

**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL UNDER s.78**

**APP/V5570/A/07/2051902/NWF
Islington P.041621
in association with
APP/X5210/A/07/2051898/NWF
Camden 2004/2311/P**

**REFUSAL OF PLANNING PERMISSION BY ISLINGTON
BOROUGH FOR THE REDEVELOPMENT OF THE TRIANGLE
SITE WITHIN THE KINGS CROSS OPPORTUNITY AREA
land generally bounded by York Way to the west, the railway lines
serving Kings Cross station to the east, and other railway lines including
the CTRL to the north**

**EVIDENCE ON PLANNING ISSUES
on behalf of the London Borough of Islington
Christopher Clarke BAHons, MA, MRTPI**

WITNESS QUALIFICATIONS AND EXPERIENCE

1. I am Christopher Clarke, and I am a founder of Terence O'Rourke Ltd, a planning and environmental consultancy based in Bournemouth with offices in Bath and Edinburgh.

- 2 I hold an honours degree in geography from Durham University, and a Master's degree in planning from Nottingham University. I have been a Member of the Royal Town Planning Institute since 1974, and I have over thirty years' experience in the planning profession, in the private and public sectors, based in Hampshire, Strathclyde and Dorset. I was a director of the company from 1986 until autumn 2006.

- 3 Terence O'Rourke Ltd is a planning based multi-disciplinary environmental consultancy and design company. The company works throughout the UK, employing about 120 professional staff in the fields of planning, architecture, landscape architecture, urban design, ecology, noise, environmental impact.

4. I have thoroughly familiarised myself with the project, and have visited the site and the surrounding areas.

1. INTRODUCTION TO THE APPEALS

- 1.1 This evidence, together with that from Hugh Lacey, is submitted on behalf of the London Borough of Islington [LBI]. It concerns the refusal of planning permission by LBI for the re-development of an area known as The Triangle site for residential and ancillary development forming part of the larger area of redevelopment to the north of St Pancras and Kings Cross rail stations. The joint applicants are Argent (Kings Cross) Ltd, London and Continental Railways Ltd, and Excel Ltd.
- 1.2 The Triangle site is partly within Islington Borough, and partly within Camden Borough [LBC], with the whole of the main site lying within Camden. The realignment of York Way a little to the west has resulted in a narrow area of and within the Triangle now lying within Camden. Reference should be made to the Statement of Common Ground [SOCG] section 2 and Appendix A for a site plan of the whole redevelopment identifying the Triangle site, and a full description of the site. Simply however, the site is made up of former railway land.
- 1.3 It can be said now that the whole site lies within the Kings Cross Opportunity Area [KXOA] within Camden's planning policies, and within an Islington Area of Opportunity.
- 1.4 For the sake of completeness, separate outline planning applications were submitted for the larger KXOA site and Triangle Site to both planning authorities in May 2004. In September 2005 both of these applications were revised. The revised application for the Triangle Site included proposals for the development of a total of 246 dwellings overall, of which 84 (34%) would be provided as affordable dwellings. The types of tenure for the affordable units were proposed to be 36 dwellings for social rent and 48 intermediate affordable dwellings (that is, 43% rent and 57% intermediate affordable). The development of the site cannot sensibly commence until planning permission has been granted by both planning authorities.

