of a comprehensive and holistic approach to regeneration.
- 3.28 Planning policy therefore requires the Triangle site to be considered as an integral part of the King's Cross scheme and in the context of the wider proposals. This is the only approach that will ensure, both in respect of the King's Cross site as a whole and also in any regeneration proposal, that the provision of optimum benefits will be achieved and, more importantly, will be delivered.

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## **4. AFFORDABLE HOUSING PROVISION AND TENURE**

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### **INTRODUCTION**

4.1 Islington Council's reason for refusal sets out three assertions as to why the proposed affordable housing provision is considered deficient. The first relates to the proportion of affordable housing being provided, the second to the tenure mix and the third to proposals for recycling of staircasing receipts for the shared equity component.

4.2 The following policy and guidance are referred to:

- London Plan Policies 3A.7 and 3A.8
- Islington UDP Policy H16 and the strategic housing policies contained in [sic] policies H14 and H15
- Islington's Affordable Housing Supplementary Planning Guidance
- Islington Core Strategy Policy CS18
- PPS 3 (Housing)

4.3 The SOCG sets out the provisions for each of these. In this section I analyse the proposals against this policy and guidance. I also have regard, where appropriate, to other policies in these documents. In considering the reason for refusal stated by Islington Council, and the appeal made necessary on the application to the London Borough of Camden, the following additional policy and guidance documents will also be considered. These are all detailed in the SOCG:

- The Mayor's Housing Supplementary Planning Guidance
- The King's Cross Opportunity Area Planning and Development Brief
- The Mayor's Draft Housing Strategy
- The Islington Affordable Housing Guidance Note
- The Camden UDP
- Camden Supplementary Planning Guidance.

### **STATUTORY POLICY AND ITS APPLICATION TO THE APPEAL PROPOSAL**

4.4 Since the London Borough of Islington refused these proposals in July 2007, there has been a major change in the policy framework which influences this appeal. Under the provisions of

paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 the Government Office for London on behalf of the Secretary of State issued a Direction on the 24 September 2007 in which a number of policies were deleted from the Islington UDP, including policy H16. This affects the policy framework which now constitutes the statutory development plan.

4.5 The following table sets out the main policies of the development plan which are now relevant to this appeal:

	LONDON PLAN	CAMDEN	ISLINGTON
Affordable Housing	London Plan policies: 3A.7 3A.8	London Plan Policies as detailed plus Camden UDP policy:  H1 KC4	London Plan policies as detailed plus Islington UDP policies:  ST4 (saved) H14 (saved) H15 (saved)

### The London Plan

4.6 The London Plan (Core Document 3.1) comprises the statutory adopted plan published in 2004 and the Early Alterations adopted in December 2006 (Core Document 3.2). Both should be read together. The London Plan has been fully tested against PPS3 in the Public Examination held in June 2006. The Early Alterations increased the housing targets for London, allocated across the boroughs.

4.7 More recently, in September 2007, the Mayor published the draft Further Alterations to the London Plan. The Draft Further Alterations propose that the threshold for the number of units to which affordable housing policy should apply be reduced to 10 units from PPS 3's threshold of 15. This was supported in the Panel's report (October 2007) (Core Document 3.18). The new policies are expected to be adopted in February 2008.

4.8 Policies 3A.7 and 3A.8 deal specifically with Affordable Housing.

4.9 Policy 3A.7 sets out the Mayor's strategic target that 50% of housing supply from all (my emphasis) sources across London should be affordable: this includes sites which only provide affordable housing: it is not policy that all affordable housing is sourced from planning obligations on new developments. The EIP Panel in its report on the draft London Plan considered the drafting of Policy 3A.7 carefully and commented (paragraph 4.51) (Core Document 3.18) that:

*"a 50% target would in practice mean the contribution expected from general housing developments would be less than 50%".*

The London Plan states (paragraph 3.42):

*"there will be some sites that are capable of achieving more towards meeting the overall 50% Londonwide affordable housing target and some less".*

- 4.10 Whilst there is a Londonwide target of 50% affordable housing, Policy 3A.7 does not intend that this is applied on a site specific basis. The target will be met from all types and tenures of housing referred to in Policy 3A.6 and includes 100% affordable schemes, intermediate housing, non-self-contained accommodation, gains from conversions and, from bringing long-term vacant properties back into use, as well as new housing. In addition, although student accommodation is not an accepted form of affordable housing, it is recognised that the provision of bespoke student accommodation<sup>2</sup> takes the pressure off the general stock and provides wider access to low cost private rented accommodation which is, itself, affordable.
- 4.11 Policy 3A.7 also sets a strategic, London-wide target that 70% of affordable housing is social rented and 30% is intermediate units. As Mrs Dickinson will demonstrate the proposed affordable housing products comprise social rented and intermediate tenures and, all of the intermediate products comply with the definition of intermediate affordable housing contained within PPS3 and London Plan policy 3A.6. The proposals are not affected by any changes which may arise from the recommendations made by the EIP Panel on the draft Further Alterations to the London Plan associated with the removal of the reference to low cost market in the definition of affordable housing set out in Policy 3A.6. The GLA's Head of Planning Decisions also confirmed in his letter of the 21<sup>st</sup> January 2008 (Core Document 3.20) that the affordable housing products had been assessed and that these comprise social rented and intermediate rather than low cost rent products. Mrs Dickinson explains the significance of this in her evidence suffice to say that the affordable products proposed within this appeal fulfil both the definitions in PPS3 and Policy 3A.6. In respect to the latter this is not affected by any amendments which may arise following the recommendations within the Panel Report on the Further Alterations to the London Plan.
- 4.12 Policy 3A.8 advises that negotiations on individual schemes should seek to encourage rather than restrain development and requires that account is taken of the individual circumstances of the site and the costs of development. The policy requires boroughs to seek the maximum reasonable amount of affordable housing having regard to their own affordable housing targets which in turn should have regard to the Mayor's strategic target for affordable housing. Paragraph 4.24 emphasises the need for a reasonable and flexible approach. Policy is to be applied in the context of the need to increase housing provision.
- 4.13 In the case of the King's Cross site 42.8% of housing provision will be affordable (834 units) with 65% being social rented and 35% intermediate housing. The Mayor has considered a number of reports on these proposals, both in the context of existing policy and guidance and emerging strategy and on each occasion he has concluded that the *"scheme achieves the maximum reasonable amount of affordable housing in accordance with the London Plan"* [Core Documents 3.5, 3.6 and 3.7].

