

KING'S CROSS CENTRAL TRIANGLE SITE

APPEAL BY ARGENT (KING'S CROSS) LTD,

**LONDON & CONTINENTAL RAILWAYS LIMITED AND EXEL
LIMITED**

PROOF OF EVIDENCE: C DICKINSON

RPS Planning

1st Floor
Cottons Centre
Cottons Lane
London SE1 2QG

Telephone: 020 7939 8000 Facsimile: 020 7939 8098/99

P. Insp. Ref: APP/X5210/A/07/2051898

APP/V5570/A/07/2051902

RPS Ref: JLI0722

Date: 22 January 2008

COPYRIGHT

The contents of this document must not be copied or reproduced
in whole or in part without the written consent of RPS.

		<u>Page No</u>
SECTION 1:	INTRODUCTION	1
SECTION 2:	SUBJECT MATTER OF THE INQUIRY	2
SECTION 3:	SCOPE OF EVIDENCE	4
SECTION 4:	AFFORDABLE HOUSING PROPOSALS	5
SECTION 5:	POLICY OVERVIEW	15
SECTION 6:	SURROUNDING AREA	26
SECTION 7:	HOUSING MIX	31
SECTION 8:	RECYCLING PROVISIONS	39
SECTION 9:	CONCLUSIONS	51

SECTION 1: INTRODUCTION

- 1.1 My name is Claire Louise Dickinson. I am a Director of RPS Planning. I am a qualified Town Planner. I have an honours degree (BSc) and a diploma in City and Regional Planning, both from the University of Wales, Cardiff. I am a member of the Royal Town Planning Institute.
- 1.2 I have experience in the assessment and negotiation of affordable housing specialising specifically in large brownfield regeneration projects, principally in London and the South East. I have provided advice and led the negotiations about the affordable housing on a number of strategic schemes that have successfully secured planning consents where I now advise on their implementation. They include King's Cross Central – Main site, Stratford City/London 2012 Olympics, and Bracknell Town Centre. I also advise on the affordable housing element of several strategic regeneration projects, including White City; Brent Cross; Crown Wharf; Croydon Gateway; Marco Polo House; and Kent Science Park alongside many other smaller (i.e. generally 150 units or more) housing and mixed use schemes.
- 1.3 Before joining RPS Planning I was Associate Director for Level, a consultancy specialising in the negotiation and delivery of affordable housing. I directed the company's advice on large regeneration projects. Some of these projects (where my involvement is ongoing) are identified in paragraph 1.2 whilst others included Eastern Quarry, Guildford Town Centre, NOP, WE5 and Osanburgh Street. I was also involved in making representations on many policy and development plan documents including PPS3 and the London Plan. Prior to this I was a consultant for financial advisors ABROS, where I advised public sector clients about the benefits of large schemes - specifically housing and regeneration projects using a variety of sources of finance including PFI, grant and private sector funding.
- 1.4 I appear at this inquiry on behalf of Argent (King's Cross) Limited, London & Continental Railways Limited and Exel Limited whom I have been appointed to provide consultancy advice in respect of affordable housing on the King's Cross Central development since 2003.

SECTION 2: SUBJECT MATTER OF THE INQUIRY

2.1 Detailed descriptions are set out in the evidence of Mr Robinson and the principal factual background is recorded in the Statement of Common Ground. For the purposes of this section of my proof of evidence, therefore, I simply summarise briefly those matters that I consider to be of key importance to the determination of this case.

a) Development Area

2.2 The King's Cross Central development area encompasses 27.2 ha and comprises two sites referred to as the "Main site" and the "Triangle site". The Main site comprises 96% (26.1 ha) of the total development area and is located in LB Camden. The residual 4% (1.1) ha comprises the Triangle site. The Triangle site spans the boundary between two local authorities, LB Islington and LB Camden.

2.3 As Mr Robinson explains, the interrelationship between the two sites means that the planning benefits must be considered together as a single strategic scheme. The scheme proposals have always been framed in these terms and the acceptance of this principle, by LB Camden, the GLA and until the publication of the Statement of Case LB Islington, has been important to enabling a comprehensive approach to be taken to the design, negotiation and delivery of the proposed affordable housing.

b) Background to the Application

2.4 A planning application for the Main site was made on 28th May 2004. Consent was granted on 22 December 2006. This consent is being implemented. Section 4 of my proof of evidence provides further detail on the background and substance of the affordable housing proposals, and an update on the progress being made on the delivery of the affordable housing on the Main site.

- 2.5 A planning application was prepared for the Triangle site and submitted at the same time as the Main site. Identical planning applications were submitted to both Islington and Camden Councils on 28th May 2004. The development proposes a mixed-use development comprising 246 residential units, retail uses and D1/community uses.
- 2.6 Details relating to the applications for both the Main site and the Triangle site are set out in the Statement of Common Ground.

c) The Appeal

- 2.7 This appeal arises from the decision by Islington Council on 17th July 2007 to refuse planning permission, despite an officer's recommendation to approve, on the grounds that:

“The proposed development is considered to be unacceptable by reason of the affordable housing offer being deficient in terms of the overall percentage, tenure, mix and the particular nature of the Shared Equity element having regard to the provision for the recycling of staircasing receipts. As such the proposed development is considered to be contrary to policy H16 of Islington's UDP 2002 and the UDP strategic housing policy concerned with housing variety and mix, Islington's 'Affordable Housing' SPG, policies 3A.7 and 3A.8 of the London Plan, policy CS18 of Islington's core strategy (as adopted as non-statutory guidance for development control purposes) and PPG3 'Housing'” (CD 5.21)

- 2.8 As is explained by Mr Robinson, the applicant is also appealing the non-determination of the application by LB Camden. LB Camden resolved to grant planning permission in March 2006 but at the time the appeal was lodged had not done so. However, it should be noted that since the submission of the appeal LB Camden's Planning Sub-Committee has resolved that had the application not been appealed the Council would have granted planning permission:

“had the application not been appealed the Council would have granted planning permission, subject to those conditions and heads of terms agreed in its resolution of 9th March 2006” (CD 4.4)

SECTION 3: SCOPE OF EVIDENCE

3.1 The scope of my evidence is closely related to that of Stuart Robinson. The purpose of this section of my proof is to explain the relationship between the two. Whilst there is an inevitable overlap I have been careful not to repeat Mr Robinson's evidence, but the two should be read in conjunction.

3.2 The evidence of Stuart Robinson provides a consideration of the planning policy context and analyses the relationship of the proposal with the development plan. Specifically Mr Robinson's evidence sets out the approach agreed by LB Camden and Islington to considering the appeal proposal, emphasises the importance of treatment of the development proposal as part of the overall scheme and shows that there are no material considerations to justify the refusal of the proposal.

3.3 My evidence focuses on the qualitative and technical aspects of the affordable housing proposals dissecting aspects of the broad test of policy compliance provided by Mr Robinson and explaining this in the context of the site and its location. Against this background I also show that the approach taken has been exemplary.

3.4 The structure of my evidence is:

- Section 4 sets out a description of the affordable housing proposals, including an explanation the various affordable housing tenures.
- Section 5 highlights aspects of policy considered to be particularly important to my evidence and to the determination of this application.
- Section 6 provides an appraisal of the site specific circumstances which should be taken into account in determining this application, in particular the socio-economic characteristics of the surrounding area.
- Section 7 sets out why I consider the proposal complies with policy in terms of the amount, type and mix of affordable housing.
- Section 8 explains the provisions that are in place to ensure the proposals are consistent with the requirements of PPS3.
- Section 9 provides a summary and my conclusions.

3.5 The Statement of Common Ground includes:

- Description of the Site and Surroundings,
- The Development Proposals,
- Chronology and Decision Making, and Planning Policy.

SECTION 4: AFFORDABLE HOUSING PROPOSALS

4.1 This section of my proof sets out the scheme - wide affordable housing proposals on the basis of those agreed and consented by LB Camden for the Main site and those which form the basis of this appeal for the Triangle site.

a) Context

4.2 I was appointed by the appellant in 2003 specifically to advise on the affordable housing element of the scheme. From the outset the approach taken to the negotiation of the housing mix has been underpinned by a requirement to reconcile the planning policy requirements for the scheme with the underlying need to deliver an exciting and successful mixed use development: one that will bring local benefits; provide jobs and homes; and make a lasting contribution to London. In addition to the affordable housing benefits the wider benefits delivered by the scheme are set out in paragraph 2.8 of the evidence of Mr Robinson.

4.3 The appellant and its land owner partners have approached the development of King's Cross Central with a view to retaining an interest beyond a planning consent. This has been important to the approach taken to the proposed affordable housing. The agreement between the appellant and the land owners means that all parties are incentivised to stay involved until the end of the development. This is an approach that the appellant has already successfully delivered at Brindleyplace in Birmingham; is pursuing in Manchester; and intends to pursue in King's Cross. Both the appellant and the land owners are forming a collective ownership structure with a commitment to long-term management of the place¹. The affordable housing proposals should be considered in this context, as the opportunity to deliver directly some of the affordable housing reflects the wider long term commitment by the appellant to King's Cross.

4.4 The appellant has sought to engage with officers from LB Camden, LB Islington and the GLA and have striven to work in consultation with all stake holders, including the Housing Corporation, to optimise the provision of affordable housing. In the context of the wider policy objectives and specific circumstances of the King's Cross site and the surrounding area all parties have over the last seven years recognised the

importance of a pragmatic and sensible approach to the application of policy. The amount of affordable housing proposed is significant compared against London-wide targets and will make an important contribution to creating a truly mixed and balanced community, which will be sustainable.

b) Housing Mix

4.5 The total number of residential units proposed for King's Cross is 1,946, of which 42.8% (834 units) are to be provided as affordable housing. Table 1 sets out the housing mix for market, social rented and intermediate tenures and summarises the split between social rented and intermediate tenures and market and affordable housing.

Table 1: Summary of Housing Proposals

	Main site		Triangle site		Scheme	
	No.	%	No.	%	No.	%
MARKET						
1 bed	446	47%	84	52%	530	48%
2 bed	285	30%	75	46%	360	32%
3 bed	171	18%	3	2%	174	16%
4 bed	48	5%	0	0%	48	4%
<i>Total</i>	<i>950</i>		<i>162</i>		<i>1,112</i>	
INTERMEDIATE						
1 bed	184	74%	26	54%	210	70%
2 bed	66	26%	22	46%	88	30%
<i>Total</i>	<i>250</i>		<i>48</i>		<i>298</i>	
SOCIAL RENT – GENERAL NEEDS						
1 bed	87	21%	8	22%	95	21%
2 bed	160	39%	18	50%	178	40%
3 bed	125	30%	10	28%	135	30%
4 bed	40	10%	0	0%	40	9%
<i>Total</i>	<i>412</i>		<i>36</i>		<i>448</i>	
SOCIAL RENT – SPECIALIST						
1 bed	88	100%	0	0%	88	100%
<i>Total</i>	<i>88</i>		<i>0</i>		<i>88</i>	
AFFORDABLE HOUSING MIX						
Total Intermediate	250	33%	48	57%	298	36%
Total Social Rent	500	67%	36	43%	536	64%
MARKET AND AFFORDABLE HOUSING MIX						
Total Affordable	750	44%	84	34%	834	43%
Total Market	950	56%	162	66%	1,112	57%
Total Housing	1,700		246		1,946	

¹ A letter from Argent (King's Cross) Limited setting out its approach to King's Cross is provided at Appendix 1

4.6 The comprehensive scheme will provide 834 affordable housing units, of these 536 (64%) are proposed as social rented tenure and 298 (36%) intermediate tenure. Appendix 2 includes a detailed breakdown of the affordable housing proposals scheme-wide and for each of the two constituent sites.

c) Social Rent

4.7 The site specific circumstances, in particular the existing high concentration of social rented tenure housing in the surrounding area, means that careful consideration needed to be given to the social rented element of the scheme from the outset². The design of the social rented housing is being undertaken in consultation with RSLs and on the Main site the s106 agreement includes provision to develop a local lettings plan to ensure the sustainable first occupation of the affordable homes. The intention is to replicate this on the Triangle site.

