

APPEALS BY ARGENT (KING'S CROSS) LIMITED

KING'S CROSS CENTRAL

TRIANGLE SITE

CLOSING STATEMENT ON BEHALF OF THE
LONDON BOROUGH OF CAMDEN

INTRODUCTION

1. In the course of this Inquiry, LBC has sought to explain its reasons for concluding that Argent's proposals are in accordance with the development plan, and should be granted permission. In so doing, we have concentrated on the policies which are applicable in Camden. However, in a situation where:

- (1) Argent's proposals for the KCOA in general, and the Triangle site in particular, have been the subject of long and detailed co-operation between officers of the two authorities;
- (2) the most directly relevant policies of Islington's UDP have not been saved, thus forcing Islington to rely more explicitly on the London Plan;
- (3) the policies of the London Plan are common to both authorities

it is inevitable that we find ourselves in open disagreement with Islington's conclusions about the acceptability of the appeal proposals.

2. These closing submissions address the principal issues which have been aired at this Inquiry, in the following order:

- (1) what is the development plan, and what does it require?
- (2) what is the base against which compliance with the development plan should be judged - i.e. should the Triangle be considered as a stand-alone site, or as part of the wider KCOA?
- (3) do the appeal proposals accord with the development plan?
 - Is the amount of affordable housing consistent?
 - Is the tenure mix consistent?
- (4) Is the housing which is on offer genuinely “affordable” within the meaning of PPS3?
- (5) Does the noise climate render the Triangle site unsuitable for housing?

THE DEVELOPMENT PLAN AND WHAT IT REQUIRES

3. In Camden’s case, the development plan is the 2006 UDP, and the consolidated First Alterations to the London Plan (2008). The policies which are of most relevance, and on which argument has centred at this Inquiry, are 3A.7 and 3A.8 (now 3A.9 and 10) of the London Plan, and Policies H2 and KC4 of the UDP.
4. While s. 38(5) of the 2004 Act tells us that, in cases of conflict, it is the more recent policy which prevails, it is Camden’s view that the 2006 UDP is entirely consistent with London Plan, both in its wider policies and in respect of the KCOA. No other party has suggested the contrary.
5. Specifically, London Plan policy 3A.9 sets a London-wide strategic target for affordable housing, which is guidance to local authorities on how to prepare their

UDPs and LDFs. Policy 3A.8¹⁰ is the policy that enables the London Mayor to exercise his powers of direction when applications of strategic significance are referred to him.

6. Camden's policy H2 reflects the strategic target of 50%, as does KC4. Both policies were adopted against the backdrop of Policy 3A.7 of the 2004 London Plan, which is identical to the new 3A.9.
7. While the objective of Policy H2 "feeds through" into KC4, policy KC4 is site specific and accordingly must, in our submission, be the single most relevant development plan policy (on the Camden side of the boundary) by which the application should be judged.
8. As far as the quantum of affordable housing is concerned, KC4 sets a minimum net gain of 1000 dwellings, of which 50% of the first 1000 must be affordable. Beyond that first 1000, 50% becomes a target, in respect of which the Council will take into account the London Plan, prevailing UDP policies, local and London-wide housing needs and the wider regeneration needs of the King's Cross area, economic circumstances and other material considerations.
9. Policy KC4(a) and (b) thus establish a clear dividing line between what is required of the first 1000 units, and what may be sought of anything over and above that. The shift in language from KC4(a) to KC4(b) is deliberate, and can only mean that, once the 1000 unit threshold is passed, a proposal does not cease to accord with the development plan merely because the proportion of affordable housing falls below 50%. Rather, the policy calls for a planning judgment to be made, by reference to the considerations listed in KC4(b). Significantly, this list is not expressed as a series of mandatory criteria with which a proposal must comply: rather, it provides a basket of considerations to be taken into account, within which no one consideration is said to be more important than any other.

10. In terms of tenure mix, both Policy H2 and KC4 provide for a 70:30 split between social housing for rent, and intermediate housing. However:

(1) As policy H2 makes clear, this split is a guideline;

(2) While Policy KC4(b) applies the 70:30 guideline to developments of more than 1000 dwellings, it must be remembered that there is no requirement within Policy KC4, or any other part of the KCOA policies, to provide more than 1000 dwellings on the Kings Cross site. In this sense, every unit over the first 1000, whether it is market or affordable, social rented or intermediate housing, is over and above what is required for compliance with the policy.