- 1.5 On 9 March 2006, LBC members resolved to grant planning and other permissions for all of the main and subsidiary applications which together provide for the whole redevelopment, subject to the completion of a s106 agreement. The members had the benefit of a very large report from their officers. For the Triangle site, LBC resolved to grant planning permission subject to LBI also granting permission for their part. The committee report also acted as the observations by LBC on LBI's part of the scheme. It followed too that LBC and LBI would need to agree on a common set of conditions and also agree a common s.106 agreement. LBC also referred their application to the Government Office for London. The report and minutes are at CD4.5
- 1.6 LBI West Area Planning Committee' considered the Triangle Site on 18 April 2006, and resolved to grant planning permission in principle, but subject to variations to the conditions and the Heads of Terms of the section 106 Agreement. The key element in this decision was that the number of units should be reduced from 246 to 200, and the officers' view that this would in fact require the application to be amended. Reference should be made to the SoCG: paras 4.20/23 and CD5.15.
- 1.7 As a result of the variations requested discussions took place between the applicants and LBI. It was proposed by the applicants that whilst a variation to the overall number of dwellings would be acceptable to them, this would be subject to alterations to conditions in the Heads of Terms and the affordable housing package. However, there was no formal revision to the application by the appellants.
- 1.8 LBI West Area Planning Committee next considered the Triangle Site on 12 February 2007, but deferred the application, once more contrary to their officers' recommendation. Reference should be made to CD5.14 for the report and minute.
- 1.9 LBI West Area Planning Committee considered the application for the third time on 10 July 2007: see CD39 It was refused for a single reason concerning the provision of affordable housing. The Decision Notice (see CD5.21) reads -

“The proposed development is considered unacceptable by reason of the affordable housing offer being deficient in terms of overall percentage, tenure mix, and the particular nature of the shared equity element having regard to the provision for the recycling of stair casing 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 and control purposes) and PPG3 “Housing”).

- 1.10 By letter dated 3 December 2007 (refer to CD5.22), LBI informed the Planning Inspectorate and the Rule 6 parties of two factors that need to be recognised in any consideration of this refusal reason: that LBI accept that the reference to PPG3 is an error which should refer to PPS3, and also that UDP Policy H16 has not been saved.
- 1.11 The appellants lodged two appeals on 7 August 2007: against LBI for their refusal, and against LBC on the grounds of non-determination. The grounds cited also refer only to affordable housing issues.
- 1.12 On 18 October 2007, LBC considered their applications in the light of LBI's refusal, and the subsequent appeals, and resolved that, had the application not been appealed, they would have granted planning permission subject to the completion of a s106 agreement along the lines considered in March 2006.

2. RELEVANT POLICY

2.1 Planning policies include national, regional and local policies. As the refusal determined by LBI concerns affordable housing, this section includes the details on this issue within planning policy documents. It does not include housing documents, which are considered by Hugh Lacey. Having said that, section 5 of the Statement of Common Ground sets out details of all of these policies are therefore not set out in this evidence.

A: National policies

PPS1 DELIVERING SUSTAINABLE DEVELOPMENT - February 2005

PPS3 HOUSING - November 2006

2.2 PPS1 intends that housing is provided in a manner which assists with the creation of sustainable and inclusive communities. PPS3 replaced PPG3 and Circular 06/98. Local planning authorities have been required to have regard to it as a material consideration when determining planning applications since 1 April 2007 and it was a material consideration from its publication in November 2006. Therefore, PPS3 is a very important part of the appropriate national policy framework against which the appellant's proposals have to be considered.

B: Government Statements

2.3 A number of other government statements are material considerations for this inquiry. These are not planning policies, but are nevertheless important in order to understand planning policies for affordable housing in context, particularly as the appeal site is publicly owned land. These statements are -

Sustainable Communities: homes for all: ODPM January 2005

Delivering Affordable Homes: DCLG November 2006

Homes for the Future: more affordable, more sustainable: DCLG July 2007

The Queen's Speech: November 2007.