4.8 Whilst the provision of social rented housing was an identified priority for the scheme, emphasis was placed on providing the right type and mix of social rented housing rather than being defined by the need to maximise the headline number. A specific requirement identified for the scheme was social rented family housing as set out in Camden's UDP and the Kings Cross Opportunity Area Planning and Development Brief; this is also an identified priority need for London. In the course of the negotiations LB Camden also identified a specific need for specialist supported social rented housing (i.e. vulnerable people such as the elderly) on the Main site. The density and nature of the scheme has meant that the specific design and management requirements associated with both of these tenures has presented a challenge which has been embraced as the scheme design has progressed. The result is:

- For the scheme as a whole 39% of the general needs social rented housing is 3 bed or larger family units.
- The Main site will include provision of 88 homes for specialist social rent, which will comprise frail elderly extra-care accommodation and other forms of specialist provision.

² The extent and implications of the tenure mix of the surrounding area are explained in section 6.

4.9 Delivery of close to 40% family housing within the general needs social rent tenure is a significant achievement given the location, nature and density of the scheme.

d) Intermediate

4.10 The site specific circumstances meant that both LB Camden and LB Islington, and the GLA, recognised from the outset that the inclusion of a significant element of intermediate housing on this site was important. These include the fact that the site has the best public transport accessibility in London (para 5.37, CD 3.1), the limited opportunities to enter into owner occupation locally, the existing concentrations of social rented housing in the surrounding area, and the socio economic characteristics of the local area³. Alongside this there are limited opportunities to enter into owner occupation locally which along with other factors can marginalise communities resulting in individuals more likely to be disenfranchised from the area that they want to live in. Intermediate tenures were considered to offer a valuable response to these site-specific issues.

4.11 Officers from LB Camden and Islington considered that intermediate homes would assist in establishing a longer term community with a reduced turn-over of residents and a new neighbourhood anchored with a broad range of new residents. This was acknowledged to be a significant benefit and conducive to the wider regeneration objectives for King's Cross (p. 43, CD 5.15).

³ This is further explained in section 6

4.12 Alongside the evolution of the affordable housing proposals for King's Cross the affordable housing sector has also continued to mature. During the negotiations non-RSLs have been allowed to bid for grant funding⁴; the intermediate sector has been firmly established as a policy priority⁵; particular emphasis has been placed upon improving value for money for the public sector; there has emerged an appetite for innovation in terms of products and their financing; RSLs have been the subject of mergers and takeovers to form a greater critical mass; and have become more commercially driven in partaking in the delivery of market housing.

4.13 In particular the intermediate tenures proposed recognised that public resources are already stretched and that the Government is keen to encourage the provision of affordable housing without grant where possible. The appellant's direct role in the provision of some of the affordable homes facilitates the delivery of a mixed balanced community with no recourse to grant. The result is a mix that takes established grant-funded RSL-delivered intermediate affordable housing products and seeks to improve them to offer greater choice and better value for money.

i) Key Worker Sub Market Rent

4.14 Completed homes will be transferred to an RSL for a transfer price as set out in the s106 agreement. These homes will be made available to key workers on a rental basis at a price 20% below the open market rent. The Mayor's draft Housing Strategy recognises that this is a popular product that has failed to become an integral part of the intermediate programme in London and is looking for effective means of its increasing delivery. A discounted rental product for key workers was considered to be an appropriate affordable housing tenure for King's Cross. This product responds to the excellent accessibility of King's Cross Central and the importance of providing good quality, centrally located, affordable housing for London's key workers.

⁴ 31 private sector partners are now eligible to apply for grant funding (page 1, CD 7.4)

⁵ 85% of households aspire to be home owners (para 1.2, Shared Equity Competition Advance Notice – Housing Corporation (Appendix 3))

Key workers specifically were targeted for the discount rented product in recognition that there is considerable priority afforded to them in policy but the reality is that it is very unlikely that they will qualify for social rented housing. This tenure was also considered to make an important contribution towards the overall objective of creating a mixed and balanced community. 12 (25%) of the affordable intermediate homes on the Triangle site are to be provided as key worker sub market rent.

ii) Shared Ownership

- 4.15 Completed homes will be transferred to an RSL for a transfer price as set out in the s106 agreement. These homes will be sold at, on average, 40% of open market value. The RSL will charge rent on the unsold equity but the s106 agreement imposes a cap on the rent that an RSL can charge on the unsold equity (2% or less - at least 0.75% lower than is standard for the Housing Corporation). The aim was to optimise affordability and to extend the opportunity for home ownership to as wide an income group as possible. 12 (25%) of the affordable intermediate homes on the Triangle site are to be provided as Shared Ownership.

iii) Shared Equity

- 4.16 These homes are delivered directly by the appellant without grant funding and will be sold at, on average, 50% of open market value. A slightly higher percentage equity share is sold compared to Shared Ownership housing but this is affordable because no rent is charged on the unsold equity ie. the rental payment is translated into a mortgage repayment. This can be a more attractive route into home ownership as this offers owner occupiers the opportunity to capture a greater share of the capital growth in the asset that they own which, over time, may create personal wealth. Alongside this there is a view that the greater the opportunity to move towards home ownership this will encourage occupiers to: i) take greater care of their asset and the surrounding environment; ii) promote community and citizenship; and iii) reduce transience.
- 4.17 The appellant retains the unsold equity and the occupier can choose to purchase additional equity shares up to a point where they own the property outright ('staircase'). For a period of 15 years any receipts received by the appellant from staircasing are to be placed in a designated account and invested in affordable

housing within the development. If the purchaser staircases to 100% ownership on resale of the unit there is an option for an RSL to buy back the unit. 12 (25%) of the affordable intermediate homes on the Triangle site are to be provided as Shared Equity.

iv) Right to Buy Homebuy

4.18 These homes are delivered directly by the appellant without grant funding and are targeted specifically at existing social rented tenants who have the Right to Buy in order to prevent social rented units being lost as affordable housing. Because grant is not required this was identified as a very efficient means for securing social rented tenure homes at the same time as benefiting from the delivery of an intermediate home and facilitating a social rented tenant to move into home ownership. Purchasers are provided with a non-repayable discount of £16,000 (equivalent to the discount eligible through Right to Buy). In addition the purchaser receives a discount of between 30 and 40% off the open market value in the form of an interest free loan from the appellant that is repaid on sale of the property – the same as the Government backed Open Market Homebuy product⁶.

4.19 This product evolved in response to the specific circumstances that surrounds the scheme and through discussions with officers from LB Camden. Officers advised of the success of their own cash incentive schemes that offers Council tenants payments towards a home they are purchasing and expressed a view that there was likely to be much demand for similar types of schemes. Schemes in the past had also not had the potential to offer an additional discount on the price of the property in conjunction with the cash discount. 12 (25%) of the affordable intermediate homes on the Triangle site are to be provided as Right to Buy Homebuy.

v) Homebuy

4.20 This is the same as Right to Buy Homebuy but it is not limited to just existing social rented tenants and hence without the £16,000 discount. None of the affordable intermediate homes on the Triangle site are to be provided as Homebuy.

⁶ Refer to CD 7.16 for additional explanation about the Government backed product Open Market Homebuy and Section 8 below for an explanation of how the Right to Buy Homebuy product compares.

4.21 Further details on these products are provided in section 8 below and detailed schedules of the apportionment of the different tenures and unit sizes scheme-wide and on each of the two constituent sites are provided in Appendix 2.

e) Distribution

4.22 The distribution of the 834 (42.8%) affordable housing units between the Main site and the Triangle site is this:

- 750 (44.1%) of the 1,700 units on the Main site will be affordable; and
- 84 (34.1%) of the 246 units on the Triangle site will be affordable.

4.23 The apportionment of the scheme wide affordable housing between the Main site and the Triangle site is guided by the Kings Cross Opportunity Area Planning and Development Brief, which states:

“As Islington’s UDP (2002) currently has a 35% affordable housing policy, affordable homes provision in the Triangle will be apportioned according to the prevailing UDP policies” (paragraph 2.9.16, CD 6.1).

and,

“The two boroughs have agreed to the following key points... subject to satisfactory designs and residential amenity being achieved this close to the railway lines, the Triangle could accommodate about 200 one and two-bed homes in contributing to the overall housing provision in the Area. The site is considered well suited to key worker homes as part of the range of market and affordable housing” (subsection 4, p 68/69, CD 6.1)

4.24 The scheme-wide housing mix has evolved on the basis that the Triangle site will be apportioned about 35% affordable housing and a greater emphasis on smaller intermediate homes in recognition of the density and constraints of the site. The quantum and tenure split proposed for the Triangle site has always been made clear to officers of LB Islington whom have never required anything to the contrary. Islington Council’s April 2006 Committee Report addresses the location of the affordable housing in this way:

"The affordable housing is proposed within Block B. This housing forms a discrete and complimentary element within the overall collection of buildings on the site and relates well with the streetscene (York Way) and the area of open space within the site and provides active uses at ground floor level and terraces at upper levels. This is considered to be acceptable in principle and in compliance with the Brief subject to the design of the block and its relationship with the others and the surrounding area. The S106 Heads of Terms refers to the need for the affordable element to replicate the design of the market element, which will ensure that the affordable housing element of the proposal be fully incorporated within the design of the scheme." (p. 44, CD 5.15)

4.25 The distribution of affordable housing has also been influenced by practical considerations relating to the management of the buildings and particularly the service charges. LB Camden's Housing Officer required affordable housing service charges to be managed. This has led to the decision to locate the affordable housing in discrete blocks where practicable facilitating separate access and internal communal spaces and the opportunity for bespoke management and design solutions. The section 106 obligation ensures that this is achieved whilst still distributing units throughout the scheme to deliver mixed street-scenes and ensuring that the affordable units are designed so that there is no significant difference between buildings of different tenures (clause 14.2, CD 7.12). In short, 35% affordable housing on the Triangle site offers the best design solution for the site and for the scheme as a whole.

f) Progress Update

4.26 The planning permission for the Main site was granted in December 2006. This includes consent for 1,700 new homes comprising 950 homes for market sale and 750 (44%) affordable homes. The affordable component comprises 500 social rented affordable homes and 250 intermediate tenure homes. All of the social rented units and 114 of the intermediate units (614 units in total) are to be transferred to an RSL. The appellant is required, by planning obligation, to deliver the remaining 136 intermediate units itself.

- 4.27 Following consent progress on site was initially delayed as a result of a local group (the King's Cross Railway Lands Group which has close links to the Cally Rail Group) launching a High Court challenge (by judicial review) in February 2007 seeking to quash the planning permission and related consents. The challenge was dismissed on 25 May 2007. Since then significant progress has been made by the appellant on the first phase of the residential development.
- 4.28 The first phase of residential development will comprise three plots: J, R5 and T1. Plots R5 and T1 include affordable housing that will be transferred, upon completion, to an RSL partner. These plots are estimated to deliver some 223 social rented and intermediate units; exact unit numbers are subject to future detailed design but at this stage it is expected that:
- Plot R5 will include 98 general needs social rented, 40 specialist social rented units and 37 discount market rented/Shared Ownership intermediate units. These 175 units will be transferred to an RSL partner towards the end of 2010/early 2011.
 - Plot T1 will provide 148 units, including 48 social rented units that are anticipated to be provided as specialist social rented units for frail elderly and other vulnerable households. These will be transferred to the RSL partner during 2011. Plot T1 also includes an energy centre, multi storey car parking, multi use games area (MUGA) and wind turbines.
- 4.29 A competitive tender process has been run by the appellant in consultation with the Housing Corporation (during autumn/winter 2007) to select an RSL partner for these 223 affordable units. The RSL partner for the first phase will be selected and announced, it is expected, before the start of the Inquiry. The process was well received by RSLs with nine of the 10 RSLs invited to bid submitting a tender.
- 4.30 In addition the appellant is working with LB Camden housing officers to develop a local lettings plan to ensure the sustainable first occupation of the affordable homes.