WHAT IS THE BASE AGAINST WHICH COMPLIANCE SHOULD BE JUDGED?

11. In order to decide whether the appeal proposals accord with the development plan, it is first necessary to consider whether the Triangle Site should be viewed as a stand-alone proposal, or as part of Argent's wider proposals for the King's Cross Opportunity Area as a whole.

12. In Camden's submission, the answer is unequivocally the latter:

(1) That is the approach which the development plan requires. In particular - and as Mr Clarke accepted - the affordable housing requirements of Policy KC4 are specifically set by reference to the housing which is expected from KCOA as a whole;

(2) The same approach is seen in the Joint Planning and Development Brief, which explicitly seeks to provide a comprehensive masterplan for both the Main Site and the Triangle.¹ The specific proposals for the Triangle which

¹ See e.g. para 1.1.2

are found at p. 69 of the Brief were put forward as part of the comprehensive package;

- (3) This has consistently been the approach taken by both of the local planning authorities. We have already made the point that, but for the fact that the Triangle Site straddles the borough boundary, Camden would have expected the current appeal proposals to come forward a part of a single planning application, together with the main site. It is therefore not surprising that Camden's Report to Committee advised that the Triangle site should be viewed together with the Main Site application.²

The advice given by Islington's officers was in similar terms: see the advice given at pp. 38 and 42 of the Committee Report of 18 April 2006.

- (4) This is also the view of the strategic planning authority. Hence, the GLA's letter of 13 December 2007³ states:

"The Mayor has consistently treated the King's Cross central Scheme as a single strategic scheme ... irrespective of administrative boundaries. The scheme, and the many submission documents which underpin it, has always been framed in these terms... Attempts to disentangle elements of the King's Cross Central Scheme would simply run counter to the aims and objectives of the strategic authority, the operation of the London Plan housing policies as well as being fraught with difficulty."

- (5) It is on this understanding that Argent has brought forward (and Camden has approved) the proposals for the Main Site. Hence, for example (as Ms Dickinson pointed out) the overall aspirations for 3-4 bedroom family units have been met by placing the majority of the family housing on the Main Site, where it will have better access to facilities such as open space and schools.

² See for example paras 1.7.2, 1.7.5, 1.8.1, 1.9.60

³ CD 3.6

13. Against this backdrop, Islington's argument that, since permission has now been granted for the Main Site, such that all the benefits from the Main Site will be realised in any event, the Triangle should be viewed as a blank canvas, is frankly unrealistic. The two schemes cannot be divorced in this way: while the Main Site may not need the Triangle, it is clear that the proposals for the Triangle have been developed against the backdrop of the benefits the Main Site would bring, both in terms of essential infrastructure and complementary housing. Argent has brought forward its proposals, in good faith, on the understanding – encouraged by both Camden and Islington – that the Main Site and the Triangle would be viewed as a package. Indeed, one of the core purposes of a development plan – and, in this case, of the Joint Brief – is to provide certainty to the developer. The development plan, the SPG and the history of negotiations between the parties all demand that the appeal scheme is viewed as part of a comprehensive package.

14. In these circumstances it is, in our submission, surprising that the evidence presented by both Mr Clarke and Mr Lacey is expressly premised on figures which would only be accurate if the Triangle site were considered in isolation. What is even more surprising is that, while it must have been clear to both that this was a complete departure not only from Islington's previous position, but from everything that had gone before, neither Mr Clarke nor Mr Lacey's proofs even adverted to the difference, still less provided an explanation.

15. In contrast to the basis on which his own evidence was put forward, Mr Clarke readily accepted that the development plan calls for a comprehensive approach. In so far as Islington's analysis of the appeal scheme starts from the premise that the Triangle should be viewed in isolation, it is fundamentally flawed.

DO THE PROPOSALS ACCORD WITH THE DEVELOPMENT PLAN?