- 2.4 **SUSTAINABLE COMMUNITIES** was the successor to the earlier Sustainable Communities Plan. It is also the forerunner to PPS3. The emphasis of this document was the need for a mix of housing types to provide a more inclusive community, acknowledging that owner occupation was an objective for only some households. Affordable housing is described as a mix of rented and intermediate housing (see the Glossary), with a flexible approach to the type and management of this sector.
- 2.5 The more detailed advice on the delivery of this particular sector is set out in **DELIVERING AFFORDABLE HOUSING** of November 2006, and is provided by Hugh Lacey, together with his setting out of PPS3. The two documents are closely linked, and between them provide a clear overall strategy for the way in which affordable housing is to be brought forward. They provide both the policy base to establish need, and advice as to the way in which it can then be delivered. With these documents, affordable housing becomes central to the delivery of housing generally.
- 2.6 The publication of these two documents has not been the end of the evolution. Following the coming into force of PPS3 in April 2007, the government published **HOMES FOR THE FUTURE: MORE AFFORDABLE, MORE SUSTAINABLE** - the new Housing Green Paper. Within the new objective of delivering 2million new homes by 2016, and 3million by 2020, affordable housing is again central to the strategy. Section IV (Chapters 8 and 9 in particular) of the Green Paper is devoted to affordable housing, with the box on page 70 setting out 11 strands for action: these include a goal of 70,000 affordable homes a year by 2010/11, 45,000 of which will be 'social', and 25,000 intermediate.
- 2.7 In relation to the disposal of public sector land, paragraphs 8 and 9 of Chapter 9 are material. Here, English Partnerships (in their role of disposing of unused

public sector land into the market), and local authorities, are to seek a minimum of 50% affordable new homes on their sites.

2.8 The evolution is not complete. In the **Queens Speech** of 6 November 2007 is the sentence "Available and affordable housing is one of my Government's main priorities. Legislation will be introduced to create a new Homes and Communities Agency that will deliver more social and affordable housing, and promote regeneration." The Housing and Regeneration Bill was introduced on 15 November 2007, and includes new definitions (clauses 67/69) of 'low cost rental' and 'low cost home ownership' housing types.

2.9 Within this time period - which roughly corresponds to the time that the Kings Cross applications have been under consideration - it is entirely reasonable to conclude that the policy framework has moved on, and it is very likely to continue to do so. It is clear that the issue of affordable housing is central to overall housing provision. If this is the over-arching government position however, it is necessary that this is reflected in planning policies for action, and in the decisions reached on individual projects. With the introduction into the Development Plan of the regional level of policy making, it is appropriate to look at the way this is now set out.

C: Regional policy

THE LONDON PLAN - adopted February 2004

ALTERATIONS TO THE LONDON PLAN - September 2006

HOUSING SUPPLEMENTARY PLANNING GUIDANCE - November 2005

DRAFT HOUSING STRATEGY - September 2007

2.10 Relevant sections are fully set out in the SOCG: see para 5.4 et seq. The only point where the London Plan is silent is in relation to the recycling of subsidy. It is implied through Policy 3A.12 that where provision ceases to exist in its initial form (i.e. where restrictions are lifted) then alternative provision should replace it.

The Plan was adopted prior to the publication of PPS3, but given that PPS3 may now supersede policies in existing Development Plans it follows that Policy 3A.12 must be considered in the light of it.

2.11 Draft Further Alterations to the London Plan [FALP] were published in September 2006, which have since been the subject of an EiP, and the Panel's Report that was published in September 2007.

2.12 There were no major or material comments from the Panel on the strategy within the Plan in relation to Areas of Opportunity and the new sub-regional structures, other than the Panel's view that the latter should concentrate more on matters of implementation.

2.13 The FALP themselves do not represent a significant departure in terms of affordable housing policy from the current London Plan, although they do update terminology. However, both the London Plan definition of affordable housing (Policy 3A.6), and the almost identical FALP definition (also Policy 3A.6) include low cost market housing as a form of affordable housing. Low cost market housing fell within the Circular 6/98 definition, but is not within the PPS3 definition.

2.14 This has been commented upon within the Panel Report which states at paragraph 6.71:

“The unaltered Policy 3A.6 contained a definition of affordable housing. GOL pointed out that the inclusion of low cost market housing in this definition conflicted with PPS3 (which as we have seen was issued after the FALP were published), and specifically with paragraph 26 and Annex B (statement paragraph 9). There should be a consequential change to paragraph 3.26. The Mayor did not agree. He felt that in the circumstances of London there may be cases where low cost market housing could contribute to affordability and that it was necessary to persuade the private sector to provide more. Affordability should be defined by cost – who provides the housing is not relevant. While we take this point, we nonetheless accept that the FALP should be brought into line with PPS3

policy, as we do not believe the London-specific issues are sufficient to over-ride National policy considerations in this case.”