SECTION 5: POLICY OVERVIEW

5.1 Relevant extracts from planning policy are set out in the Statement of Common Ground and expanded upon in the evidence of Stuart Robinson. This section of my proof of evidence focuses on aspects of this policy and seeks to highlight those that are important to my evidence and the determination of the Triangle site appeal.

a) National Policy

5.2 National planning policy on housing has been the subject of extensive review and consultation over recent years culminating in the publication of Planning Policy Statement 3: Housing (PPS3) in November 2006. PPS3 provides the national planning policy framework for the delivery of Central Government's housing policy objectives; it sets out the Government's key housing policy goal as being:

“to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live”. (paragraph 9, CD 2.2)

5.3 To achieve this overriding goal, four key objectives are sought. These relate equally to market and affordable housing and provide the context for planning policy formulation and individual application decisions (para 10, CD 2.2). These can be summarised as increasing the supply of housing; delivering quality and choice for all; widening opportunities for home ownership; and creating sustainable, inclusive and mixed communities (para 9). The objectives of PPS3 have been strongly restated in the Government's Housing Green Paper which sets as an urgent priority the need to increase housing supply and affordable housing including through planning gain (para 1, p. 30 and p. 70, CD 2.2).

5.4 Nevertheless in formulating the national planning policy framework for delivering these objectives, PPS3 has been drafted carefully. It is not prescriptive and it does not seek to prioritise one objective over another, or, favour one tenure over another. The objectives are interrelated and are to be given equal importance. An important role of the planning system is to provide a policy framework through which these objectives can be reconciled to reflect regional, local and site specific circumstances in the determination of planning applications.

- 5.5 PPS3 recognises that the value of a coherent approach if its housing policy objectives are to be translated into reality, realising the planning system cannot deliver these objectives in isolation. Particular reference is made to the need for links between planning, housing and wider strategies including economic and community strategies’ (para 11, CD 2.2).
- 5.6 An underlying theme throughout PPS3 is that planning policy and individual site applications should not solely be determined on the headline numbers or percentages; decisions relating to affordable housing should amongst other things consider quantum, quality, choice, needs, delivery and community-related factors. The delivery of sustainable communities and the importance of meeting a variety of needs are important themes. Development is required to deliver mixed tenure homes at varying prices and housing for different types of households such as families with children, single person households and older people (para 20, CD 2.2). This is reiterated in paragraph 69, which cites a good mix of housing reflecting the requirements of specific groups, in particular families and older people, as one of the factors that planning authorities should have regard to in deciding planning applications.
- 5.7 In seeking to define housing need and in defining the mix and type of housing required (for both market and affordable housing), Regional Spatial Strategies and Local Development Documents are required to be informed by a robust, shared evidence base to include information on housing need and demand in the form of a Strategic Housing Market Assessment, and on land availability through a Strategic Housing Land Availability Assessment (paras 11 and 22, CD 2.2).
- 5.8 The guidance contained in PPS3 on affordable housing (specifically paragraphs 27 to 30, CD 2.2) is required to be read together the Government’s Affordable Housing Policy Statement entitled ‘Delivering Affordable Housing’ (DAH). In relation to affordable housing through PPS3, the Government sets out its commitment to:

“providing high quality housing for people who are unable to access or afford market housing, for example vulnerable people and key workers as well as helping people make the step from social-rented housing to home ownership”(para 27, CD 2.2).

5.9 Providing opportunities for home ownership is a consistent theme of government policy and the planning system is identified as having an important role in delivering intermediate tenure housing. The benefits of intermediate housing are recognised:

“a sufficient supply of intermediate affordable housing can address the needs of key workers and those seeking to gain a first step on the housing ladder, reduce the call on social-rented housing, free up social-rented homes, provide wider choice for households and ensure that sites have a mix of tenures” (para 29, CD 2.2)

5.10 DAH also explains how it is in the public interest to target current and prospective social rented tenants for intermediate housing as:

“this would free up social rented homes for those in the most acute need and reduce waiting lists” (para 59, CD 2.3)

5.11 PPS3 sets out a framework of the affordable housing issues that Regional Spatial Strategies and Local Development Documents should address (paras 28 and 29, CD 2.2). This includes plan-wide targets for affordable housing, taking into account economic viability, risks of delivery, likely levels of finance and the findings of the Strategic Housing Market Assessment and in addition location and site specific affordable housing requirements. When specifying the size and type of affordable housing reference is made to **‘the need to integrate the affordable housing into the existing immediate neighbourhood and the wider surrounding area’** (para 29, CD 2.2). A pragmatic and sensible approach is required to the formulation and application of policy keeping in mind the objective to facilitate rather than frustrate housing delivery.

5.12 The approach evident in PPS3 continues through to DAH, which identifies three key themes for affordable housing policy:

- Providing high quality homes in mixed sustainable communities for those in need
- Widening the opportunities for home ownership
- Offering greater quality, flexibility and choice to those who rent (para 3, CD 2.3)

5.13 Delivery is an underlying priority, local authorities being specifically required to consider policy and individual application decisions in view of:

- Early dialogue with the Housing Corporation
- The availability of public and private investment
- Flexibility in choice of provider – to include the private sector
- Mechanisms for ensuring affordable housing is retained in the AH market including through buy-back, and for requiring the recycling of public subsidy, to ensure the most efficient and proper use of public resources and help meet future affordable housing needs
- Provision for consistent approaches to identifying occupiers both for rent and sale
- The approach to service charges, and
- High quality housing which integrate market and affordable units in a mixed community (para 19, CD 2.3)

5.14 PPS3 and DAH share a definition of affordable housing which local authorities are required to reflect:

“Affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should:

- **Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices.**
- **Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted for the subsidy to be recycled for alternative affordable housing provision.”** (Annex B, p. 25, CD2.2)

5.15 DAH is clear that the Government’s definition of affordable housing was adopted because the Government **‘wishes to ensure developer contributions are used to help provide genuinely affordable housing for households in need over the long term’** (para 34, CD 2.3) and that, whilst this definition is to be applied to all affordable homes irrespective of the provider, **‘it is not essential that all affordable homes are offered under identical conditions’** (para 34, C. 2.3). Failure to reflect this definition would result in homes not meeting the definition of affordable housing for planning purposes.

5.16 A requirement of the definition is for provision for either the recycling of subsidy or the buy-back of the home (para 40, CD 2.3) in order to ensure affordable housing remains at an affordable price for future eligible households.

5.17 DAH sets out the provisions that are included in the Government's Homebuy scheme (Housing Corporation grant funded intermediate products) which enable these products to meet the definition of affordable housing:

- First and any subsequent purchasers of affordable housing should be nominated through the Homebuy Agent (para 64, CD 2.3)
- If an occupier is unable to sell the property or elects to staircase to 100% of the home, DAH suggests that, where an RSL is the provider, the proceeds are reinvested or there an option to buy back the property and resell it as Shared Ownership in the future (para 65, CD 2.3).
- In the absence of a buy back clause the grant subsidy is required to be recycled (para's 72 and 73, CD 2.3)

5.18 Delivery of the Government's Homebuy scheme products relies on grant funding being made available. Where grant funding is not available to assist with the delivery of affordable housing, it is recognised that this **'will have a significant impact upon the development viability of a site and the amount of affordable housing which can be provided'** (93, CD 2.3). Despite this the Government is **'keen to encourage provision of affordable housing without grant where possible'** (para 96, CD 2.3). It is important to note that DAH requires:

"the best use of resources is to engage with the most effective and best value provider, whether that is a RSL or unregistered body, as long as good management and ownership are ensured"(para 48, CD 2.3)

and considers,

"Alternative forms of provision can be good value, and the Government believes that local authorities should not reject them without carefully considering the advantages" (para 51, CD 2.3)

5.19 Where homes are provided grant free it may still be necessary to ensure that the homes remain affordable (para 100, CD 2.3) specific reference is made to equivalent provisions to those as set out in Annex D ie. eligibility, resale and recycling that could equally apply to grant-free intermediate housing; although, there is no requirement that this be similar in all respects to Homebuy (para 101, CD 2.3).

b) Regional Policy

i) London Plan

5.20 The Statement of Common Ground refers to the relevant provisions of the London Plan and the way it seeks to reconcile competing objectives into a single spatial strategy. King's Cross is identified as an Opportunity Area, meaning that it is a site that is capable of accommodating substantial new homes and jobs and a requirement to **"promote social inclusion and relate development to any nearby Areas for Regeneration"** (Policy 2A.2 p.39, CD 3.1). Three of the wards adjoining the Opportunity Area are identified as strategic Areas for Regeneration in the London Plan (para 2.11, CD 3.1) due to their substantial deprivation and links are required to be made with the regeneration of King's Cross.

5.21 The rationale that underlies the London Plan's commitment to substantially increasing London's supply of affordable housing is similarly seen as an opportunity to help reduce disparity. The Plan states that provision of affordable housing **"is strategically important to London in order to promote mixed and balanced communities and to redress the affordability issues that underlies the trend towards social polarisation in terms of housing choices and opportunities"** (para 3.30, CD 3.1). Delivery of affordable housing is not simply about achieving headline numbers; it is driven by a wider agenda and it is against this context that the London Plan's policies should be applied to the Triangle site.

5.22 The Plan's principal affordable housing policies (policies 3A. 7 and 3A. 8) were themselves the subject of widespread scrutiny and intense debate when the draft Plan was considered at an Examination in Public in March 2003 (para 4.47, CD 3.19). The Panel's report acknowledged that the Londonwide 50% target was from all sources (to include local authority developments, RSL developments, section 106 agreements and conditions, and vacant properties brought back into use) and that the implication of **'a 50% target would in practice mean the contribution expected**

from general housing developments would be less than 50% (para 4.51, CD 3.19). Policy 3A.7 was intentionally framed in recognition that development sites are not the only means of delivering affordable housing within London. The London Plan itself acknowledges:

'there will be some sites that are capable of achieving more towards meeting the overall 50% Londonwide affordable housing target and some less' (para 3.42, CD 3.1).

5.23 London Plan policy 3A.8 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 50% target from all sources of supply should be affordable (Policy 3A.7). It is also necessary, however, to consider the other factors which Policy 3A.8 requires Boroughs to have regard to in negotiating the amount of affordable housing, namely:

'the need to encourage rather than restrain residential development and the individual circumstances of the site. Targets should be applied flexibly, taking account of individual site costs, the availability of public subsidy and other scheme requirements' (CD 3.1).

5.24 There is no requirement for individual sites to deliver 50% affordable housing in the London Plan.

ii) GLA Housing SPG

5.25 The London Housing SPG provides advice to supplement the Mayor's housing policies as set out in the London Plan. Part B relates to affordable housing with section 18 specifically providing advice on negotiating the provision of affordable housing in individual private residential or mixed use schemes.

5.26 Extracts from the SPG are provided in the Statement of Common Ground. These illustrate the intended flexibility in the application of London Plan policy. In terms of quantum, for example, whilst the maximum reasonable amount of affordable housing should be sought, regard should first be given to the need for different types of provision including family dwellings and other locational factors (paras 18.5 and 18.6, CD 3.8). In relation to the mix between social rent and intermediate provision, the SPG refers to the overall London-wide objective of 70% social rent 30% intermediate but also allows regard to be had to other factors, such as higher than norm proportions of intermediate provision in higher density schemes and where there is good access to centres of employment, including key worker employment locations (para 18.8, CD 3.8).