A. The London Plan

16. Contrary to Islington's reason for refusal, there is no conflict with either Policy 3A.7 or 3A.8 (now 3A.9 and 10) of the London Plan.
17. The reasons for this are essentially those given by the Inspector in setting out his understanding of the London Plan. In a nutshell, 3A.9 and 3A.10 are not development control policies. Policy 3A.9 is the guidance to the London Boroughs on how to prepare their UDPs, but tells us nothing about the precise amount of affordable housing which should be required in any particular Borough, and still less on any particular site. Policy 3A.10, which does not even contain a target figure, specifically states that targets should be applied flexibly, taking account of individual site costs, the availability of public subsidy and other scheme requirements. It is a policy which enables the Mayor to exercise his powers of direction when applications of strategic significance are referred to him.
18. Against this backdrop, it is highly significant that the correspondence from the GLA explicitly states that:

“the proposed affordable housing package for the Triangle Site is considered by GLA officers to be ... in accordance with the London Plan in considering the overall benefits of the entire King's Cross regeneration scheme.”
19. The Inspector has pointed out that there has been no formal reference of the application to the Mayor, and that this letter is (as the letter itself states) an “officer-level view” of the Triangle scheme. The reasons why there was no formal reference were explained by Mr Kirby: reference would only have been required had Camden reached the point where it would otherwise have granted consent; and since Camden's resolution to grant was subject to a similar resolution from Islington, that point was never reached. However, this does not take anything away from the GLA's letter:

- (1) It is expressly written as representing what the officer-level view would have been, if the application had been referred back to the Mayor;
- (2) No attempt has been made to correct or qualify Mr Dolphin's comments. In circumstances where it was known that this appeal was pending, and where the GLA's officers had written in the terms they had, it is unthinkable that the Mayor would have allowed matters to lie like that if he had entertained any concerns that the Triangle scheme was contrary to the London Plan. In this respect, it matters not whether GLA letter was signed by Mr Dolphin or Mr Livingstone: what is important is the complete absence of any indication from the Mayor's office that he has any concern about the compatibility of the appeal scheme with Policies 3A.9 or 10;
- (3) In fact, as confirmed in Mr Dolphin's letter of 2 April 2008, the Mayor is satisfied that:

"that the entire King's Cross Central scheme, including the Triangle Site, achieves the maximum reasonable amount of affordable housing in accordance with the London Plan."

20. We therefore invite you to conclude that there is no conflict with the London Plan.

B. The Camden RUDP 2006

21. Before coming to Policy KC4, it is worth making the point that, Miss Ellis' cross-examination of Mr Kirby aside, no-one at this Inquiry has suggested that the scheme does not comply with Policy KC4. While it is perhaps understandable that Islington's reasons for refusal did not allege conflict with the Camden UDP, it is more noteworthy that even LBI's rule 6 statement made no such suggestion, and that although Mr Clarke was invited by Mr Lindblom to do so, even he specifically declined to argue that there was any conflict with KC4.

22. This does not, of course, prevent you from considering whether you think Camden was right, but there is a point of some importance here. The primary purpose of a public inquiry is not to examine arguments that are conjured by counsel, but to address the principle points of dispute between the parties. In that context, we invite you to note that (Mr Lacey's more detailed criticisms aside) it has never been part of Islington's pleaded case or evidence that the appeal scheme does not accord with the Camden UDP by virtue of the overall quantum of affordable housing or the tenure mix.
23. Turning to Policy KC4, we start with the observation that, since the Main Site and the Triangle site combined will produce 1946 dwellings overall, of which 834 will be affordable; 536 will be social rented and 298 will be intermediate, at every level the minimum requirements of Policy KC4 (i.e. the 1000 dwellings, 500 affordable, 350 social rented and 150 intermediate units required by KC4(a)) are more than met. Significantly, this is so even if the cascade is triggered ~~against~~: on a worst case, assuming the cascade is triggered in every single instance, there would still be 566 affordable homes (all intermediate homes on each site and 50% of all social rented units).

Quantum

24. In terms of quantum of affordable housing, the level of affordable housing across the KCOA as a whole is 42%. Self-evidently, this is less than the 50% "target" contained in KC4(b), but that does not mean there is a conflict with KC4(b). We have already made the general point that, unlike the KC4(a), the KC4(b) figure is not absolute or mandatory, but is to be approached having regard to a basket of other considerations. Dealing with those "other considerations" in turn:
- (1) Although they have been renumbered, the London Plan policies are precisely those which were in play when KC4 was drafted. There has been no material change in this respect, and – for the reasons set out above – there is no conflict with the London Plan;

(2) In terms of the “prevailing UDP policies”, in cross-examination of Mr Kirby, Miss Ellis suggested (and Mr Kirby) accepted that this included Policy H2. However, it is difficult to see how this assists her:

- KC4 is the site specific policy. It was drafted in the full knowledge of H2. It would therefore be strange if H2 could somehow “trump” the express provisions of KC4 – indeed, such an interpretation would rob KC4 of meaning;
- In any event, H2 merely sets 50% as a “target” - precisely the word used by KC4(b) itself. Importing H2 into KC4 under the heading of “prevailing UDP policies” adds nothing.