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<sup>2</sup> Bespoke student accommodation is being provided on the Main site as part of the King's Cross development and additional new bespoke student accommodation has been provided close to the site on Pentonville Road (the Nido complex providing accommodation for 1045 students)

- 4.14 The Mayor's Housing SPG (paragraph 17.4) makes it clear that the strategic London target should not be used for individual decisions but boroughs are required to take account of it when setting targets.
- 4.15 In the text explaining the proper application of Policy 3A.8 reference is made not to individual development sites but to 'schemes'. It is my view that this reference to 'schemes' is realistic and serves to promote wider opportunities across comprehensive proposals or within Opportunity Areas (as defined by Policy 5B.1) where it is unlikely that they would come forward as a single homogeneous 'site'. The exploitation and promotion of the opportunities associated with a wider scheme limits the restraint or constraints that would be experienced by a piecemeal approach arising from administrative or geographic anomalies. This view is the same as that expressed by the GLA's Head of Planning Decisions in his letter of the 13 December 2007 (Core Document 3.6) which also indicates that this is the approach which the Mayor has consistently adopted when considering proposals for the King's Cross Site.
- 4.16 Policy 3A.8 also requires that boroughs should seek the maximum reasonable (my emphasis) affordable housing, having regard to their targets and the need to encourage rather than restrain residential development. In implementing the policy boroughs should have regard to the circumstances of the 'site', taking account of costs, subsidy and other scheme requirements. The London Plan explicitly recognises (paragraph 3.42) that some sites will be capable of achieving more *towards* (my emphasis) the overall London target, and some less. Boroughs are required to take account of individual site circumstances of the site and economic viability. Paragraph 3.41 provides further guidance on the assessment of financial viability and indicates that '*the development control toolkit...is one mechanism that will help*'. The London Plan does not specify that a toolkit analysis must be carried out but rather that it may be of assistance in assessing affordable housing provision. In this case the London Borough of Camden, in accordance with the Mayor's Housing SPG (paragraph 18.11 – see SOCG paragraph 7.13) appointed independent consultants to carry out the analysis.
- 4.17 The appellants have never been asked, by any authority, to produce any form of financial assessment and policy does not impose any requirement on an applicant to do so. Instead, lengthy negotiations were carried out in respect to the proposed products and mix, primarily as every Housing Needs Assessment was historic, in the case of Islington, predating their UDP. These negotiations occurred over a number of months and all aspects of the scheme were debated between the appellants and officers based upon professional experience and knowledge of local need, rather than an arithmetical calculation based upon residual valuations. Camden Council did however commission DTZ to carry out an independent financial analysis, pursuant to policy, and I comment on this later in my evidence.
- 4.18 The London Plan seeks to ensure that residential and affordable housing targets are delivered. Its policy framework directs boroughs to be flexible, pragmatic and focussed on securing delivery and not to take an approach which frustrates or compromises that delivery.

## The Greater London Authority

4.19 These proposals have been assessed by the GLA against the Mayor's policies. The GLA determined that, in the circumstances, the provision of affordable housing proposed in the King's Cross scheme was the maximum achievable and that these proposals accord with the development plan. In a letter dated 10<sup>th</sup> September 2007 (Core Document 3.5) the GLA's Head of Planning Decisions states that the Mayor has considered a number of reports on the King's Cross proposals. The Mayor has considered the application for the Main site and decided not to direct refusal. The letter also gives an officer-level view of the Triangle scheme, had it been referred to the Mayor in its current form. It states that:

*"In previously considering the King's Cross Central proposals in their entirety, the Mayor found the proposals to hold the potential to deliver a dramatic new urban quarter predicated on mixed-use, sustainable, high-density development within a high quality environment. The Mayor concluded that, overall, the proposals could deliver a fundamental change to the economy and environment of this part of London.*

*I note that detailed discussions have taken place with regard to the level and mix of affordable housing. I have had particular regard to the detailed negotiations that have taken place over the staircasing arrangements and the recycled receipts. I note, in particular, that the terms of this package mirror those agreed for the main site in Camden. I can find no conflict with the London Plan [sic] or the Mayor's Supplementary Planning Guidance in this respect and do not see any material change in the planning circumstances that would lead me to depart from this view.*

*In previously considering the affordable housing package, the Mayor took account of the results of the financial appraisal and the scheme's other benefits. In respect of the main site, the Mayor concluded that the maximum reasonable amount of affordable housing had been sought, in accordance with the London Plan policy 3A.8.*

*The proposed affordable housing package for the Triangle site is considered by GLA officers to be an improvement on that available in April 2006 and in accordance with the London Plan in considering the overall benefits of the entire King's Cross regeneration scheme.*

*Were this application not now the subject of an appeal I would not hesitate in advising the Mayor that the proposal accords with the development plan requirements of the London Plan and as such would result in development that will be on the best interests of good strategic planning in Greater London."*

4.20 Following this letter the GLA clarified in a letter dated 4 October 2007 (Core Document 3.7) that with regard to its letter of the 10 September 2007:

*"the conclusion that the proposals accord with the London Plan applies in respect to the application that is subject to an appeal for non-determination. For the avoidance of doubt, this is the scheme for 246 homes (34.1% affordable)."*

- 4.21 As commented earlier (paragraph 3.19 above), the Head of Planning Decisions at the GLA provided, in his letter of 13 December 2007 (Core Document 3.6), guidance on the interpretation of policy 3A.8 in the context of King's Cross being a strategic site and that:
- "The Mayor is in effect the strategic planning authority for London as well as being the custodian of the strategic level of the development plan, its strategy and policies. The Mayor has consistently treated the King's Cross Central scheme as a single strategic scheme referable to the Mayor under the Mayor of London Order (2000), irrespective of administrative boundaries. The scheme, and the many submission documents which underpin it, have always been framed in these terms.*
- This is the correct operation of policy 3A.8 and London Plan housing policies that are deliberately framed in the context of 'other scheme requirements'."*
- 4.22 This point was re-emphasised by the Head of Planning Decisions in his letter of the 21<sup>st</sup> January 2008 (Core Document 3.20).
- 4.23 The Mayor is required to publish an Annual Monitoring Report each February to measure progress against the key London Plan objectives and targets. This includes an assessment of borough housing delivery (including affordable housing) against London Plan targets.
- 4.24 In 2005/6 conventional housing completions across London totalled 24,009 units (Table 13). Affordable housing out-turn was 7,653 units: 4,771 social and 2,882 intermediate units. Affordable housing represented 30% of conventional supply at a ratio of 62.3% social rented to 37.7% intermediate units.
- 4.25 Islington delivered 736 units against a housing target of 900 (93%). This is an improvement on the previous year, when 688 units were delivered (76% of the target), but is significantly lower than the new target of 1,160.
- 4.26 Net affordable housing provision in Islington in 2005/6 was 491 units, or 67% of conventional supply. The ratio of social rented to intermediate provision was 181 units or 36.9% to 310 units or 63.1% (against a London Plan ratio target of 70:30).
- 4.27 Having regard to the London Plan, statutory policy (incorporating the Early Alteration) requires that Islington:
- delivers 1,160 units per annum,
  - ensures that 50% of new residential provision from all sources is affordable (not just Section 106 provision from new developments),
  - delivers an overall tenure split of 70% social rented and 30% intermediate provision, and
  - gives proper consideration to the provision of affordable housing within mixed use schemes.