5.27 In relation to the calculation of the amount and mix of affordable housing, it states:

“The calculation is sometimes undertaken in terms of dwellings. However, there is generally a differential mix requirement for different types of provision – social housing, intermediate provision and market provision. Where the affordable housing categories involve dwellings with more habitable rooms per dwelling than market provision, or different sizes of habitable rooms within different tenures, it is more appropriate for the calculation of the affordable housing proportion to be in terms of habitable rooms or floorspace” (para 18.10, CD 3.8)

iii) London Housing Strategy

5.28 The draft Housing Strategy was published by the GLA on 18th September 2007 and is currently subject to consultation with the London Assembly. Wider public consultation is not planned until spring/ summer 2008 and adoption is expected to take place in late 2008. It is required to identify London’s housing issues and to set out policy for addressing these issues along with an investment programme and delivery plan. The strategy reinforces the London Plan target that 50% of all new homes should be affordable and seeks to prioritise funding to those schemes that reflect the GLA’s policy priorities. However, as with the London Plan and London Housing SPG, it is not prescriptive as to funding and identifies other factors that will be considered to be important in determining the allocation of funds; these are:

- Intermediate housing tenures that target the occupiers of existing social rented housing (policy statement 1.3c, p. 64, CD 3.4)
- The development of simpler and more innovative intermediate tenures (para 114, CD 3.4)
- Grant funding for intermediate housing to be prioritised for households earning £35,599 and less (paras 113/4, CD 3.4)
- Intermediate tenures targeted at incomes of £35,600 and higher to be delivered without grant (para 116, CD 3.4)
- Provision of additional homes for intermediate rent (policy statement 1.3g, p. 64, CD 3.4)
- Mechanisms to prevent leakage of subsidy into the open market when occupiers staircase to full ownership (para 116, CD 3.4)

5.29 Every London Borough is required to review its Housing Strategy and housing related policy in order to ensure it is in general conformity with the London Housing Strategy (para 31, CD 3.4)

iv) Greater London Housing Requirements Study

5.30 In December 2004 the GLA published the Greater London Housing Requirements Study the purpose of which was to identify the number of dwellings necessary to meet current and future housing requirements in London. The information and analysis is presented as being statistically reliable at a regional level but its content and findings are not reliable at Borough level (para 6, p. 7, CD 7.11).

5.31 The findings indicated an overall 10 year net London-wide requirement for 353,500 homes with the balance between social rented, intermediate housing and market housing being 59:7:34 (para 37, p. 14, CD 7.11). It recognises its findings are highly sensitive to economic and population changes and that the analysis fails to take into account economic viability of this mix, the impact on overall housing delivery and other issues as appropriate given the broader remit necessary of the London Plan. As such the GLA's overall target remains as set out in the London Plan.

v) London-wide Housing Market Assessment

5.32 Government Office for London (GoL) and the GLA recognise that whilst the Greater London Housing Requirement Study meets most of the requirements set out in Government guidance for strategic housing market assessment additional research is required in order for the requirements to be able to be met in full. In particular work is required in relation to the size and tenure mix of housing required at the regional level. This work is due to be undertaken and published in 2008.

5.33 In the long term there will be a single Londonwide strategic housing market assessment undertaken that fully addresses the regional and local needs as required by PPS3; at present there is not such a document.

c) Local Policy

5.34 The planning policies that are relevant to determining this appeal are set out in detail in the Statement of Common Ground and in the proof of evidence of Mr Robinson.

i) LB Camden

5.35 LB Camden UDP (June 2006) identifies its intention to negotiate 50% affordable housing and a 70:30 social rented:intermediate tenure split but is not prescriptive, recognising that this will be subject to site characteristics, proximity to local services, facilities and public transport, site size and economics of provision, costs associated with the development and other planning objectives (Policies H1 and KC4, CD 4.2). In relation to the King's Cross site a particular need is identified for intermediate housing and family units.

5.36 Camden's Housing Strategy (CD 4.8) commits to improving the supply and quality of affordable housing and to being proactive to ensure occupiers of affordable housing have access to opportunities that will increase the life chances available to its occupants. Many of challenges referred to in the Housing Strategy are most prevalent in the Borough's affordable housing stock and as such within this tenure there is a commitment to addressing the concentrations of worklessness, over-crowding, the need to better use the existing housing stock, and the alignment between specific housing needs and the provision of appropriate housing with sufficient support.

5.37 LB Camden's most recent Housing Need Survey was published in January 2004 (undertaken by Fordham Research Ltd) and establishes that there is a significant need for affordable housing in the Borough and a considerable potential market for intermediate housing, specifically for smaller intermediate homes.

5.38 A Strategic Housing Market Assessment has not been undertaken and in the context of PPS3.

ii) LB Islington

- 5.39 LB Islington UDP (June 2002) makes reference to housing development being considered in the context of the need for a variety of different types of accommodation, including housing for single people, large and small families, people with disability and other special needs (Policies H14 and H15, CD 5.1). Different sites are recognised to be able to make varying contributions to housing need and that the amount will be negotiated with regard to the quality of the site, size, location and other relevant land use criteria. As is explained in Mr Robinson's evidence the Council's UDP policy for 25% affordable housing has not been saved.
- 5.40 Islington's Housing Strategy (2004-2007) (CD 5.26) confirms that securing affordable housing is a strategic priority for the Borough with specific reference made to a 35% requirement.
- 5.41 LB Islington's most recent Housing Need Survey was published in 2002 (CD 7.10) and establishes a need for both market and affordable housing, but is out of date.
- 5.42 A Strategic Housing Market Assessment has not been undertaken and in the context of PPS3.

iii) Joint Area Planning and Development Brief

- 5.43 The Brief (CD 6.1) was prepared jointly by Camden and Islington Councils and recognises the importance of the housing element of the King's Cross scheme.
- 5.44 The Triangle site is specifically identified as being suitable for smaller intermediate housing, with the overall level being apportioned according to the prevailing UDP policy.
- 5.45 Emphasis is placed on the scheme's role in securing wider regeneration of the surrounding area and to meeting specific housing needs locally, particularly family housing.

iv) Other Supplementary Planning Documents

- 5.46 These are dealt with in the evidence of Mr Robinson.

SECTION 6: SURROUNDING AREA

6.1 The purpose of this section is to provide an overview of the area within which the King's Cross Site is located.

a) Context

6.2 The policy context against which the proposals have evolved does not require affordable housing targets to be met irrespective of local and site specific circumstances. Indeed both PPS3 and the London Plan provide a policy context through which identified housing requirements can be reconciled with wider objectives and the need to create mixed communities; whilst locally:

- There is a policy requirement for Opportunity Areas to '**promote social inclusion and relate development to any nearby Areas for Regeneration**' (Policy 2A.2, CD 3.1) King's Cross is an Opportunity Area and several of the adjacent wards are identified as Areas for Regeneration.
- LB Camden UDP Policy KC4, specific to the King's Cross site, requires the development proposals to be considered in the context of "**the wider regeneration needs of the King's Cross area, economic circumstances and other material considerations**" (CD 4.2).
- The joint Planning and Development Brief for the Kings Cross Opportunity Area emphasises the development contributing to "**a sustainable community in the wider area**" (para 2.9.5, CD 6.1) specifically making reference to the need for an "**assessment of a sustainable balanced community in the King's Cross area**" (para 2.9.5, CD 6.1).

6.3 An assessment of socio economic and other characteristics of the surrounding area was undertaken to establish the extent to which the area comprised a mixed and balanced community.

b) Data

6.4 Data was collated at various spatial levels:

- The St Pancras and Somerston ward – within which the site is located,
- Central Impact Zone (CIZ) – defined by the immediately adjacent wards of Caledonian, King's Cross, St Pancras and Somers Town,
- Wider Impact Zone (WIZ) – defined by the Camden and Islington wards of Barnsbury, Bloomsbury, Clerkenwell, Canteloves, Holborn and Covent Garden, Holloway and Regent's Park,

- Inner London, and London as a whole.

6.5 A map of the ward, CIZ and WIZ is included at Appendix 4.

c) Findings

6.6 The findings, reported to officers of LB Camden, LB Islington and the GLA, included:

- Very high levels of deprivation – In 2004 Islington was the sixth most deprived local authority area in England and the third most deprived London Borough. Camden was the 19th most deprived local authority area in England and the seventh most deprived in London. This is reflected in the Area for Regeneration status identified in the London Plan (para 2.11 and map 2A.2, CD 3.1).
- High unemployment levels - Unemployment levels for London were at 6.5%⁷, increasing to 8.5% in Inner London. The CIZ demonstrated much higher levels of unemployment at 10.8%, the highest level being in St Pancras and Somerstown ward that had unemployment levels that were nearly twice the level for London.
- High proportions of lone parent households - The proportion of households with children that were headed by a single parent was at least 150% of the London average with one in three households being headed by a single parent, compared to one in five in London as a whole.
- Higher levels of children and lower levels of older people - The age structure of the resident population showed that the ratio of children to adults was substantially higher in St Pancras and Somerstown wards than the other CIZ wards, Inner London and London averages. One in three of the population in St Pancras and Somerstown are children. This is 150% of the level for Inner London and 143% of the level for London. Conversely the CIZ had fewer pensioner households than the borough averages compared to Camden and Islington.
- Concentrations of social rented accommodation - The social rented sector was particularly prevalent in the CIZ where the proportion of social rented housing was significantly higher than that in London or Inner London. This peaked in St Pancras ward where 70% of the stock was social rented housing - 260% of London average.
- Overcrowding and lack of family housing - The average levels of overcrowding exceeded the borough averages for both Camden and Islington. Furthermore the CIZ has very few larger family homes.
- Extremes of poverty and wealth - The high levels of deprivation sits alongside very high levels of wealth and some of the most desirable streets in London.
- Very limited housing choice. There are very limited housing opportunities in between the very low rents offered by the social rented tenure properties and the very high prices of the larger owner occupied houses.
- A seam of middle income earners - Unexpectedly there was evidence of a substantially higher number of households middle incomes than would be

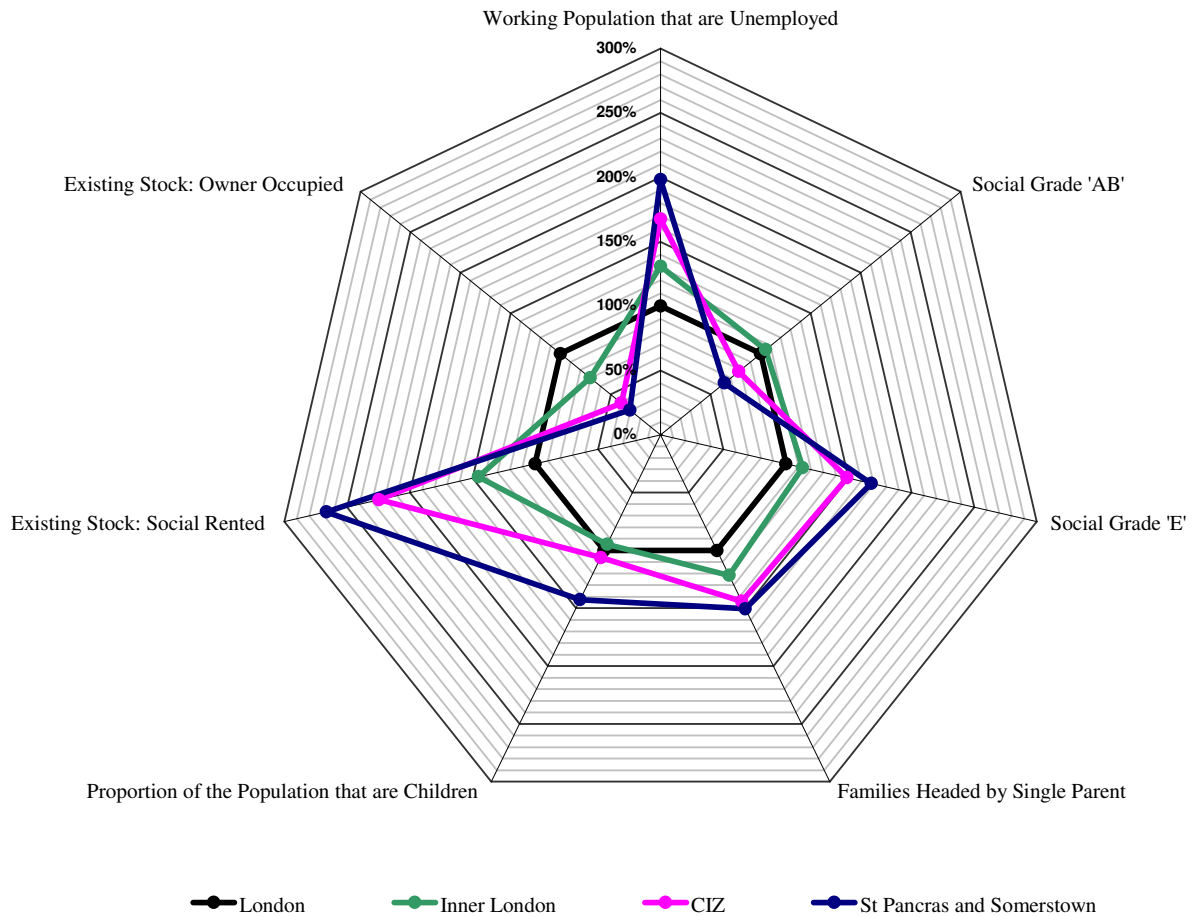
⁷ Of the economically active population.

expected given the concentrations of social rented property. This suggested there may be some households living in social rented tenure homes who could afford alternative tenures if they were available.