(3) It is acknowledged that there is a pressing need for affordable housing, both in Camden and in London. The Main and Triangle site applications will make a significant contribution to meeting that need. However, the regeneration proposals for the KCOA are premised on a mixed use development: Camden expressly considered and rejected an entirely residential-led regeneration solution. The need for affordable housing therefore has to be balanced against the wider regeneration and heritage needs of the King’s Cross area. Mr Kirby’s evidence lists the wider benefits which Argent’s proposals will provide, such as:

- A comprehensive mixed use development
- A full range of community, health, education, cultural, assembly and leisure facilities
- The retention of 20 listed buildings and structure, some of which are on the “at risk” register and all of which need extensive refurbishment
- Relocation of the dismantled Gas Holder Triplet and its reuse for housing

- Substantial new infrastructure, including 3 new bridges over Regent’s Canal
 - Significant new areas (totalling 40% of the completed development) of public realm, including 10 major public spaces;
 - The generation of 25000 new jobs
- (4) While Camden’s decision was taken “in the round”, and not solely by reference to viability, Camden has also had regard to “economic circumstances”, in the form of the DTZ report.⁴ Specifically, that report concluded that:

“the affordable housing provision is at or close to the maximum that the development could bear before this element became unviable. Further increases in the proportion of affordable housing is likely to render residential unviable on this part of the site.”

Although Islington’s officers were happy with it at the time, the DTZ report has been the subject of what is, in our submission, unwarranted criticism in the course of this inquiry. We make the following points in reply:

- DTZ is a reputable and recognised market-leader in this sort of work
- Camden went to DTZ because they wanted a bespoke model which was capable of dealing with the complexities of a phased mixed use scheme. The Three Dragons toolkit would not have provided this
- While DTZ did not have access to information direct from Argent, the inputs they used were derived from advice from the relevant experts
- The DTZ report was not a “back of the envelope” calculation. It was a careful and detailed piece of work, which was revised and honed as required. Some indication of what went into it may be

⁴ CD4.7

gleaned from the fact that it cost Camden something on the order of £70,000 to produce

- Although the report describes the limitations within which it was working, it is noteworthy that the conclusions which it provided were set out clearly and unequivocally

Any scheme of the scale and with the timeframes of King's Cross carries with it considerable uncertainty. The DTZ report does not purport to analyse the level of affordable housing to the nth degree. It does, however, provide considerable comfort that what is on offer is "there or thereabouts". It is frankly unrealistic to expect that it could do anything more. Camden's Committee report does not rely on this assessment but it clearly informed the officers' balanced recommendation that the approach was acceptable. As a material (but not necessarily determinative) factor in the overall balance, it plainly supports the conclusion that, as part of the overall package, the Triangle site makes an appropriate and indeed welcome contribution to affordable housing.

25. These submissions deal with the individual considerations identified in KC4(b). In the course of the Inquiry, the Inspector has asked for assistance on how, if the quantum of affordable housing is not to be determined simply by reference to viability, one weighs the need for affordable housing against other considerations: where should the priorities lie.
26. On this issue, we refer to Mr Kirby's oral evidence. Policy KC4(b) requires a planning judgment to be made against the following backdrop:
 - (1) Within the KCOA, the primary objective is regeneration;
 - (2) Given the extensive assets within the KCOA, and the views of English Heritage about the way forward, it is clear that the regeneration is not

something which can be achieved at the expense of heritage. Any regeneration proposal must be “conservation led”⁵ in the sense that if it does not have proper regard to the 20 listed buildings (etc) within the site, it does not even get off the ground;

- (3) The regeneration proposals are for a mixed use scheme. Housing is, no doubt, an important component of that mix, but it is not the only component;
 - (4) In so far as housing is important, the minimum levels provided by Policy KC4 give a clear indication of how important. These set out what it is essential that the development produces. Anything over and above that is beyond the minimum requirements of Policy KC4.
27. It is in that context that we ask you to view the affordable housing package. After the first 500 affordable homes have been secured affordable housing has to be considered as one of the factors weighing in a complex planning balance.