4.28 The London Plan, as part of the statutory development plan, has been reviewed twice (the Early and draft Further Alterations) since adoption in 2004. It post-dates the Islington UDP (2002) and is both up to date and relevant to this appeal. The Mayor, the strategic planning authority for London, whose Plan it is, has considered the appeal proposal on a number of occasions and, on each, has found the proposal to be in accordance with the Plan's objectives and strategy, as well as with the specific policies of the plan itself. In its most recent analysis (Core Document 3.6), the GLA states:

*"the King's Cross Central scheme achieves the maximum reasonable amount of affordable housing in accordance with the London Plan."*

4.29 The GLA goes on to state that regard has been had to the Mayor's draft Housing Strategy and that the King's Cross site is a strategic housing site.

4.30 These letters all establish that the Mayor supports these proposals and considers that they comply with the strategic planning policies for London. Indeed, the Mayor's support for the King's Cross Central development has been further endorsed at the London Planning Awards 2007 on the 15 January 2008.

4.31 In awarding the Mayor's Award for Excellence in Planning, on his behalf, the Deputy Mayor stated:

*"The winner of my personal award is a project which will transform an area that has suffered for years from uncertainty, blight and decay. Rapid change is now afoot at King's Cross, and last year saw the first concrete manifestation of this with the opening of the stunning new St Pancras International terminus alongside a new and dramatically improved Thameslink station. The scale of the proposals for King's Cross is huge, with 50 new buildings, 20 new squares and 20 new streets, all designed to unify an area that has been disjointed for 150 years by the mass of railway lines, yards and warehouses."*

#### London Borough of Camden

4.32 Camden Council in considering these proposals in March 2006 concluded that, in its view and having regard to their policy framework and to the guidance/advice and consultee responses that it received from the GLA, that the proposed development accords with regional and local planning policy, that it is a well designed residential led mixed-use development on a previously used site which proposes a substantial regeneration of the area, and that it responds to its very high transport accessibility and urban character. The development proposes a significant proportion of affordable housing and a mix of unit sizes.

4.33 Throughout, Camden Council has supported the application, resolving to grant planning permission on a number of occasions. Following the refusal by Islington Council and the submission of the appeal, the planning committee resolved, at its meeting on the 18<sup>th</sup> October 2007, that had the application not been appealed it would have approved it.

- 4.34 The officer's report (Core Document 4.3) sets out the background to the application and describes how the applications for the Main site and the Triangle site are linked and that the issues and decisions relating the Main site are material considerations in relation to the Triangle site development.
- 4.35 Officers concurred (paragraph 9.6) with the consideration of the application in March 2006: in particular, although the amount of affordable housing was not as high as the target rate, it was acceptable when taken in conjunction with the overall development and considering the wider regeneration objectives. Their assessment considered the application proposals and affordable housing provision against a number of different scenarios which included considering only that part of the site within Camden, the site in isolation and, as part of the wider King's Cross scheme. The outcome of these deliberations was that the only reasonable approach was to consider the Triangle Site in terms of the wider King's Cross proposals. The report went on to state that (paragraph 9.6):
- "Taken with the regeneration benefits of the whole development this percentage of affordable housing is considered to meet planning policies"*
- 4.36 Camden Council's deliberations on the quantum of affordable housing provision were based on the definition of the relevant site and whether this should relate solely to the area of land in their control, the Triangle site including the Islington portion of that, or as part of the wider King's Cross scheme. They opted for the last on the basis of London Plan Policy 3A.8 (paragraphs 9.5 to 9.7). This is the approach which the GLA endorsed in their various correspondence (Core Documents 3.5, 3.6 and 3.7).
- 4.37 I would comment that this can only be the logical course to adopt Policy 3A.8 is a London-wide policy. In the context of King's Cross the relationship of this policy with policies 2A.2 and 2A.4 (SOCC paragraph 5.8 and 5.9) must also be considered. These relate to the relationship between 'Opportunity Areas' and defined 'Areas for Regeneration'. The King's Cross Opportunity Area has three wards adjoining its boundaries with Thornhill (Islington) and Somers Town (Camden) falling into the definition of the 20% most deprived within London. Policy 2A.2 seeks to promote 'social inclusion' and to relate any Opportunity Area benefits to the adjoining Areas for Regeneration. This can only be achieved to its full extent when the cumulative benefits generated by large scale regeneration are promoted and delivered.
- 4.38 As part of its consideration of the King's Cross proposals, Camden Council appointed DTZ to provide independent financial analysis of the proposals in 2002. Between 2002 and 2005 DTZ undertook a range of financial modelling on behalf of the council. This drew upon information provided by the appellants to Camden Council during the discussions held in the period up to the application submission, including the preparation of the joint brief, to the September 2005 amendment to the application itself.

- 4.39 DTZ assessed the implications of amending, even to a minor level, the volumes of the different land use elements of the scheme. The March 2006 assessment (Core Document 4.5) assessed the Main site, identifying affordable housing provision of 44%, the level of upfront infrastructure costs in excess of £100 million, and the likely values and construction costs of the various land use elements. Having carried out their modelling exercise, DTZ ascertained that, even with the volumes proposed, there was little scope to achieve the regeneration benefits by making even minor changes and that, as a negative impact on value, the level of affordable housing *“is likely to reflect close to, or at, the maximum within the overall viability of the residential element of the King’s Cross scheme”*.
- 4.40 In November 2007 Camden Council instructed DTZ to review its March 2006 advice and comment on the potential impact that including the Triangle site might have. DTZ reported back to Camden Council on the 29 November 2007 (Core Document 4.6). They acknowledged that the main land use increase was residential and that of the other components the retail had already been assessed as part of the March 2006 analysis and that the level of Class D1/D2 use was unlikely to have any material effect.
- 4.41 Whilst the additional residential would add value, DTZ recognised that this would not be as great as on the Main site, for locational reasons, and that the level of affordable provision would offset the added value of the market units. Enhanced value to the scheme would also be offset by the additional infrastructure and enabling costs associated with the development which were considered as potentially being considerable.
- 4.42 In including the Triangle site within the financial modelling DTZ considered that the *“key variables to which the viability of the development scheme is likely to be most sensitive are likely to remain unchanged”*.
- 4.43 In the context of the residential housing provision DTZ recognised that in their March 2006 analysis the provision of 44% was towards:  
*“the maximum that a developer was likely to bear before residential development (as a whole) became unviable”*.
- They went on to advise that:  
*“any further increases in affordable housing proportion {beyond 44%} could render residential unviable”*.
- 4.44 The addition of the Triangle site reduces the overall percentage of affordable provision from 44% to 42.8%, but this was considered as:  
*“a marginal reduction and the change to the overall profitability of the residential element (private and affordable units combined) is not significant.”*
- 4.45 In their conclusions, DTZ stated that:

*"the affordable housing provision (42.8%) is at, or close to, the maximum that the development could bear before this element became unviable. Further increases in the proportion of affordable housing proportion is likely to render residential unviable on this part (i.e. the Triangle) of the site"*

4.46 The GLA's letter of 13 December 2007 (Core Document 3.6) is a response to Camden Council on the additional financial assessment information provided by DTZ. In considering this information, the Head of Planning Decisions stated on behalf of the GLA:

*"In the light of the above factors I see no reason, in strategic planning terms, for a further individual toolkit appraisal in isolation of other scheme requirements.... The GLA's comments and support for this scheme therefore remain unaltered and as set out in this letter and in previous planning reports to the Mayor".*

4.47 The GLA's letter clearly establishes that any requirement to provide an analysis under the policy has been discharged. I would also comment that Camden Council's approach to the financial analysis in this case was a robust one. The 'normal' approach is to ask the developer to produce an analysis and for that to then be tested by an independent party. Complex comprehensive and substantial regeneration proposals include a number of variables, such as infrastructure costs, and an independent analysis is invariably less accommodating than a developer led assessment. The assumptions made, cost assessments reached and analysis carried out was not influenced by the appellants and was further reviewed and endorsed by the GLA.

4.48 In its consideration of the proposals, Camden Council has also given consideration to the proposed staircasing arrangements and recommended (paragraph 9.7) that these should be the same as those for the Main site. The appellants have since agreed to this.

#### London Borough of Islington

4.49 Since the publication of the Government Office for London's Direction on behalf of the Secretary of State under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 (Core Document 2.4), Islington has no relevant statutory policy other than the London Plan setting the quantum of affordable housing that should be delivered in respect of residential developments and the saved policies of the UDP, Policies ST4, H14 and H15.

4.50 Policy H16, on which the decision was based, 'expired' on the 27<sup>th</sup> September 2007. However, it should be noted that statutory policy required the delivery of 25% affordable housing and the proposals considered at the time when the decision was reached exceeded that statutory requirement considerably.

4.51 The only statutory policies remaining in the Islington UDP relevant to affordable housing provision are Policies ST4 and H14 and H15. The council has referred to policy ST2 in its Rule 6 Statement I note that this policy also expired on the 27<sup>th</sup> September 2007.

4.52 Each of these policies is referred to in the SOCG.

- 4.53 Policy H14 (saved) indicates that housing proposals should be considered in the context of housing need, paying particular attention to households who cannot afford to purchase or rent suitable homes in the open market. The policy also seeks the maximum contribution of affordable housing that each proposal can reasonably make to meeting local housing needs, taking into account the quality of the site, size, location and other relevant land use criteria.
- 4.54 Policy H15 requires that schemes should include a mix of accommodation, unless this is unsuitable on the grounds set out in Policy H14, which serves the needs for small households and families. On sites larger than 0.2 hectare a variety of units are expected, including small and larger family accommodation. I note however that the policy, and the supporting text, did not specify what mix of accommodation was required.
- 4.55 Having regard to Policies H14 and H15 I consider that that the range and quantum of accommodation comprising these proposals accords with the 'saved' policies of Islington's UDP.
- 4.56 In addition to considering planning policy within the saved policies of the UDP, Islington Council ought also to have looked beyond purely the issues of quantum, tenure and financing. PPS3's Delivering Affordable Housing supplement (Core Document 2.3) requires (paragraph 19) that local authorities must have regard to a number of key issues when considering the delivery of affordable housing. Mrs Dickinson provides a detailed analysis of these in her evidence but I would draw specific attention to the final requirement which requires authorities to:

*"Challenge developers to produce high quality housing designs that help integrate affordable and market units in a mixed community".*

Summary

- 4.57 Having regard to statutory policy, the quantum of affordable housing required is:

London Plan	50% affordable from all sources
Islington	As per the London Plan (at time of determination 25%)
Camden	50% on first 1,000 units then target of 50% thereafter.

- 4.58 In respect to these proposals, the Mayor and the London Borough of Camden have both assessed the proposed provision of 42.8% across the King's Cross scheme as being acceptable in planning policy terms. Camden Council on reaching its determination utilised the financial assessment it commissioned and this has been reviewed and assessed by the GLA (Core Documents 3.5 and 3.6), which has reaffirmed its view. It should be noted that planning permission on the Main site has now been granted on this basis, and implemented.
- 4.59 Islington Council, when it determined these proposals, had a lower statutory provision requirement under the provisions of policy H16 to which the proposals complied. The relevant statutory policy is now the London Plan's.

4.60 It is therefore my view, supported at least by the GLA and Camden Council, that these proposals accord with the statutory plan policies now applicable to the site.

## **SUPPLEMENTARY PLANNING GUIDANCE**

4.61 The SOCG details the various SPGs applicable to these proposals.

The Mayor's Housing SPG, November 2006

4.62 The appeal proposal meets the objectives of this SPG. The affordable housing package proposed meets the criteria for each tenure category. The SPG is explicit (paragraph 17.4) that affordable housing targets should be an aggregate for all provision from all sources and that targets are distinct from 'any benchmark' requirement on mixed use sites. The SPG advises that target provision (e.g. 50%) is not the physical site requirement to be provided in schemes.

4.63 The SPG goes onto state (paragraph 18.8) that, whilst a ratio of 70:30 in the social rented and intermediate accommodation is the target provision, this is only a target and the actual ratio will depend on the individual circumstances of the scheme itself. As such a different ratio may be justified in high density, mixed use scenarios or where different priorities apply.

4.64 Applying planning policy to the context of the scheme, it is my view that the ratio proposed is wholly appropriate. The ratio achieved is better than the Londonwide average (62.3:37.7) and significantly so in respect to delivery in Islington (36.9:63.1).

4.65 The SPG states that the need for intermediate housing should have regard to the shortage of key workers, accessibility and the existing concentration of social housing.