- Transient population - Borough wide data revealed that Camden in particular had much higher levels of population moving into and out of it than other Boroughs in London.

6.7 It is evident that the characteristics of the area that surrounds King's Cross currently do not exhibit those of a mixed, balanced and sustainable community. This is presented visually in the following diagram that demonstrates how data for St Pancras and Somerstown ward and the ClZ compares to equivalent data for London and Inner London.

Comparison of Key Indicators at Regional, Sub Regional and Local Level



- 6.8 This shows the wards surrounding King's Cross Central exhibit significant imbalances compared to Inner London and London. These imbalances are particularly pronounced in respect of tenure and employment indicators. It is important to consider this in the context of the London Plan's allocation of the site as an Opportunity Area and the emphasis that this places on jobs and new homes. It is also important to keep in mind the rationale behind the London Plan's affordable housing target as set out in paragraph 5.21 above, namely to redress the imbalance in terms of housing choices and opportunities, and to recognise that this is an site whereby the surrounding area has an over concentration of existing affordable housing. The affordable housing proposals are required to reconcile two objectives: firstly, maximising the contribution that the site can make to the Londonwide need for affordable housing and secondly, the need to ensure the scheme delivers a mixed, balanced and sustainable community central to which is a wide range of other regeneration benefits and initiatives.
- 6.9 These findings served to reinforce to key stakeholders the need for the planning applications for the Main site and the Triangle site to be determined together and emphasised the importance of considering an approach which reconciled the various planning objectives in order to deliver the best scheme overall and the right mix of affordable housing. Against this background the proposals offer an opportunity to make a contribution to remedying these important local issues.

SECTION 7: HOUSING MIX

7.1 Against the background of the previous sections and drawing on my experience of the negotiation and delivery of affordable housing in London this section of my proof sets out the reasons why it is entirely appropriate for policy to be applied flexibly in respect of the Triangle site. I explain why I concur with the conclusions of Mr Robinson that, in terms of both the amount of affordable housing proposed and the tenure split between intermediate and social rented, the development proposals are an entirely appropriate response to the requirements for the site.

a) Market and Affordable Tenure Split

7.2 I have explained in paragraph 4.16 approximately 43% of the homes to be delivered at King's Cross are affordable housing, distributed as:

- 750 (44%) of the 1,700 units on the Main site will be affordable; and
- 84 (34%) of the 246 units on the Triangle site will be affordable.

7.3 LB Islington's Statement of Case claims that the amount of affordable housing proposed on the Triangle site fails to be the maximum that the site could achieve. As explained in the evidence of Mr Robinson LB Islington does not have an affordable housing policy and instead relies on London Plan Policy 3A.8. Paragraphs 5.20 to 5.23 of my proof of evidence set out the requirements of this policy and paragraph 5.24 concludes there is no requirement for individual sites to deliver 50% affordable housing in the London Plan

7.4 Policy 3A.7 refers to the variety of sources that are required together to deliver the Londonwide 50% target. In my practice, when giving advice specifically on affordable housing in London, we monitor data on affordable housing delivery in London. This can be used to gauge the split between the development sites and other sources of supply to annual total affordable housing completions and understand the context in which Policy 3A.8 operates.

7.5 It is important to keep in mind that non-s106 sources of affordable housing are important to the overall delivery of affordable housing in London. Table 2 provides data on the sources of affordable housing supply from the 12 London Boroughs which make up the Inner London split, between section 106 contributions and other sources of supply. This data is provided by local authorities and collated by Central

Government. Analysis of this data shows that development sites and other sources of supply made equally important contributions towards the total. In Islington development sites contributed to just 14% of completions in 2004/2005 but then increased to 61% in 2005/2006.

Table 2: Sources of Affordable Housing Supply in London

Inner London Borough	2004/2005		2005/2006	
	S106	Other	S106	Other
Islington	14%	86%	61%	39%
Camden	74%	26%	81%	19%
Westminster	100%	0%	55%	35%
Kensington and Chelsea	0%	100%	100%	0%
Wandsworth	24%	76%	100%	0%
Lambeth	100%	0%	36%	64%
Southwark	6%	94%	29%	71%
Hammersmith and Fulham	100%	0%	66%	34%
Greenwich	100%	0%	100%	0%
Hackney	19%	81%	60%	40%
Tower Hamlets	32%	68%	51%	49%
Lewisham	11%	89%	69%	31%
Inner London Average	41%	59%	57%	43%

Source: HSSA Data (Appendix 5) nb. Data for 2006/2007 has not yet been published.

7.6 Mr Robinson's evidence emphasises the flexibility that is inherent within London Plan Policy 3A.8. My experience is that there are a large number of examples in which it has been necessary for Policy 3A.8 to be applied flexibly. Some of these decisions have been endorsed by the Secretary of State, for example Lotts Road (CD 7.13) and Vauxhall Tower (CD 7.18). The table below identifies the amount of affordable housing reported by the Mayor on schemes with a residential element exceeding 500 units within the twelve Inner London Boroughs over a two year period from December 2005 to December 2007. These schemes are not exclusively development sites: for example, Myatts Field, Clapham Park Estate and Packington Estate are all estate renewal schemes and include the replacement of existing affordable housing stock.

Table 3: Proportion of Affordable Housing Reported by GLA

Scheme	Borough	Total Units	% AH
Packington Estate	Islington	839	64
Gargoyle Wharf (Battersea Reach)	Wandsworth	1,084	25
Stockwell Park	Lambeth	550	40
Canada water sites A & B	Southwark	828	35*
Land at Love Lane, Woolwich	Greenwich	1,042	33
Lovell's, Granite, Badcock's & Pipers Wharves and Bay Wharf, Greenwich	Greenwich	667	37
Greenwich Reach, Deptford Creek	Greenwich	980	35
The Warren, Royal Arsenal, Woolwich	Greenwich	2,517	35
Leamouth Peninsula North/Pura Foods site	Tower Hamlets	c.1,633 - 1,884	35
22 Marsh Wall, Isle of Dogs	Tower Hamlets	802	20
4 Mastmaker Place & 1 Millharbour	Tower Hamlets	953	33
Greenwich Millennium Village, phases 3, 4 and 5	Greenwich	1,850	35
Kensal Gas works, Ladbroke Green	Kensington and Chelsea	762	50*
Grosvenor Waterside	Westminster	912	29
Myatts Field	Lambeth	675	56
Clapham Park Estate	Lambeth	3,439	49
Trad Site, London E3	Tower Hamlets	544	30
Building C, New Providence Wharf	Tower Hamlets	499	21
The London Arena, Limeharbour, E14	Tower Hamlets	972	35**
Lewisham Gateway	Lewisham	c. 800	20

Source: GLA Stage 1 and Stage 2 Reports (December 2005 to December 2007, 500 units +)
 Nb * on the basis of habitable rooms ** on the basis of floor area

7.7 The purpose of presenting this data is to demonstrate that Policy 3A.8, alongside Borough affordable housing policy, has provided a policy framework which in practice

is being applied flexibly to reflect site specific circumstances and individual scheme proposals. The average amount of affordable housing proposed by these sites is in the region of 37%. The Mayor promotes the flexible application of Policy 3A.8 to take into account other policy objectives and has stated this specifically for the King's Cross site.

- 7.8 The flexibility that policy 3A.8 offers is important at the scheme level to ensure a deliverable and successful scheme but the rationale behind the affordable housing policy must be kept in mind, namely to redress imbalance, to promote mixed and balanced communities and to meet the wider policy requirements such as policies 2A.2 and 2A.4. It is critical to ensure site-specific affordable housing requirements take into account site-specific circumstances. This reflects the approach of PPS3.
- 7.9 Specific affordable housing requirements for this scheme include social rented family housing and specialist social rented housing for vulnerable households; these are also two of the priority groups identified in PPS3. The scheme wide proposals make provision to meet these needs. The reality of the scheme-wide negotiations was that either of the local planning authorities could have explored with the applicant whether it was feasible for the gross social rented floorspace to be reconfigured to achieve a higher headline number of social rented units (resulting in a greater emphasis on smaller social rented units and less family provision). The appellant has never been asked, by any authority, to do this.
- 7.10 Prior to its Statement of Case being issued Islington never put to the appellant its expectation for 50% affordable housing (split 70:30 social rented: intermediate). Islington's refusal is based on Policy 3A.8, however not only does this not contain a 50% site specific requirement but Islington Council fails to apply the policy in the holistic fashion set out in the policy itself and supporting text (3.41-3.42). Such an approach would fail to reconcile the wider regeneration objectives for this site, for example London Plan policies 2A.2 and 2A.4, and the key underlying objective of both PPS3 and the London Plan to create mixed and balanced communities.
- 7.11 LB Islington's Statement of Case asserts that the Triangle site is expected to deliver 50% affordable housing to include 70% social rent, stating:

'it is reasonable to expect the site to achieve 50%

affordable housing unless evidence, in the form of financial and/or viability assessments, illustrates that this cannot be achieved' (para 7.4, LB Islington Statement of Case).

7.12 Noticeably no reference is made to the full range of considerations identified in Policy 3A.8. Indeed whilst reference is made to site costs in Policy 3A.8 no reference is made to financial/viability assessments; it is in supporting text where the Mayor encourages Boroughs to themselves consider economic viability (para 3.41, CD 3.1). By omitting reference to these other factors there is no evidence of consideration of the appropriateness of the affordable housing proposals, for example, in the context of the socio-economic characteristics of the surrounding area, which, as I have explained, include some of the highest levels of deprivation in the whole of the country, concentrations of worklessness and social rented levels that are twice level for London.

7.13 In relation to economic viability, as set out in the evidence of Mr Robinson, an independent bespoke scheme-wide financial appraisal has been undertaken that has been scrutinised by both LB Camden and the GLA. This confirms that 42.8% **"is at, or is close to, the maximum that the development could bear before this element became unviable"** (CD 4.7). Both LB Camden and the GLA are satisfied with this financial appraisal. In correspondence from the GLA dated 13 December 2007 the Mayor's conclusions are clear, stating:

'the King's Cross Central scheme achieves the maximum reasonable amount of affordable housing in accordance with the London Plan... the form and content of the appraisal remains appropriate for the purposes of assessing a multi-phase scheme of this scope and nature' (CD 3.6)

7.14 Prior to the publication of the Statement of Case LB Islington had never requested financial/viability information. It is understood that LB Islington have subsequently been provided with a copy of this information by LB Camden.