Tenure and Mix

28. In terms of tenure and mix, we have already made the point that the 70:30 ratio is a guideline rather than an absolute requirement. Taken together with the Main Site, the Triangle scheme would result in a 64:36 split, if assessed on a unit basis. Camden’s primary submission is that this figure is, of itself, sufficiently close to the 70:30 guideline for any perceived “shortfall” to be of no concern.
29. That argument is strengthened if one takes the approach advocated in the Mayor’s SPG, and calculates split on the basis of habitable rooms. On this basis, the scheme-wide split is 74:26, which more than meets the guideline. In saying this, we acknowledge that this is not the way in which Camden analysed the application when it was reported to Committee: Camden has always assessed the issue on a unit-basis. In our submission, it is not necessary to analyse split on the basis of

⁵ see English Heritage Foreword, “Principles for a Human City”

habitable rooms in order to find the scheme acceptable – we merely make the point that if one does so, then any argument about conflict with the development plan disappears.

30. Viewed in this way, it is unnecessary to go behind the figures and ask why there is a shortfall – but if that question is asked, there is a ready answer to it. Throughout the evolution of the plans for the KCOA, it has always been recognised that the Triangle site is most suitable for a high-density development of smaller units. In particular, its location, size and severance from the Main Site mean that it is not an ideal location for larger, family units.⁶ This, certainly, was the view expressed in the Joint Brief, which advises that:

“the Triangle could accommodate about 200 one and two-bed homes ...”

31. This does not mean that the need for family homes has been ignored, merely that – as noted above – the majority of that provision will be made on the main site, which is better suited. For the scheme as a whole, 39% of the general needs social rented housing is 3 bedroom or larger family units.⁷

32. The conclusion that the Triangle is best suited to a high density development of predominantly one and two bedroom homes impacts directly on tenure split. While recognising that housing requirements should generally determine density, rather than the other way around, the Mayor’s SPG states that:⁸

“for higher density schemes, a higher than norm proportion of intermediate provision, primarily comprising smaller dwellings, targeted at households without children, may be appropriate”

⁶ See e.g. Camden report 09/03/06 para 1.9.17; Islington report 18/04/06 pp. 41-42

⁷ Dickinson Proof para 4.8

⁸ Para 18.8

33. The Joint Brief, which advised⁹ that the site was considered “well suited to keyworker intermediate homes as part of the range of market and affordable housing”, is fully consistent with that approach.
34. Lying as it does at the edge of the KCOA, the Triangle site is adjacent to an existing area with a high proportion of social rented housing (see e.g. Argent’s Regeneration Strategy,¹⁰ which estimates it at around 70%). In those circumstances, the desire to achieve a 70:30 split of affordable housing needs to be balanced against the interests of maintaining a balanced and sustainable community. Hence, Islington’s own officers advised that:¹¹

“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 turnover of residents. It is essential that the new neighbourhoods are anchored with a broad range of new residents and that this would be reflected in the more general mix of affordable tenure types”

Conclusions on quantum, tenure and mix:

35. In respect of all these issues, we ask you to bear in mind that Camden’s decision is not one which was taken lightly or quickly. The proposals for the Triangle site were the culmination of over 4 years of consideration and negotiation. They mirrored the requirements of a Development Brief which had itself been the subject of detailed public consultation, and was issued jointly with Islington.¹² Of itself, this does not necessarily mean that the appeal scheme is acceptable, but we respectfully suggest that there is a need for considerable caution before upsetting the conclusion of such a prolonged period of work and assessment, in which many competing factors were balanced.



⁹ P. 69

¹⁰ CD1.15 p. 60

¹¹ Committee Report 18/04/06 p. 43

36. In Camden's submission, the quantum, tenure and mix of the affordable housing offer is fully in accordance with the Joint Brief. Taken together with the provision on the Main Site, the appeal proposals are an entirely acceptable response to the constraints and characteristics of the Triangle site.

IS THE HOUSING WHICH IS ON OFFER GENUINELY "AFFORDABLE"?