Islington Affordable Housing SPG, April 2003

4.66 This SPG (SOCG paragraphs 7.24 to 7.28 and Core Document 5.5) is non-statutory guidance and was produced to supplement policy in the 2002 Islington UDP and specifically Policies H14, H15 and H16.

4.67 The SPG specifically relates to affordable housing and seeks to reinforce the UDP and provide guidance on the implementation of policy. The SPG establishes an interim increased affordable housing target of 35%, 25% social rented and 10% intermediate with an aspiration for 50% (paragraph 5.4).

4.68 The SPG goes on to state:

*"a flexible approach will be taken by the Council in assessing the appropriate amount and exact mix of social rented and intermediate housing within the overall 35% requirement",*

and that the 25:10% split [social/intermediate] is for guidance purposes only.

4.69 As Policy H16 has now expired, it is my view that in so far as this SPG relates to matters not covered by Policies H14 and H15 (which have been saved), that it should now have very limited, if any, weight. This relates specifically to affordable housing targets and tenure and I note that the

SPG seeks to increase the level of affordable provision. Paragraph 2.43 of PPS12 (Core Document 2.5) states that the purpose of supplementary planning documents is to:

*“expand policy or provide further detail to policies in a development plan document”.*

4.70 The Islington Annual Monitoring Report 2007 (Core Document 3.24) notes that the Council’s current ‘policy’ is to seek 35% affordable housing provision in schemes (paragraph 4.14). It states:

*“Through the UDP and other guidance the Council sets the standards for new build housing and conversions and also sets target levels for affordable housing (for the reporting year this was set at 35% in schemes over 15 units)”.*

4.71 If any weight is now to be attached to this SPG, it should be noted the quantum provision is in accordance with it, and in any event that it urges that flexibility should be adopted in terms of tenure and sets targets not fixed ratios. Accordingly, it is my view that the proposals comply with the SPG guidance.

King’s Cross Opportunity Area Joint Planning & Development Brief, December 2003/January 2004

4.72 Paragraph 2.9.16 (SOCG paragraph 7.36) states that housing on the Triangle site will be apportioned according to the prevailing UDP policies, and that it should be integrated with (paragraph 2.9.17) and should be a significant element of each major development phase (paragraph 2.9.18). The SPG (paragraph 2.9.1) also stresses the need to avoid excessive concentrations of affordable housing and defines a broad range of affordable housing, including intermediate housing.

4.73 In the SPG the presumption that within Islington the affordable housing provision is established at 35% is continued having regard to the provisions of Islington’s Affordable Housing SPG of April 2003. In fact, the statutory provision, at the time of determination, was 25%.

4.74 These proposals are for a mix of housing units providing:

Proposed	All Housing	Social Rented	Intermediate	Total Affordable
King’s Cross Site Total	1946	536 (27.5%)	298 (15.3%)	834 (42.8%)
Main Site	1700	500 (29.4%)	250 (14.7%)	750 (44.1%)
Triangle Site	246	36 (14.6%)	48 (19.5%)	84 (34.1%)

4.75 This equates to a provision of 64.3:35.7 (social rented/intermediate) across the Kings’ Cross site (and 42.8:57.2 for the Triangle site in isolation). The table illustrates that an appropriate mix of units, having regard to Islington’s policy and guidance framework, is proposed for the King’s Cross site.

4.76 This SPG is the only joint statement providing guidance on the development and practical planning of the King's Cross Opportunity Area, and it is clear that the appeal proposal complies with it.

4.77 In this appeal the requirement for the delivery of affordable housing should now be considered having regard to the policies within Camden's UDP, the surviving policies of the Islington UDP and the London Plan. I have demonstrated that the proposal complies with that statutory policy framework and with the relevant guidance prepared under that framework.

## **EMERGING POLICY**

4.78 As described in the SOCG there are, in addition to supplementary planning guidance, three emerging policy statements or documents which have been adopted or are being used for development control purposes. These are:

- The Mayor's Draft Housing Strategy
- Islington's draft Core Strategy
- Islington's Affordable Housing Guidance Note

### The Mayor's Draft Housing Strategy

4.79 The GLA Act 2007 confers on the Mayor the duty to prepare a housing strategy for London. The Mayor has embarked on preparation of this and has published a draft for consultation with the Assembly and functional bodies. Formal public consultation will be undertaken after the Mayoral elections in May 2008.

4.80 Having regard to PPS12, the draft Mayor's Housing Strategy is a material consideration in applications for housing development, albeit that it does not carry, at this stage, very much weight. It clarifies and establishes the Mayor's policy on increasing housing supply, providing affordable housing and on housing quality.

4.81 Policy statement 1.1 – Meeting Demand – indicates that the “the investment plan and other policies in the strategy deliver over 50,000 new affordable homes in three years starting in April 2008”. The strategy therefore seeks to target future supply in the period beyond that in which the present proposal has been promoted.

4.82 However, the strategy maintains the presumption (policy statement 1.1.b) that 50 % net new homes should be affordable and that affordable housing is drawn from all sources, not just new development. This position is promoted through policy statement 1.1.g which encourages the use of powers to tackle empty homes and their acquisition by housing associations.

4.83 The strategy also considers methods for realising the affordable housing potential and the funding and investment of the provision of affordable homes. The Mayor seeks to encourage boroughs to

adopt development briefs for strategic sites (Policy statement 1.2.d) to delivery “clarity in the planning process, greater certainty for developers and communities and higher quality outcomes”.

4.84 The draft strategy also seeks (Policy statement 1.2.e) to encourage more innovative models of financing residential development, particularly in respect of intermediate housing provision. The text relating to these policy statements [Chapter 1, paragraph 61] states:

*“The London Plan would allow for the inclusion of private rented accommodation that meets the definition of intermediate housing as affordable housing for planning purposes”*

4.85 The draft strategy seeks to promote funding packages including investor purchasers (paragraph 62) as well as institutional and equity financing (paragraph 63) to deliver affordable housing, thus promoting the PPS3 guidance that innovative forms of funding should be considered and that traditional models need not be the exclusive approach.

#### Islington’s Draft Core Strategy, March 2007

4.86 The draft Core Strategy was formally adopted by Islington Council on 3<sup>rd</sup> October 2006 but was subject to a member challenge utilising the Council's internal call-in procedures on 12<sup>th</sup> October 2006 (Core Document 5.9). That call-in, made by five members, challenged the validity of the draft Core Strategy on the grounds of non-conformity with the London Plan and the action taken in adopting the draft Core Strategy did not reflect the actual decision that had been made by the committee. The call-in was determined to be valid and the matter was subsequently considered by the Council's Overview Committee on 19<sup>th</sup> October 2006 (Core Documents 5.10 and 5.11), when the decision of the 3<sup>rd</sup> October 2006 to adopt the Core Strategy was endorsed.