7.15 The affordable housing proposals set out in section 4 above respond specifically to the site-specific circumstances. The approach that has been taken to the housing at Kings Cross is to understand the relevant circumstances and issues, to identify the housing priorities, develop scheme-wide housing proposals that respond positively to

the specific affordable housing requirements (identified as social rented family housing and specialist supported social rented housing for elderly and vulnerably households) and to provide opportunities, particularly to existing social rented tenants, to own their own home.

b) Affordable Tenure Split

7.16 Scheme-wide the split between social-rented and intermediate housing is 64:36, distributed thus:

- 67:33 social rent:intermediate on the Main site; and
- 43:57 social rent:intermediate on the Triangle site.

7.17 If calculated on the basis of habitable rooms, the scheme-wide split between social rented and intermediate housing is 74:26, distributed thus:

- 77:23 social rent:intermediate on the Main site; and
- 53:47 social rent:intermediate on the Triangle site.

7.18 The London Housing SPG confirms habitable rooms to be an acceptable measure for the calculation of affordable housing provision (para 18.10, CD 3.8). A table setting out the habitable room calculation is provided in Appendix 6.

7.19 LB Islington's position, as set out in the Statement of case, is that **'it is reasonable to expect the site to achieve 70/30 proportion of intermediate housing to social rented housing, unless evidence, in the form of financial and/or viability assessments, illustrates that this cannot be achieved'** (para 7.6 Statement of Case). Scheme-wide, using habitable rooms, a measure of affordable housing which accurately reflects the difference in unit size mix between social rented and intermediate tenures, the scheme achieves the Londonwide requirement of 70:30. As has been accepted by the GLA the Triangle site is a component and integral part of the comprehensive scheme and the affordable housing provisions should be assessed on this basis (letter from 13 December 2007).

7.20 It is also important to keep in mind that, as with the 50% target, the 70:30 social rent:intermediate split is taken from Policy 3A.7 and is not an individual site requirement; it is a 'Londonwide objective' to which Boroughs should have regard alongside the circumstances for their area when setting their own affordable housing

targets.

- 7.21 The distribution of the social rented and intermediate tenures between the Main site and the Triangle site is addressed in the joint planning and development brief for the Opportunity Areas which provides specific guidance on the tenure and unit size mix suitable for the Triangle site, stating:

“The two boroughs have agreed to the following key points... subject to satisfactory designs and residential amenity being achieved this close to the railway lines, the Triangle could accommodate about 200 one and two-bed homes in contributing to the overall housing provision in the Area. The site is considered well suited to key worker homes as part of the range of market and affordable housing” (subsection 4 p. 68/69, CD 6.1)

- 7.22 During the appellants discussions with LB Islington no reference was ever made to a change in emphasis from that set out in the Brief nor was any reference made to a requirement for a 70:30 social rented:intermediate split. On the contrary, the 18 April 2006 committee report Islington officers support the proposed tenure split, stating:

“the split between social and intermediate proposed would equate to 43% of the affordable housing units being social housing for rent and 57% of them being intermediate. Whilst the proposed mix does not meet the 70%/30% split as part of the wider package of housing provision it is felt that a great number of intermediate homes would assist in establishing a longer term community with a reduced turn over of residents. It is essential that the new neighbourhoods are anchored with a broad range of new residents and this would be reflected in the more general mix of affordable tenure types. This proposal is considered to meet the wider regeneration aims of both Councils’ (p.43, CD 5.15)

d) Affordable Housing Delivery

- 7.23 Finally, I briefly address the issue of delivery of affordable housing. Islington’s Annual Monitoring Report describes the Borough’s affordable housing planning target over the monitoring period (35%) as having ‘**enjoyed some success**’ (para 2.20, CD 5.25). This is confirmed by the GLA’s Annual Monitoring Report which indicates that over the three year period from 2003/2004 to 2005/2006 37% of new homes granted

planning permission were secured as affordable housing (CD 3.10).

- 7.24 However Islington Council's Annual Monitoring Report cites concerns that the consents being granted are not being translated into homes delivered. It states:

“a worrying trend is that the number of affordable homes being built is currently considerably less than the number being permitted. This trend may be short term rather than long term, but it will be important to keep the situation under review and to understand the reasons for any reduced supply.” (para 2.20, CD 5.24)

- 7.25 In setting out the role of local authorities paragraph 19 of DAH requires particular emphasis to be placed on securing the delivery of affordable housing specifically identifying the issues that local authorities should consider. These are early dialogue with Housing Corporation, availability of public and private investment, flexibility in choice of provider, mechanisms for retaining affordable housing including buy-back and the recycling of public subsidy, nominations through Homebuy agents, levels of management and service charges and, quality design and integration of affordable and market units in a mixed community.
- 7.26 The Triangle site application will, as part of a wider scheme, deliver a significant amount of affordable housing that is appropriate to the site, the surrounding area, which reflect scheme requirements and which accords with policy alongside delivering considerable wider benefits which together will help to create a mixed and balanced community. DAH emphasises the importance of delivery. The proposals that are the subject of this appeal need to be considered against a background in which there is uncertainty over the delivery of affordable housing within LB Islington. The progress now being made on the Main site demonstrates that there is a commitment to deliver the remainder of the scheme which this appeal proposal forms part.

SECTION 8: RECYCLING SUBSIDY

8.1 This section of my evidence explains the provisions that are in place to ensure the proposals are consistent with the requirements of PPS3.

a) **Context**

8.2 Islington Council's reason for refusal contends that the proposed development is unacceptable due to the particular nature of the Shared Equity element having regard to the provision for the recycling of staircasing receipts. Islington Council's Statement of Case extends the scope of the refusal beyond Shared Equity housing to refer to intermediate housing generally. In short Islington Council's position seems to be that there is inadequate provision in place in relation to some or all of the intermediate products; a consequence of which is that these products do not to meet the objective of securing affordable housing in the long term as set out by PPS3 and DAH.

8.3 Specifically Islington Council refers to one aspect of the definition of affordable housing which requires affordable housing **'to remain at an affordable price for future eligible households, or if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision'** (Annex B, p. 25, CD 2.2). Failure to reflect the definition would mean that homes are not considered to meet the definition of affordable housing for planning purposes. This policy requirement requires a pragmatic and sensible approach. Inappropriate or inconsistent application of this definition risks delaying and ultimately frustrating the delivery of housing which itself would be contrary to housing policy objectives. Local authorities are therefore required to:

“understand clearly the mechanisms for ensuring affordable housing is retained in the affordable housing market, including through buy back, and for requiring the recycling of public subsidy to ensure the most efficient and proper use of public resources and help meet future affordable housing need” (para 19, CD 2.3)

- 8.4 The rationale behind the definition is set out in DAH, **‘the Government has adopted this definition of affordable housing because it wishes to ensure that developer contributions are used to help provide genuinely affordable housing for households in need over the long term’** (para 34, CD 2.3). Note that whilst the definition was not in its current form in PPG3 or Circular 6/98 the objectives are not new and were shared by its predecessor PPG3 and Circular 6/98.
- 8.5 LB Islington’s own Affordable Housing SPG despite preceding PPS3 sought to reflect the known objectives of PPG3 and Circular 6/98 and includes a definition of intermediate housing which requires demonstration that affordable housing is retained in the long term for people identified as being unable to afford market housing’ (para 4.3, CD 5.5).
- 8.6 Against this background Islington Council’s West Area Planning Committee considered the appellants site application on 18 April 2006. This included the same intermediate tenures that are the subject of this appeal. The officer’s report confirms that Islington Council’s affordable housing policies were considered by the Council in assessing the Triangle site application, concluding:
- ‘it is considered that the proposed development is acceptable and in compliance, overall, with Council policy, the joint development brief guidance and at London and national level’** (p. 77, CD 5.15)
- 8.7 The committee resolved to grant outline planning permission. The committee considered the intermediate tenures, which are the subject of the present appeal proposal, against a definition that included a requirement for the homes to be retained in the long term for people in housing need and were satisfied that the proposals complied with this definition. Despite this, on 17th July 2007, the West Area Planning Committee then refused the Triangle site application, asserting that the affordable housing does **‘not meet the objectives of PPS3 and the related document, Delivering Affordable Housing, which are able to secure affordable housing in the long term’** (para 7.7, p.5, LB Islington Statement of Case).

- 8.8 The intermediate products have not materially changed since the West Area Planning Committee considered the proposal in April 2006 and at this time they were accepted as satisfying Islington Council's own policy requirement for intermediate homes to remain affordable in the long term. LB Islington's officer report to the 17th July 2007 committee assessed whether each of the products complied with the definition of affordable housing in PPS3 and in this context considered all of the affordable housing products to qualify as affordable housing.
- 8.9 Officers of LB Camden and the GLA have considered the products in the context of the definition of PPS3 and DAH and maintain that all of the affordable housing products proposed qualify as affordable housing.
- 8.10 In explaining each of the products I have included comparison with existing government backed intermediate affordable housing products, I will demonstrate that all of the proposed intermediate products are grounded in existing government backed products but have been refined and improved to include no requirement for grant funding to optimise the contribution that can be made to affordable housing and at time of the delivery of the scheme whilst providing a basis for creating a mixed, balanced and sustainable community.
- 8.11 There are four intermediate products proposed on the Triangle site: Key Worker Sub Market Rent, Shared Ownership, Shared Equity and, Right to Buy Homebuy. These are introduced in section 4 above. I address each of the products in turn in respect of the provisions that are in place to retain the homes at an affordable price for future eligible households or for recycling of subsidy.
- b) Key Worker Sub Market Rent**
- 8.12 Completed homes will be transferred to an RSL for a transfer price as set out in the s106 agreement. These homes will be made available to key workers on a rental basis at a price 20% below the open market rent. There is no opportunity for tenants to purchase equity in these properties and as such the homes are retained in the rental sector on the basis of the 20% discount ensuring these units are retained as affordable housing in the long term.

c) Shared Ownership (New Build Homebuy)⁸

- 8.13 This is an established government backed product that will be provided by a RSL using Housing Corporation grant funding and is identified in Annex D of DAH as being one of **‘three intermediate affordable home ownership products based on equity sharing’**⁹ (para 53, CD 2.3). The appellant will construct the units and transfer the completed units to an RSL for an agreed price.
- 8.14 Purchasers will buy an equity share of the property based on a percentage of the property’s open market value (average equity share 40%) and in addition the RSL will also charge up to 2% rent on the unsold equity.
- 8.15 Sales are made to a purchaser from a list of eligible households held by the Homebuy Agent; this reflects the requirement of paragraph 64 of DAH. The Housing Corporation’s Capital Funding Guide defines the eligibility criteria that in nominating to a New Build Homebuy property must be met; the criteria are: i) the occupier must be in housing need defined as being unable to purchase a property in the open market; ii) priority must be given firstly to existing social tenants; and iii) priority must be given (where applicable) to the applicant’s position on the Local Authority and/or a Registered Social Landlord’s waiting list (key workers or first time buyers who meet the criteria specified by the Regional Housing Board) (section on New Build Homebuy para 1.4.1, CD 7.9).
- 8.16 Owners have the right to purchase additional equity shares (‘staircase’) up to the point where they own the property outright (ie. owns 100% of the home). Where additional equity is purchased rent is paid only on any remaining unsold equity. If the owner wishes to sell his share of the unit this is offered at the equivalent equity share owned by the seller. The seller will notify the Homebuy Agent who can nominate a purchaser within a specified period (normally eight weeks). In the event that a purchaser is not nominated within the identified period the affordable housing restrictions are lifted and the seller is able to sell 100% of the property on the open market with the proceeds of the sale being divided between the seller and the RSL apportioned to reflect the percentage of equity owned by each party; this reflects the

⁸ Shared Ownership is now referred to ‘New Build Homebuy’ by the Housing Corporation.

requirement of paragraph 65 of DAH.