37. As a preliminary point, we note that the only issue under this heading which was identified in Islington's reason for refusal was "the particular nature of the shared equity element having regard to the provision for the recycling of stair casing receipts". As we understand it, this concern (and, indeed, most of the other concerns identified by Mr Lacey) would be met by transfer of the intermediate housing element to an Affordable Housing Provider. Since this option now exists through Section B of the s. 106 Agreement with Camden, and can be triggered by the imposition of an appropriately worded condition, it does not seem to us that this issue can any longer be a sustainable reason for refusal.
38. However, the potential simplicity of that answer should not, in our submission, become a reason for declining to confront the issue which remains in dispute under this heading, namely whether the Inspector/the Secretary of State should trigger Section B. In our submission, this is neither necessary nor desirable: Argent's original offer is not only acceptable, but is in many respects preferable to Section B.
39. In setting out our reasons for this, we start with the proposition, apparently advanced by Miss Ellis in cross-examination of Mr Kirby, that Argent's offer was not "affordable housing" within the meaning of PPS3 (or para 2.17 of the UDP) because it was not "permanent". The short answer is that, used in the way that Miss Ellis appears to suggest, there is no such thing as affordable housing. Even social rented housing – plainly "affordable" on anybody's definition – may cease to be available if it is purchased under the Right-to-Buy. Argent's shared equity products

are no different: they remain affordable unless and until the occupier exercise the right to staircase out, but once this has occurred, they become normal market housing. In circumstances where PPS3 expressly includes “Homebuy” within the definition of affordable housing, it cannot be a complaint that the individual unit may cease to be part of the affordable housing stock.

40. In reality, the core of Islington’s complaint is the provision which is made within the s. 106 agreement for the recycling of receipts, and the fact that this is “limited” to 15 years for the shared equity product. We make the following points:

(1) in his most recent Note¹² Mr Lacey states that “all of the intermediate affordable sale products promoted by the Housing Corporation require the investment of public subsidy in the form of grant funding.” This is accepted, but it does not follow from this that a product cannot be affordable housing unless there is an element of public subsidy. The government is actively seeking to encourage developers to provide more innovative forms of affordable housing. In Camden’s submission, doing so in a manner which avoids the need for public subsidy (potentially freeing up those funds for use elsewhere) is to be encouraged, rather than condemned;

(2) significantly, as Mr Lacey’s note also makes clear,¹³ it is only the element of public subsidy/grant which needs to be recycled. There is no requirement to recycle additional receipts from rent or sale. In contrast, Argent’s Shared Equity product recycles all staircasing receipts received in the period of 15 years, ensuring all of the benefit of the uplift is reinvested. Moreover, receipts captured within the 15 year period may be recycled well beyond it, and the benefit will then remain until the occupier of the alternative unit chooses to staircase;¹⁴

¹² “Description and grant recovery details of Housing Corporation ‘Open Market Homebuy’ and other Intermediate Products”, para 1.15.

¹³ paras 1.8, 1.11, 1.14. See also Miss Dickinson’s Comments in response.

¹⁴ See Dickinson “Response to Inspector’s Pre-Inquiry Note” para 6.11

- (3) until an occupier staircases to 100%, all subsequent sales (which will be at the level of equity owned by the seller) will be at a discount from market value. Even when the owner has staircased to 100%, AHPs are given the opportunity to buy back the properties;¹⁵
- (4) Argent's original offer has the additional benefits identified in Table 3 of Ms. Dickinson's Note;¹⁶
- (5) in the case of "Right to Buy Homebuy", Islington's argument loses sight of the fact that this option can only be taken up by someone who already has the Right to Buy their existing social rented unit. In taking up a new unit within the Triangle site under RTB Homebuy, the purchaser relinquishes a property which was otherwise at risk of being removed from the social rented housing pool. Consequently, in addition to the recycling of receipts in respect of the new unit under the s. 106, Camden and Islington (a) are saved the need to fund the £16,000 RTB discount and (b) get to keep a unit of social rented housing, which is then available for a new tenant. In circumstances where Right-to-Buy sales in Camden are expected to continue at around 100 units per annum, Camden perceives this as a very real advantage of Argent's original offer.¹⁷

41. Finally, there is an important point of consistency. Argent's preferred package is, in essence, the same as that which Camden accepted in respect of the Main Site. In deciding not to call in the Main Site application, Government Office for London observed that:

"Camden Council has undertaken a very thorough and comprehensive consideration of the proposals ... The Council's consideration of the issues of affordable housing, retail

¹⁵ *ibid* para 6.13

¹⁶ *idib* p. 17

¹⁷ *idib* para 6.16; see also the advantages identified in Dickinson main proof para 8.27.

and leisure, transport and open space and recreation has been comprehensive and they have addressed and taken account of the relevant policies in PPS1, PPG3, PPS6, PPG13 and PPG17 in reaching their conclusion to grant planning permission for the proposals.”