2.15 As a result of their conclusion the Panel recommended within Recommendation 6.3 that the references to ‘low cost market housing’ be removed from the definition within Policy 3A.6 and paragraph 3.26. Thus it appears that the Panel are of the opinion that the definition included within national guidance is of the utmost and overriding importance. PPS3 is the highest authority.

2.16 Supporting guidance to the London Plan is provided in Housing Supplementary Planning Guidance. This document was published prior to the publication of PPS3, and as such must be interpreted and applied in the light of PPS3.

2.17 While the SPG is generally in accordance with PPS3, particularly at para 2.12, it is not compliant with PPS3 when it states that in respect of intermediate affordable housing -

“Arrangements for retention or recycling of equity, or for controlling rents for intermediate rent schemes, should be pursued wherever feasible. Some funding regimes, or legal arrangements in terms of lease length, may limit such options.”

This paragraph should now be considered within the context of PPS3 which requires that provision is made for any subsidy realised as a result of the removal of affordable housing restrictions to be recycled to provide alternative affordable housing.

2.18 The latest draft regional Housing Strategy confirms the need for 50% provision with a 70/30 split. Inevitably, bearing in mind when it was produced, the Strategy does not deal with the FALP Panel Report comment noted in para 2.14 above about low-cost market housing, as it is still referred to in section 1.3.3 para 99.

D: Local policy

THE ISLINGTON UDP - adopted 2002

THE CAMDEN UDP - adopted 2006

- 2.19 These two policy documents are set out in the SOCG at para 5.27 et seq. Of particular note are Policy H14, H15 and the final sentence of paragraph 4.3.6 in the Islington UDP. These two policies provide for the achievement of the maximum possible amount of affordable housing. The loss of Policy H16 does not affect his principle. In paragraph 4.3.6 it is stated that, to assist with the achievement of the objectives of Policy H14, information may be requested from applicants to enable an assessment to be carried out of the level of provision that a site can be expected to make. This approach aligns with PPS3 which seeks to provide a wide choice of both affordable and market homes: see paragraph 27. Whilst PPS3 para 27 does not require that developers provide information in respect of the viability of a site to make affordable housing provision, it does say that UDPs should set plan-wide targets with reference to the 'likely economic viability of land' and the levels of public subsidy and developer contributions that 'can reasonably be secured' (paragraph 29 bp1). PPS3 also identifies that 'collaborative working' between local planning authorities and house builders / developers is essential to achieving the Government's 'strategic housing objectives'. The approach taken by the UDP also aligns with the requirements of Policy 3A.8 of the London Plan and the draft FALP.
- 2.20 The UDP emphasis upon maximising the delivery of affordable housing through the best possible use of the planning system (among other sources) is also present within the LBI Housing Strategy 2004-2007 where this is cited as a 'priority for action'.
- 2.21 For Camden, it should be noted that the specific housing policies for the KXOA are different to those for the rest of the borough. There is a full requirement of 50% from the first 1000 units on the KXOA site, with a target of 50% thereafter.

The KXOA part of the adopted UDP has its roots in Alteration No 1 to the previous 2002 UDP: the appellants were the principal attendees to the inquiry into that Alteration, which was then brought forward into the 2006 UDP with little further comment. At the time of the 2002 inquiry, the appellants were a "prospective developer", and it is noted by the Inspector in his Report that they did not object to Policy KC4, which deals with housing matters. Neither did Argent make representations to the wording of Policy KC4 at the time of the inquiry into the replacement UDP. The wording of Policy KC4 in the 2002 Alteration 1 is identical to that of the 2006 UDP, as are the accompanying paragraphs.