- 8.17 Where the RSL benefits from receipts, from either tranches of staircasing receipts or the occupier staircases to outright purchase of the unit, the RSL is required to recycle the grant subsidy. The maximum amount that is required to be recycled is the amount equivalent to the level of grant funding that was provided to the RSL for that individual unit; this reflects paragraph 19 (the fourth bullet point) and para 72 of DAH. The RSL has no restriction on how it spends its receipts once the grant element is repaid; this is further addressed below.
- 8.18 Shared Ownership/New Build Homebuy forms a core product funded by the Housing Corporation that meets the definition of affordable housing in PPS3. It is estimated that in the region of £50,000 grant per unit will be required by RSLs to delivery Shared Ownership units at King's Cross.

d) Shared Equity

- 8.19 This is a product that will be delivered directly by the appellant without grant funding. This is a direct response to the enthusiasm in national and regional policy to achieve better value for money including grant free affordable housing provision and encouraging new providers. The product is based on the established government backed product New Build Homebuy (Shared Ownership) but includes some refinements a consequence of which is to improve the product for prospective purchasers (set out below). This is well-established model of affordable housing products.
- 8.20 Purchasers will buy an equity share of the property based on a percentage of the property's open market value (average equity share 50%). Unlike Shared Ownership no rent is charged on the unsold equity. This means that despite the average equity share being 50%, compared to 40% under Shared Ownership, the cost per month to the householder is no more because the rental payment is translated into a mortgage payment. This brings with it a significant benefit as the owner captures a greater share of the capital growth in the asset that they own. Furthermore, unlike Shared Ownership, this product is delivered without grant, a saving on public subsidy of in the region of £50,000 per unit for this scheme.

8.21 The s106 Agreement ensures that **‘the Affordable Housing Units shall be used, occupied and retained for the purpose of providing Affordable Housing’** (clause 3.2, CD 1.37). As with Shared Ownership, the units will be available to households who are in housing need; defined in the s106 agreement as someone who **‘cannot afford to occupy homes available on the open market’** and, as with Shared Ownership, will be subject to a priority order (clause 6.2, CD 1.37):

- Existing local authority or RSL tenants within LB Camden or LB Islington who are Key Workers employed in London;
- Existing local authority or RSL tenants within LB Camden or LB Islington;
- Offer Level Housing Register Applicants;
- Key Workers employed within LB Camden or LB Islington;
- Key Workers employed outside LB Camden or LB Islington but with a local connection to LB Camden or LB Islington as defined within Camden Council's Homelessness Code of Guidance;
- Other Key Workers employed in London; and
- Other households requiring such accommodation who would not otherwise be able to afford adequate housing generally available on the open market.

8.22 The occupiers, as with Shared Ownership, will have the right to purchase additional equity shares (‘staircase’). If the owner wishes to sell his share of the unit this is offered at the equivalent equity share owned by the seller. Where the owner has staircased to full ownership, as with Shared Ownership, the s106 agreement ensures on sale the seller is required to notify the Homebuy Agent who will have the option to nominate a purchaser (clause 8.2 b, CD 1.37) enabling the home to be retained in the affordable housing sector.

8.23 The section 106 agreement includes provision for **all** staircasing receipts to the appellant to be recycled for a period of fifteen years. As set out in paragraphs 8.34 to 8.38 below RSL delivered Shared Ownership housing is required only to recycle the original grant element and as such the commitment to recycling all receipts is considered to represent a significant benefit. The planning obligation sets out the mechanism for doing this and ensures receipts are reinvested into affordable housing provision within the development (para 8.3, CD 1.37). The planning obligation restricts the occupier from purchasing 100% of the property for the first five years (definition of Shared Equity, CD 1.37) – not offered by Shared Ownership housing.

- 8.24 During the 15 years the appellant does not benefit from any income through staircasing. Rent is never charged on the unsold equity. The absence of a rental charge on the unsold equity means that, unlike Shared Ownership, there is less pressure on the occupier to staircase and this is a further mechanism for ensuring the unit remains affordable in the long term. The grant forgone is also available to be invested in other priority needs ensuring the most efficient use of public funds.
- 8.25 The provision in place can be summarised thus: i) sales to households in housing need and in priority order; ii) initial and resales on the basis of a discount on open market value; iii) recycling of all staircasing receipts for 15 years and reinvesting back into affordable housing; vi) opportunity for the Homebuy Agent to nominate a purchaser or arrange to buy back the unit for use as affordable housing even after an occupier has staircased to 100%; and v) efficient use of public subsidy as the grant required by RSLs to delivery Shared Ownership is forgone and is able to be invested in other affordable housing.

e) Right to Buy Homebuy

- 8.26 This is a product that will be delivered directly by the Developer without grant funding. The product was inspired by the government backed grant funded Open Market Homebuy and Social Homebuy products - identified in DAH as being two of '**three intermediate affordable home ownership products based on equity sharing**' (para 53 and 54, CD 2.3). The product offered to purchasers at King's Cross has been significantly improved and responds to the specific issues of the surrounding area - this is important given the characteristics of the area that surrounds the King's Cross site. In addition mechanisms have been put in place to enable recycling to be achieved up front alongside the delivery of King's Cross Central, in advance of any potential receipts with a view to maximising the benefit of the affordable housing proposals at the same time as the scheme is delivered.

8.27 The product that will be proposed at King's Cross offers two discounts to purchasers: i) a discount equivalent to that which the purchaser would have received from local government if they had used their Right to Buy (currently in London this is £16,000) – this does not have to be repaid; and ii) an interest free equity loan on the initial sale (loan of between 30 and 40% of the affordable housing open market value). These discounts are to be used together. Compared to the Government product:

- The equity loan offered by the appellant is between 30 and 40% of the open market value. Until December 2007 the maximum loan offered by the government backed scheme was 25%. A new lender has entered the market place who is offering an additional 5% equity loan meaning the potential exists equity loans of 12.5%, 25% or 32.5%¹⁰.
- The appellant offers a discount, in addition to the equity loan, which is equivalent in value to that which would be received by the occupier if they were to purchase their own social rented unit. This discount does not have to be repaid. This is not a benefit of the government-backed scheme.
- The equity loan is provided directly and solely by the appellant. The 25% and 32.5% equity loans available through the government-backed scheme comprise 12.5% by the Housing Corporation and the residual is provided by one of a small number of lenders.
- The absence of a lender significantly reduces the financial uncertainty and complications associated with the government-backed scheme whereby the lender will: i) charge interest of up to 3% after 5 years increasing to the standard rate after 10 years, ii) charge an early repayment penalty in first 5 years, iii) restrict the products that purchasers are eligible to apply for (which may mean a less favourable mortgage rate), and iv) do not make any provision for any form of recycling.

8.28 These homes are exclusively available to existing local authority tenants households who have the Right to Buy. The £16,000 discount would normally have only been available if the purchaser had used their Right to Buy their existing social rented home. The consequence of this would be that i) the home would be lost from affordable housing, and ii) there would have been a cost to the local authority of £16,000. By targeting these intermediate homes solely at existing social rented tenants the aim is to either:

- offer existing social rented tenants the chance to purchase a home at King's Cross who would have been using their right to buy, instead resulting in a social rented home not being lost from the affordable sector; or,

¹⁰ Refer to CD 7.16 for further information.

- incentivise an existing social rented tenant who is eligible to right to buy and who can afford to do so but whom does not want to purchase that home or cannot purchase that home because of issues associated with the property (ie. high leaseholder costs, not mortgageable) but whom is unlikely to move out of the social rented property as he/she would lose their right to buy/acquire and would be unlikely to be able to stay in the same area.

8.29 The discount will work as a financial incentive to facilitate either the retention and relet of a home that would otherwise have been lost as affordable housing or the relet of a home which would not have been available to let for a very long time. Either way this would not represent the most efficient use of public resources. At the same time an additional intermediate home is delivered which enables the tenant to progress into home ownership. This is achieved at no cost to the public sector. This has been devised as a innovative form of recycling to ensure provision of alternative affordable housing in the long term by not only providing an intermediate affordable home but also i) securing a social rented home for affordable housing in the long term at no cost to the public sector ensuring efficient and proper use of public resources, ii) removing the liability on the local authority to fund the right to buy and releasing this money to be spent elsewhere, iii) helping to provide opportunities to move into owner occupation in King's Cross extending choices for local people, and iv) to achieve a mixed, balanced and sustainable community at King's Cross.

8.30 There is a commitment for the initiative to be marketed by both the local authority and the appellant. However, despite the success of other cash incentive schemes in Camden it is acknowledged that there can be no guarantee by either the appellant or the local authorities that this initiative will be successful. In the event that this is the case there are provisions in the s106 agreement to ensure that the affordable units remain in the affordable sector as these are then be made available to households who are in housing need and in the following priority order (clause 5.3, CD 1.37).

- Existing local authority or RSL tenants within LB Camden or LB Islington who are Key Workers employed in London;
- Existing local authority or RSL tenants within LB Camden or LB Islington;
- Offer Level Housing Register Applicants;
- Key Workers employed within LB Camden or LB Islington;
- Key Workers employed outside LB Camden or LB Islington but with a local connection to LB Camden or LB Islington as defined within Camden Council's Homelessness Code of Guidance;
- Other Key Workers employed in London; and

- Other households requiring such accommodation who would not otherwise be able to afford adequate housing generally available on the open market.

8.31 In the event that this is the case the s106 ensures that an amount equivalent to the combined unused £16,000 discounts will be invested into the same pot as the Shared Equity recycling receipts and invested into affordable housing in the Development (clause 9.1, CD 1.37).

8.32 There is no government-backed product that offers this combination of benefits, opportunities and efficiency of public subsidy. Social Homebuy looks to provide a cash discount but results in the loss of a social rented home and the purchaser who effectively turns their tenancy into a shared ownership lease is then required to pay rent on the unsold equity in addition to the mortgage payments. Open Market Homebuy requires 12.5% of the open market value of the property to be funded by grant funding. The remaining discount is made up of an equity loan provided by a lender. When the property is sold it is only the grant-funded element that is recycled. The lender-funded part of the loan is not subject to any recycling provisions. Furthermore, after five years the lender will charge interest on the equity loan. This will incentivise the owner to either repay the loan or sell the property after five years. At this point homes provided through the government-backed scheme are not subject to any further affordable housing restrictions. The Right to Buy Homebuy product offers purchasers access to a larger initial equity loan which does not require any grant funding. The appellant does not charge interest on the equity loan and as such there is no financial incentive for the owner to sell the property after a set period of time. A social rented home is retained in the long term and grant funding is not sought. This means the grant that is forgone is facilitates the efficient use of public funds which can be invested in affordable housing elsewhere which in turn can be recycled.

8.33 The provision in place can be summarised as: i) Sales to existing social rented tenants with the Right to Buy; ii) An additional £16,000 non repayable discount which ordinarily would be paid for by the public sector; iii) Facilitates retention and relet of existing social rented stock that would otherwise have been lost or unavailable as affordable housing, this will then be made available for those in need of affordable social rent housing; iv) Ensures efficient use of public subsidy as grant equivalent to 12.5% of open market value is saved and able to be invested in other affordable housing.

f) Recycling Subsidy

8.34 Paragraphs 8.12 to 8.27 demonstrate that there are provisions in place for all of the intermediate units not just to secure affordable housing in the long term but also to provide appropriate opportunities for subsidy to be recycled.

8.35 RSLs are of course required to recycle receipts from either staircasing receipts or outright sale of the unit and the use of these recycled resources is subject to controls. Critically, however, the maximum amount that is subject to these recycling provisions is no more than the monetary amount of grant originally given for that unit. The amount recovered does not include any benefit to reflect the rental income received on the unsold equity. To date it has not been calculated in a way that takes account of the growth (or fall) of the property value since the grant was first invested in it and despite the Housing Corporation consulting on options for benefiting from a share of any uplift (related to the grant element) the findings of the Shared Equity competition suggest that this will not be the case and that the proposals are not welcomed by the RSL and affordable housing sector.