42. Islington will doubtless say that this was written with reference to PPG3, and that things have moved on since then, but – as Miss Ellis was at pains to point out in her cross-examination of Mr Kirby – draft PPS3 was in circulation when this letter was written. The need to ensure that housing is “permanently affordable” (as that phrase is properly applied) is not new: it was there in para 2.17 of Camden’s UDP in 2006. From Camden’s perspective, it would be unfortunate and inconsistent with GOL’s assessment if the Inspector/Secretary of State were now to conclude that the approach which was adopted on the Main Site without a murmur of concern from GOL is not suitable for the Triangle.

43. In Camden’s submission, Argent’s offer represents precisely the sort of innovative product which government is encouraging to come forward. As Mr Kirby has expressed it,¹⁸ the range of products

“will create [a] local ‘ladder’ of housing choice, offering a mix of affordable tenures, allowing residents in social housing stock to move locally. It will encourage low and middle income earners to move to jobs in Camden and Islington... It will help public services to attract and retain staff. It will help stabilise transience in the local population by providing choice in the housing market ... It will introduce a new fluidity that could stimulate the local (and wider) housing market as a whole”

44. We therefore ask the Inspector/the Secretary of State to conclude, not merely that there is no need to trigger Section B, but that there are very good reasons not to do so.

DOES THE NOISE CLIMATE RENDER THE TRIANGLE SITE UNSUITABLE FOR HOUSING?

¹⁸ Response Note para 2.12

45. Just as we have not entered into the detailed argument between Mr English and Miss Shelley, it is not our intention to make lengthy submissions on the issue of noise.
46. From the outset, Camden has recognised that the Triangle is a potentially noisy site. The resolution to grant was explicitly taken against the backdrop of advice that the noise climate was one where the Council's policies would normally indicate refusal, but where officers and members were satisfied that it was possible to mitigate the effects of that noise so as to ensure an adequate level of amenity within the new units.
47. In advancing the case for the objectors, Mr Jefferies has highlighted the fact that, in the period between the resolution to grant and this Inquiry, Camden has adopted a new development plan policy (SD7) which is seemingly expressed in more stringent terms than its predecessor: "not normally" has become "will not". We are confident, however, that you will be familiar with the reasons for that change, and will recognise that it flows, not so much from an intention to "tighten up" policy, but from government advice that the words "not normally" are not necessary in development plans, because the ability to make exceptions where there were "other material considerations" was already written into the statute.
48. In any event, policy SD7's stricture that "the Council will not grant planning permission" is prefaced by the words "unless appropriate attenuation measures are available". In the present case, Camden is satisfied that there are such attenuation measures, and that their provision will be secured through the proposed conditions.
49. This simply leaves the question whether those measures will leave future residents with an acceptable living environment in other respects. On this issue, Camden recognises that not everyone may wish to live in a "hermetically sealed" environment – but equally, that many will be happy to do so. As Mr Kirby's response note makes clear, Camden is not blessed with a surfeit of identifiable sites for new housing: it is expected that a significant part of the borough's housing will

come forward through windfalls. The Triangle is capable of contributing to the Borough's housing needs. Provided there is adequate mitigation against noise, Camden sees no reason why it should not do so.

CONCLUSIONS

50. The scheme before this inquiry is not something which was "bounced" on an unsuspecting planning authority by a developer looking to see how far it could push its luck. Argent's proposals followed years of careful consultation, discussion, and negotiation. Their content was informed by, and is consistent with the Joint Brief, to which both Camden and Islington signed up. They were discussed at length by the officers of both authorities, and were the subject of detailed scrutiny by Camden's members. To tear all that up now on the basis of a supposition – advanced by Islington's witnesses without explanation or justification, and in the express recognition that it is not what the development plan requires – that the Triangle should be treated as separate from the Main Site, is the antithesis of everything the planning system strives to achieve. In Camden's submission, Argent's proposals for the Triangle site are a welcome and entirely acceptable contribution to the regeneration of King's Cross. We invite you to conclude/recommend that they deserve to be granted permission.

PAUL BROWN

4 April 2008

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