4.87 The draft Core Strategy was submitted to the Islington Examination in Public in March 2007 (SOCC paragraphs 8.1 to 8.22). It was the subject of an objection by the Mayor on the grounds that it was not in general conformity with the London Plan on a number of grounds, specifically in respect to housing policies including affordable housing (Core Document 5.16) and adverse comment by the Inspector (Core Document 5.17) who found it ‘unsound’ in that it failed the relevant tests set out in PPS12.

4.88 The Core Strategy was formally withdrawn in June 2007 following a meeting of full Council on 26<sup>th</sup> June 2007 (Core Document 5.19). The Council however resolved to adopt the Core Strategy as non-statutory planning guidance for development control purposes.

4.89 The appellants were advised that the Core Strategy was formally withdrawn in a letter from the council dated 30 July 2007 (Core Document 5.23). In that letter the council also advised that the Core Strategy had been adopted as an ‘Advice Note’ to guide planning decisions.

4.90 I would comment that PPS12 does not provide any support or justification for a local authority to ‘adopt’ a failed draft planning strategy as ‘non statutory guidance’. There is no statutory basis for such a step.

- 4.91 PPS12 (paragraph 1.4) notes that SPD can only expand upon policies in the development plan. Paragraph 2.43 states that SPD:
- “must be consistent with national and regional planning policies as well as the policies set out in the development plan documents contained in the local development framework;*
- it must be clearly cross-referenced to the relevant development plan document policy which it supplements (or, before a relevant development plan document has been adopted, a saved policy);*
- iii. it must be reviewed on a regular basis alongside reviews of the development plan document policies to which it relates; and*
- iv. the process by which it has been prepared must be made clear and a statement of conformity with the statement of community involvement must be published with it.”*
- 4.92 Paragraph 2.44 of PPS12 states:
- “Supplementary planning documents may contain policies which expands or supplements the policies in development plan documents. However, policies which should be included in a development plan document and subjected to proper independent scrutiny in accordance with the statutory procedures should not be set out in supplementary planning documents.”*
- 4.93 Paragraph 4.40 goes on to add:
- “All the matters covered in supplementary planning documents must relate to policies in a development plan document or a saved policy in a development plan. They must therefore conform to the relevant development plan document (or saved policies), and thereby be consistent with national planning policy and generally conform with the regional spatial strategy or, in London, the spatial development strategy.”*
- 4.94 Paragraph 4.41 states:
- “The local planning authority may seek the opinion of the regional planning body or, the Mayor in London, as to whether the supplementary planning document is in general conformity.”*
- 4.95 Having regard to PPS12 it must be concluded that the document that began as Islington Council’s draft Core Strategy does not constitute any form of supplementary guidance. The Core Strategy document, as it exists now, is not supplementary to the adopted UDP or to the other element of the statutory development plan, namely the London Plan. Further, it is not in general conformity with the London Plan, as is emphasised in the letter from the GLA dated 18<sup>th</sup> April 2007.
- 4.96 In considering whether any weight should be attached to the draft Core Strategy I have also had regard to draft PPS12 which was published on 27 November 2007 for consultation (until 19 February 2008). Draft PPS12 proposes a number of changes to the LDF process and clarifies the test of soundness (as being justified and effective).

4.97 Section 6.0 addresses Supplementary Planning Documents:

*“6.1 A planning authority may prepare Supplementary Planning Documents to provide greater detail on the policies of a development Plan Document. It can also use SPDs to amplify either government or RSS policy but they should not be prepared with the aim of avoiding the need for the examination of policy which should be examined.*

*6.9 District/borough/city councils should not produce planning guidance other than SPD where the guidance is intended to be used in decision making or in the coordination of development. This could be construed as wishing to circumvent the provisions for consultation and sustainability appraisal which SPDs have. This excludes assistance to applicants on how to make planning applications, which would not constitute SPD.”*

4.98 Whilst draft PPS12 is emerging guidance to which significant weight cannot be attached at this stage its content is still a material consideration as it provides an indication, in the context of the draft Core Strategy, of the Government’s view of the inappropriateness of using documents like the draft Core Strategy in the decision making process.

4.99 The use of the draft Core Strategy in the decision making process for the appeal proposal should also be considered in the light of the advice Islington Council received. Following the April 2007 West Area Planning Sub-committee the council instructed counsel to advise on the weight that should be attached to the Core Strategy in light of the objections received. Counsel advised on 14<sup>th</sup> May 2007 (Core Document 5.18) and it appears clear from the advice given that she was unaware of the comments of the EIP Inspector made the previous month; certainly no reference was made to them by counsel. Indeed counsel referred (paragraph 3.3) only that the objections received would be considered at an inquiry.

4.100 Advising on the premise that the draft Core Strategy still constituted a formal emerging Development Plan Document (DPD), which in accordance with PPS12 should have some weight attached to it (paragraph 5.1), counsel expressed the view (paragraph 7.1) that given that there had been objections to the policy and that *“it has yet to be considered at a public inquiry and therefore in light of the advice in paragraph 18 of PPS1 on the weight to be given to emerging policy limited weight should be given to [policy CS18]”*.

4.101 Counsel went further in her advice to say that policy CS18 and PPS3 *“do not materially change the circumstances to justify the Council seeking any further changes to the proposed affordable housing”* (from that presented in April 2007).

4.102 Although counsel gave her advice that only limited weight could be afforded to policy CS18 at the time, the DPD has been withdrawn and it no longer constitutes even an emerging policy. Officers in their report to Council on the 23<sup>rd</sup> June 2007 (paragraph 6.1) implied that an equivalent level of weight could be attached to the Core Strategy (*“more limited legal weight”*) if it were to be adopted as non-statutory supplementary guidance. However, I have already established that there is no

legislative basis for, or guidance which enables any weight to now be given to, either policy CS18 or to the draft Core Strategy.

4.103 In my view, given the scrutiny, concerns with and subsequent withdrawal of the draft Core Strategy, its use for development control purposes is not appropriate. No weight should be attached to it and there is no sound basis which would allow it to be used as a material consideration to enable an exception to be made to statutory policy. As the 26<sup>th</sup> June 2007 committee report (Core Document 5.19) acknowledges, the UDP saved policies and the London Plan constitute the statutory planning policies for the borough.

4.104 To attach any weight to the draft Core Strategy, given that it was the subject of an objection on non-conformity to the statutory development plan by the Mayor, has been rejected by the EIP Inspector for failing to meet the soundness tests in PPS12, and has been formally withdrawn by the Council, is, I believe, wholly inappropriate in decision making.