E: Local supplementary guidance

THE KINGS CROSS PLANNING AND DEVELOPMENT BRIEF - January 2004

ISLINGTON AFFORDABLE HOUSING SPG - April 2003

ISLINGTON HOUSING GUIDANCE NOTE - OCTOBER 2006

- 2.22 The KXOA policy is a joint policy by LBC and LBI, and relates to the respective policy areas in the two UDPs. For this inquiry, the key passages are 2.9 Housing, and 3.3 Sub-area Design Guidelines, particularly sub-area 5 termed York Way and the Triangle. The respective affordable housing notes have to be considered in the light of PPS3 which post-dates them all. The 2003 Note, as well as the Islington UDP to which it relates, also predate the adoption of the London Plan with its 50% target for affordable housing provision. There is no SPG on housing issues for Camden.
- 2.23 In relation to what has been said above in para 2.19, the LBI Affordable Housing Guidance of 2003 accepts that there might be instances where developers conclude that they are not able to provide the 50% requirement. Paragraphs 5.7 and 5.12 of the SPG place the onus on the applicant to provide "full and verifiable financial details" to demonstrate that additional costs are "not offset by depreciated land values or cannot be recouped in the sale price of units".

F: Evolving new-style policies
ISLINGTON LDF CORE STRATEGY
CAMDEN LDF CORE STRATEGY

- 2.24 It is recognised that the draft LBI Core Strategy is of limited weight as a result not only its draft status but also the comments made by the Inspector at the Exploratory Meeting held on 5 June 2007 stating that the document did not appear to be a ‘truly spatial plan’ and that it was not in ‘general conformity’ with the London Plan. In particular, the overall housing provision in the CS did not align with the London Plan.
- 2.25 However, despite this general non-conformity it is evident that some aspects of the draft CS Policy CS18 do align with the London Plan and should therefore be accorded some weight in the light of the fact that the document has been subject to public consultation. The Inspector did not raise any queries about Policy CS18, which did seek 50% affordable housing provision from eligible sites, expressed an intention to ‘maximise’ affordable housing provision from sites, sought to maintain a flexible approach to provision in response to circumstances surrounding individual sites, and provide affordable housing that met an identified housing need. What might constitute an eligible site changed from the Consultation Draft to the Submission Draft. The earlier document sought from 25% to 40% affordable units on sites up to 100 units, with the 50% requirement only applying for 101+ unit sites. Housing figures within the London Plan would also act as a starting point.
- 2.26 Policy CS18 also specifically proposed that:

“Any receipts generated from the subsequent sale of low cost ownership housing will be required to be recycled within social housing schemes within the borough.”

Whilst the wording of this paragraph may represent only a rather simplistic understanding of the PPS3 requirement to recycle any input subsidy where

affordable housing restrictions are lifted, it demonstrates LBI's continued commitment to ensuring that developer contributions provide affordable housing over the 'long term'. Therefore the sentiment, at least, is in alignment with national policy.

- 2.27 Policy CS18 stated that the provision of financial details by developers would be "expected" by LBI where proposals do not accord with adopted policy. The closest that PPS3 gets to this issue is to "encourage applicants" in the provision of housing schemes, "including affordable housing developments". The two phrases are not necessarily in conflict: it would seem reasonable that if adopted policy is to be set aside, then the reasons for this need to be well understood by all parties.
- 2.28 LBI have now produced a new Local Development Scheme, with effect from November 2007. It is intended to commence work on a new Core Strategy with consultation on Issues and Options in the summer of 2008, with a view to formal adoption of the Strategy at the end of 2010. The SOCG includes reference to LBI's interim housing guidance adopted in October 2007 as a consequence of the withdrawal of the draft Core Strategy.
- 2.29 LBC are also producing a new LDF, and public consultation took place on the Core Strategy at the end of 2007. This also provides for the continuation of the 50% provision of affordable housing.

Conclusion on the Development Plan and other relevant policies

2.30 The Development Plan is obviously different from that in force when the applications were submitted in 2004, and other Government and other policies have also evolved.