8.36 The recycling provision is a condition of grant, not just RSLs. Restrictions apply to this money: for example, it can only be reinvested on works that would qualify in principle for Social Housing Grant provided through the Approved Development Programme and if the money is not reinvested within three years it is required to be returned to the Housing Corporation.

- 8.37 The remainder of the disposal proceeds (i.e. anything over and above the original grant level) is not subject to any restrictions or regulations nor is it required to be invested to reflect national and regional housing priorities. It is not even required to be targeted to providing additional homes or to invest in the existing stock. Furthermore, the Housing Corporation itself states that the accounting and reporting systems in place mean that it is not clear as to how associations use these surpluses (para 14, CD 7.14).
- 8.38 The findings of the National Audit Office report into low cost home ownership found that 86% of RSLs use these non restricted funds for a wide variety of uses (para 52, CD 7.17). Activities may include investment in community initiatives (such as training, education, children’s clubs), public space improvements, management costs, corporate overheads and increasingly involvement in the delivery of private market housing. The remit of many of the larger RSLs has expanded over recent years to include the funding and delivery of market housing for sale and for rent. RSLs that are successfully participating in the delivery of market housing include L&Q, Origin, Genesis, Southern, Notting Hill. In some instances RSLs are able to outbid private sector developers to secure sites. The Mayor’s Draft Housing Strategy supports the increasing role of RSLs in the delivery of market housing.
- 8.39 To conclude I refer back to the rationale which underlies the definition of affordable housing as set out in PPS3: to ensure developer contributions are used to help provide genuinely affordable housing for households in need over the long term. Against this background I have explained why there are provisions in place that enable these products to qualify as affordable housing. LB Camden and the GLA have undertaken the same review and agree that these products comply. LB Officers have also set out their justification for the tenure’s compliance with the definition of affordable housing contained in PPS3.

SECTION 9: SUMMARY AND CONCLUSIONS

a) The Scheme

- 9.1 King's Cross Central is one of the most significant development and regeneration opportunities in London. The Triangle site comprises 1.1 hectares of the 27.2 hectares of land that forms the King's Cross Central scheme. Planning permission has been granted on the remaining 26.1ha for a high density and mixed use development of 7.7 million square ft including, 1,700 new homes, provision for 25,000 jobs along side significant improvements to the public realm enabling critical links to be made with the surrounding area. Delivery of the Main site has commenced.
- 9.2 The majority of the scheme falls within London Borough of Camden except for a small part (the Triangle site) that spans the Borough's of Camden and Islington. Accordingly, identical applications were submitted to the two authorities for the Triangle site in May 2004 (at the same time as the application for the Main site). It is essential that the planning benefits of the two sites are considered together as a single strategic scheme; this has been important to enabling a comprehensive approach to be taken to the design, negotiation and delivery of the proposed affordable housing.
- 9.3 Consistent support has been given to the scheme wide approach by the GLA, Camden and, until the publication of the statement of case, Islington Council's. This appeal arises from the decision by Islington Council, against the advice of counsel and recommendation of officers, to refuse planning permission. Islington Council's reasons for refusal assert that the affordable housing package is deficient in terms of: i) the amount of affordable housing proposed for the Triangle site; ii) the tenure of the affordable units; and iii) the particular nature of the provision for recycling of staircasing receipts. The appeal in relation to LB Camden is due solely to the non-determination of the application. Camden Council has resolved that if they had been in a position to they would have granted planning permission and they consider the proposals to meet the statutory development plan policy and PPS3.

b) The Affordable Housing Proposals

- 9.4 In terms of housing the scheme makes a substantial contribution to the provision of housing in London and meets a range of needs. The scheme will deliver 1,946 new homes of which 834 (nearly 43%) will be provided as affordable housing. Insofar as the affordable housing is concerned the overall amount, the tenure split and the type of affordable housing proposed is significant compared against London-wide targets. The Mayor has specifically acclaimed the quality of the affordable housing proposal. The scheme will deliver social rented tenure and a range of intermediate tenures along with a mix of unit sizes and types to include social rented family housing and specialist supported housing for vulnerable households¹¹. Particular emphasis is placed on: offering opportunities to social rented occupiers to make the step into home ownership enabling their homes to be freed up and retained in the social rented sector without the use of grant funding; widening opportunities for home ownership by providing greater choice of intermediate products; expanding the providers of affordable housing to include the private sector; offering value for money for the public sector by delivering affordable housing grant free; deliverability; and creating a mixed and balanced community. All are themes of national and regional planning and housing policy.
- 9.5 PPS3 sets a framework through which affordable housing policy requirements are required to be reconciled with wider planning objectives, site specific circumstances, the relationship of the proposals to the wider area and the need to create mixed and balanced communities. The site's status in the London Plan as an Opportunity Area (Policy 2A.2) requires development to maximise the provision of new homes and jobs and to relate to and form linkages with the surrounding area regeneration area (Policy 2A.4). Compared to London and Inner London the area that surrounds King's Cross Central exhibits very high levels of deprivation, high unemployment and many lone parent families along with evidence of transience amongst the local population and very high concentrations of social rented housing.

¹¹ The majority of the social rented family housing and all of the specialist social rented housing will be located on the Main site due to the specific design and management requirements of these housing types.

- 9.6 The London Plan, Camden's UDP and the Kings Cross Opportunity Area Planning and Development Brief (jointly prepared by Camden and Islington Council's) require the development to respond to the surrounding area. The scheme proposals achieve linkages with the surrounding area – affordable housing is important to achieving this.
- 9.7 The emphasis within the social rented homes on specialist accommodation for the elderly and vulnerable along with family housing is intended to facilitate the creation of a community with a variety of ages and needs, providing opportunities for existing residents to move into the new development and to encourage others to view King's Cross as an extension of the neighbourhoods that surround the site.
- 9.8 The commitment to a local lettings plan will ensure the sustainable occupation of affordable homes. This responds directly to Camden's Housing Strategy and its recognition of the links between social rented tenure, worklessness and other indicators of deprivation and also provides an opportunity to prioritise potential residents with an existing local connection.
- 9.9 The benefits offered by the range of intermediate tenures include specific provision and priority for key workers and existing social rented tenants alongside an emphasis on directly facilitating retention and more efficient use of the existing social rented stock locally. To compliment the affordable housing proposals and to reinforce the linkages with the surrounding area significant improvements are proposed to the public realm to overcome the physical barriers between the existing and new development. The wider section 106 package also makes significant contributions to education, community, training and employment initiatives locally.

c) Quantum of Affordable Housing

- 9.10 The scheme proposes nearly 43% affordable housing. 34% of the homes proposed for the Triangle site will comprise affordable housing. The apportionment between the Main site and the Triangle site has been guided by the requirements of the Kings Cross Opportunity Area Planning and Development Brief which encouraged about 35% of the affordable housing to be located on the Triangle site. LB Islington Officers accepted this split.

9.11 LB Islington does not have an affordable housing policy and instead relies on London Plan Policy 3A.8. Islington's refusal is based on Policy 3A.8, however that fails to apply the policy in the holistic fashion set out in the policy itself and supporting text. My evidence explains that Policy 3A.8 does not constitute a site specific policy requirement for 50% affordable housing. This reflects my experience of the application of Policy 3A.8 in practice. The GLA have confirmed that the proposals comply with Policy 3A.8.

9.12 I conclude that in terms of quantum the proposals are consistent with the approach set out in policy and meet the criteria set out within London Plan Policy 3A.8.

d) Tenure of Affordable Housing

9.13 The scheme proposes a tenure split of 75:25 social rented: intermediate, if calculated on the basis of habitable rooms. The application proposals for the Triangle element of the scheme comprise 47:53 social rented: intermediate, based on habitable rooms. LB Islington officers report the tenure split on Triangle site on the basis of units, rather than habitable rooms; this equates to a split of 43:57 social rent: intermediate. The distribution of the tenures across the scheme has been guided by the requirements of the Kings Cross Opportunity Area Planning and Development Brief which recognises that greater emphasis should be placed on smaller intermediate units, the high density of this part of the scheme and the constraints of this part of the overall site. LB Islington officers have supported the split and recognise the wider benefits associated with the greater emphasis that is placed on intermediate homes, in particular citing the contribution that this will make to helping to establish a community.

9.14 LB Islington does not have an affordable housing policy and, as with quantum of affordable housing, the refusal relies on London Plan Policy 3A.8. My evidence explains that Policy 3A.8 is not prescriptive in terms of site specific tenure split nor the measure that this should be based on. The London Housing SPG supports the use of habitable rooms as an appropriate measure of affordable housing provision. The GLA have confirmed that the proposals comply with Policy 3A.8.

9.15 I conclude that in terms of tenure split the proposals are consistent with the approach set out in policy and meet the criteria set out within London Plan policy 3A.8.

e) Recycling Provisions

9.16 In addition to traditional grant funded RSL delivered Shared Ownership (now referred to by the Housing Corporation as New Build Homebuy) the intermediate tenure comprises discount market rented homes for key workers which will be provided by an RSL, Shared Equity and Right to Buy Homebuy products. The Shared Equity and Right to Buy Homebuy products are delivered directly by the Appellant without grant funding. My evidence demonstrates that the Shared Equity and Right to Buy Homebuy intermediate products compare favourably with grant funded and RSL delivered intermediate products in terms of the discount offered, the eligibility of occupiers and in terms of the recycling provisions because:

- The discounts offered are equivalent to those offered by RSLs delivering traditional grant funded products but unlike RSL products do not require any grant funding – this facilitates the efficient use of public funds by enabling the forgone grant to be invested in affordable housing elsewhere which in turn can be recycled.
- The s106 sets out appropriate eligibility criteria that are to be applied to sales that are equivalent to those that would be applied by an RSL.
- The absence of any rental or interest charges in perpetuity gives financial certainty to the occupiers and enables the occupier to purchase a larger equity share in the property which in turn offers the opportunity to capture a greater share of the capital grown in the asset.
- The additional and innovative provisions for recycling are over and above those which may be offered by an RSL. As a maximum an RSL is required to recycle an amount equivalent to the original grant (no grant is used for the developer delivered products); for example a benefit of the Right to Buy Homebuy product is that it provides the opportunity for social rented tenants to move into home ownership enables a social rented home to be retained and relet that would otherwise be lost at no cost to the public sector.

9.17 I conclude that in terms of recycling the proposals are consistent with the requirements of PPS3.

f) Delivery

9.18 Delivery of housing and most important affordable housing is an underlying theme of PPS3, Delivering Affordable Housing and the government's green paper. This is also a concern within LB Islington where the Council has identified a worrying trend of planning consents for affordable housing not being translated into homes built. Against this background the Main site is already being delivered and offers certainty in this regard.

g) Conclusion

- 9.19 I have read Mr Robinson's evidence that explains the proposals compliance with policy in terms of the quantum of provision and the mix of tenures. I note also that the Mayor shares these views.
- 9.20 My evidence has provided a detailed insight into composition of the affordable housing proposals, the rationale behind these proposals, how these proposals sit alongside the significant wider challenges that the regeneration of King's Cross presents and how despite this the scheme proposals facilitate the delivery of a significant amount of affordable housing (43%) when compared to Londonwide targets and a tenure mix (75:25 social rented:intermediate) which reflects Londonwide requirements. Against this background I concur with Mr Robinson's conclusions; the proposals comply with the statutory development plan policies both in terms of quantum and mix of affordable housing.
- 9.21 My evidence also explains how in terms of the intermediate affordable housing tenures the proposals serve to not just comply with policy but to exemplify its application. The GLA and LB Camden, and even LB Islington's officers, agree that the intermediate tenures to comply with the definition of affordable housing provided by PPS3. The opportunities to demonstrate mechanisms for affordable housing to be retained in the long term and for subsidy to be recycled are plentiful. Against this background I conclude that all of the proposed intermediate products comply with PPS3.