Islington Affordable Housing Guidance Note, October 2006

4.105 The Islington Affordable Housing Guidance Note, October 2006, was prepared to enable the immediate implementation of the affordable housing policies contained within the draft Core Strategy. It was adopted by the council's Executive Committee on 5<sup>th</sup> October 2006 (Core Document 5.8). The accompanying report wrongly advised members that the London Plan "sets out a requirement that 50% of new housing overall should be affordable" and that "the new guidelines are consistent with the London Plan" (paragraph 4.1). The report went on to advise members that (paragraph 4.3) the council is:

*"seeking to implement the affordable housing policy straight away, rather than waiting for the Core Strategy to be formally adopted. During this period the policy will not have full statutory weight, but will be an important consideration. In the event of a planning appeal it will be up to the Planning Inspector to decide what weight should be given to this emerging policy".*

4.106 The note itself acknowledges, however, that there are two main categories for affordable housing; social rented and intermediate. It indicates [Key principle (a)] that current policy [in the London Plan] is to provide 50% affordable housing from all sources, which is consistent with the development plan approach, whilst recognising that the draft Core Strategy aspiration proposes that this should change to 50% in the future. No specific period for that transition was proposed. The note does not impose the requirement at the current time but merely indicates a future desire. Tenure mix is proposed at 60% social rented to 40% intermediate (Key principle (b)) for schemes achieving 50% affordable provision. This principle accepts the premise that not all developments, even under policy CS18, would deliver 50% affordable provision. The note introduces the concept that financial assessments should be carried out where 50% affordable cannot be achieved (Key principle (g)). The note also recognises within its key principles that requirements need to be flexible so as not to make schemes unviable and allows for off-site provision and commuted payments in specific circumstances.

- 4.107 This guidance note was adopted by the council on the basis of supporting the draft affordable housing policies of the draft Core Strategy and in particular policy CS18. The document to which it relates having been officially abandoned, there can be no basis for the note to have any weight. Arguably, it should have been formally withdrawn simultaneously with the draft Core Strategy.
- 4.108 The note was intended to form the foundation for a new SPD on affordable housing once the Core Strategy had been adopted. Indeed Islington Council's Annual Monitoring Report 2007 (Core Document 5.24) confirms (paragraph 3.21) that the guidance note is not part of the LDF but that it is *"likely [at the time] that it will form the basis of a SPD at a later stage in the process, as experience in implementing the new policy [of the Core Strategy] is gained"*. Islington Council currently has no Core Strategy and it is inappropriate for this note to prejudge what may form the 'new' Core Strategy when it is published in draft form late in 2008/early 2009. As such it conflicts with PPS12.
- 4.109 It is my view, therefore, that like the draft Core Strategy no weight should be attached to this document which holds no status in terms of planning guidance or advice, and that it should not be used to override or modify the applications of statutory policy.
- 4.110 Even if the note could be given weight in the present appeal, it cannot meaningfully influence the development control decision that falls to be made because it has no strategic policy foundation and in any event contains no timescale for when the proposed 50% requirement should be applied. However, the note requires a financial assessment to be carried out if 50% is not being achieved to justify the level of affordable housing proposed; and in the present case this has been done by independent consultants on the instructions of Camden Council. It seeks a tenure ratio target of 60:40 for schemes where 50% is provided, or a target of 70:30 where it can not; target levels which the proposals achieve in any event having regard to unit sizes. In terms of preferred mix, the note seeks:

UNIT SIZE	Social Rent (Note)	Social Rent (Actual)	Intermediate (Note)	Intermediate (Actual)
5 Bed	5%	-	-	-
4 Bed	10%	-	-	-
3 Bed/5 persons	25%	28%	10%	-
2 Bed/4 persons	40%	50%	50%	46%
1 Bed/2 persons	20%	22%	40%	53%

- 4.111 The proposed provision is shown in the shaded column. It should be noted that the actual figure reflects the requirements expressed and sought by Islington Council in negotiations leading up to the July 2007 decision. The proposed mix is not significantly at variance with the preference shown which, in any event, requires a flexible approach and recognises that no scheme will achieve the precise mix given individual sites constraints, unit sizes, layout etc. It also recognises the projected

growth in housing requirement shown in Islington's Annual Monitoring Report 2007 (Core Document 5.24).

#### Camden Draft Core Strategy

- 4.112 The Camden draft Core Strategy is currently at the Issues and Options stage and has completed the first round of public consultation. No report on the outcome of that has yet been published and the document is at a very early stage of the adoption process. No policy proposals have yet been published and accordingly this document is at such an early stage that no relevance should be attached to it in the context of this appeal.

### **SUMMARY**

- 4.113 London Plan policy seeks that half of all housing provision in London, from all sources, should be affordable. For the King's Cross site the adopted approach has been to consider the Main and Triangle sites as comprising one strategic scheme, which I have demonstrated that they do. Indeed, Policy 3A.8 was drafted deliberately to clearly say 'scheme requirements' rather than 'site requirements' to ensure that major sites involving more than one application are developed in a comprehensive manner bringing certainty and security to the delivery of the affordable housing as well as other benefits.
- 4.114 The application accords with Islington Policy Imp18 and the requirements of the statutory development plan (the London Plan, Camden and Islington UDPs), which envisage that the Triangle site should be considered as part of the comprehensive scheme for King's Cross and in a holistic manner.
- 4.115 The appellants' proposal for the Triangle Site will serve to secure some 42.8% of affordable housing in the King's Cross development. In terms of numbers the proposal will help to deliver the 834 affordable units proposed for the whole site, of which 536 (64%) will be social rented and 298 (36%) intermediate.
- 4.116 This level of provision is in accordance with planning policy within the relevant statutory development plan. There is no adopted policy requiring the 50% provision to be made within this or any new development proposal. Policy seeks a 50% provision across all forms of housing delivery, a stance being continued into the Mayor's emerging draft Housing Strategy. When the proposals were determined by Islington Council its statutory requirement (Policy H16, which is now 'expired') was 25% with the Islington Affordable Housing SPG indicating a revised requirement of 35%. Even if the Triangle site were taken in isolation the required level of provision was achieved.
- 4.117 The London Borough of Camden commissioned a financial viability assessment to ascertain whether the maximum level of affordable housing was being provided. This was submitted to, and verified by, the GLA, which has confirmed on two separate occasions that the proposals complied

with the statutory policies of the London Plan. The London Borough of Camden was also satisfied that the proposals complied with its statutory policies as well as the relevant joint Planning and Development Brief for the King's Cross Opportunity Area. Camden members have also resolved that they would have granted consent had an appeal not been made.

- 4.118 Islington Council did not undertake a financial assessment nor request one to be carried out. In policy terms such an assessment was not necessary as, when the application was submitted, the level of affordable housing provision exceeded Islington Council's policy requirement. No request to the appellants has ever been made by Islington Council to carry one out.
- 4.119 Having regard to the statutory planning policy framework, it is my view that these proposals accord with the London Plan, Camden UDP and Islington UDP. Nor are there any material considerations which could justify the statutory development plan policies being set aside, or the proposal being rejected.
- 4.120 I have shown that the application complies with the provisions of the Mayor's Housing SPG, Islington's Affordable Housing SPG and the King's Cross Opportunity Area Planning and Development brief.
- 4.121 Islington Council's draft Core Strategy and specifically policy CS18 should not be accorded any weight in light of its formal withdrawal. It is not in my view appropriate to 'adopt' failed policy as non-statutory supplementary planning guidance. The same principle applies to the Islington Affordable Housing guidance note. That said, even if some weight were to be applied to those documents, the general thrust of policy CS18 and the Affordable Housing note is achieved by this proposal.
- 4.122 Accordingly, I do not consider that there are any material considerations either within the development plan or outside it which justify a refusal of planning permission in this case.

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## 5. CONCLUSION

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- 5.1 The appeal proposal represents the culmination of seven years of ongoing discussions and work by both the appellants and the relevant authorities, working in partnership, to ensure the delivery of the King's Cross Opportunity Area regeneration. The appeal site comprises 1.1 hectares of the 27.2 hectares of land which comprises the King's Cross Central scheme. Whilst the majority of the King's Cross Central scheme falls within the London Borough of Camden, a small part known as the Triangle site falls within the control of both the London Boroughs of Camden and Islington, with Islington Council controlling 0.82 hectares of the 1.1 hectares. Accordingly, identical applications were submitted for the Triangle site to the two authorities.
- 5.2 The appeal itself arises from a decision made by Islington Council on 10 July 2007, against the professional officer's recommendations and against the advice of counsel, to refuse planning permission. The appeal in respect of the application submitted to Camden is on the basis of non-determination, given Islington Council's decision, although Camden Council has consistently supported the proposal. Its Planning Committee resolved, on 18 October 2007, that had it been in a position to do so, it would have granted permission for the development.
- 5.3 Islington Council's refusal, as amplified by the Council's Statement of Case, was based on the assertion that the affordable housing package is deficient in terms of:
- the proportion of affordable housing provision provided across the triangle site (which is split between Camden and Islington);
  - the tenure mix of the units; and
  - the provision for the recycling of staircasing receipts.
- 5.4 I have demonstrated that the Triangle site is a component and integral part of the comprehensive, and award winning, King's Cross Central scheme which planning policy and supplementary guidance all underpin. Planning policy within the statutory development plan seeks to ensure the comprehensive development of the King's Cross Opportunity Area in a holistic manner. That policy and the associated supplementary guidance all require this approach to be adopted. Indeed the joint King's Cross Opportunity Area Planning and Development Brief evolved from two separate documents into a single document at the request of Islington Council. The Mayor has confirmed that this is the right approach in terms of strategic planning within London and in the application of the London Plan. The applications for the Triangle site were made simultaneously with those for the Main site, underpinned by the same documents, accepted by both authorities and processed as such.
- 5.5 My evidence also establishes that the quantum provision of affordable housing is in accordance with statutory development plan policy. Islington's Policy H16 (UDP 2002) is no longer extant but at the time of determination the level of provision was well in excess of the policy requirement.

London Plan policy continues to apply in Islington and I have shown that the proposals accord with all relevant policies. In fact, the GLA has explicitly stated that the proposals comply with relevant strategic policy.

- 5.6 Having regard to tenure mix, statutory policy seeks a target of 70:30 (Social Rented to Intermediate Housing) but is flexible in its application having regard to site constraints and local need. The policy does not explicitly indicate against which measurement this ratio should be applied; number of units or habitable rooms. The King's Cross Central scheme delivers a ratio of 64:34 based on numbers of units, and a ratio of 75:25 based on number of habitable rooms. Within this the appeal proposal comprises a 43:57 split in terms of actual units. This split is based on local need, established during negotiation with officers, and is aimed at meeting Islington Council's priority needs and responding to the site's specific circumstances. I have shown that the scheme-wide tenure mix complies with policy and that the site provision responds to the site specific need and circumstance.
- 5.7 Having regard to supplementary planning guidance, I have shown that these proposals are consistent with the advice given, which supports or amplifies the statutory policy. I have indicated where this supplementary guidance has been either amended or superseded by changes in development plan policy provisions and I have commented on the weight which should be attached to the relevant guidance. None of the adopted supplementary planning guidance leads me to consider that there is a justification for planning permission being refused. Rather, I consider that the proposals are in accordance with the various documents.
- 5.8 Included in emerging policy and draft supplementary guidance is the Mayor's draft Housing Strategy and Islington's draft Core Strategy and its associated affordable housing guidance note. I consider that the latter two documents command no weight. The draft Core Strategy has failed to meet the soundness tests in PPS12. It is not in conformity with the London Plan, in respect to the policy area at issue in this appeal, and has been discredited by the EIP Inspector to such an extent that the document has been formally withdrawn. As a consequence no weight should be given to the associated guidance note either. The use of these to inform the decision-making process and to be used as a justification to refuse a planning permission has no legislative or policy foundation. Even before the document was the subject to the Mayor and Inspector's analysis, counsel acting for Islington Council advised that the draft Core Strategy carried limited weight and did not justify a refusal of these proposals.
- 5.9 The Mayor's draft Housing Strategy is at a very early stage in its preparation process and has only been released for consultation with the Assembly and functional bodies at this stage. The draft document does however set out the Mayor's housing policy framework for the future. It retains the flexibility currently within the existing planning policy framework and my evidence demonstrates that these proposals accord with its objectives. No objection to the proposals has been made by the Mayor on the grounds of the draft housing strategy. The GLA has reconsidered its position on the proposal since its publication, and has confirmed its support for it.

- 5.10 In the light of Mrs Dickinson's proof of evidence and my own analysis I consider that the appeal proposal serves to secure the maximum reasonable amount of affordable housing provision that can be achieved on the King's Cross site having regard to the specifics of the scheme itself.
- 5.11 It is my view that the proposal in the present appeals complies with the statutory development plan both in terms of the quantum of provision and the mix of tenures. These are views which are shared by the Mayor, as the strategic planning authority. The planning policy support in respect of the mix of tenures is demonstrated by the evidence of Mrs Dickinson. There are no material considerations which would justify the setting aside of this policy.
- 5.12 I therefore respectfully request that the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 be applied and these appeals be allowed and planning permissions granted for the appeal development.

# ANNEX A