2.31 These policies therefore are -

- | | |
|---------------------------------------|---|
| 1) The Development Plan - | The London Plan - 2004
The Islington UDP - 2002
The Camden UDP - 2006 |
| 2) other material policies - | |
| a) national statements - | PPS1
PPS3
Delivering Affordable Housing - DCLG 2006 |
| b) regional policies | Housing SPG by the GLA - November 2005 |
| c) local policies | Kings Cross Opportunity Area Planning &
Development Brief - LBI+LBC 2004
Housing SPG by LBI - 2003 |
| d) other guidance under preparation - | Submitted Draft Further Alterations to the
London Plan 2006, and the Panel Report on
the EiP September 2007
Housing Guidance Note by LBI - October 2006
Draft Housing Strategy by GLA - September
2007 |

The Development Plan and national statements have full weight, while the supplementary and evolving documents have lesser weight.

2.32 The Islington UDP is now old, and is emasculated to the extent that some of its policies are no longer saved. However, they have been given a new three-year life from the end of 2007. Policies relating to affordable housing remain, and are consistent with regional policy in seeking to maximise the delivery of affordable housing. The Camden UDP is more recent, and contains borough-wide and

KXOA policies relating to affordable housing. These relate directly to the London Plan. This group of policies are therefore the starting point for any consideration of a scheme.

2.33 Other material considerations can then be considered alongside the Development Plan. PPS3 and PPS1 must be given considerable weight, and the Development Plan policies read in the light of it. This is particularly relevant to the definition of 'affordable housing' in the London Plan. Low-cost market housing is not within the PPS3 definition, and has been rejected by the FALP EiP Panel in their recent report.

2.34 Looked at broadly, therefore, the emphasis in the Development Plan, and at national, regional and local levels is consistent with securing the maximum amount of affordable housing possible. If the Development Plan and national, regional and local guidance is to be set aside, then there must be a good reason, which can be considered and justified. This is particularly the case because of the publicly-owned status of the land.

3. THE BASIS FOR THIS APPEAL

- 3.1 For LBI, this appeal primarily concerns the issue of affordable housing. In that regard, LBI makes no comment on other matters that have been raised by third parties. It centres on the amount, split and terms of this provision, when set against national and local policies. Hugh Lacey's evidence deals with this issue, but it falls to this evidence to set his conclusions within a wider context.
- 3.2 Other issues have been raised however which do require comment. These are set out in the PINS letter dated 17 December 2007, concerning the adequacy of the submitted EIA in respect of transportation noise and wind turbulence around high-rise buildings. At the time of writing, it is understood that the appellants have undertaken this additional assessment, which will be available to the inquiry.

4. THE CONCLUSION IN PLANNING TERMS

Issues other than affordable housing

- 4.1 First, LBI make no comment on issues that are raised by other objectors, but reserves the right to comment on any evidence produced as appropriate.
- 4.2 In relation to issues raised by the Planning Inspectorate, in respect of which the appellants have provided further information, these are now matters for the Inspectorate to assess.

Affordable housing matters

- 4.3 Hugh Lacey's evidence sets out his views on this issue in detail. He concludes-
- i) the proportion of affordable housing proposed at 34.1% is less than 50%, and that this is itself dependent on public funding;
 - ii) the split between social rented units and intermediate accommodation is 43:57, and not 70:30 as set out in regional guidance;
 - iii) there appears to be no provision for the recycling of subsidy, and
 - iv) the intermediate provision will be affordable for only a very small proportion of those in affordable need.
- 4.4 In this evidence, I have to place these conclusions in a wider context. It is appropriate to begin by recognising that the appeal site is publicly owned government land.
- 4.5 The use of public land for the provision of affordable housing is clear government policy. It is also right and proper for planning policies to be taken into account as part of any disposal. The relevant policies in this case provide for 50% of all housing units to be 'affordable'. It has been more recently re-emphasised by the 2007 Housing green paper: see para 2.8 above. This has to be the starting point for

any development. It applies to the KXOA site.

4.6 Paragraph 67 of the Draft Mayor's Housing Policy of September 2007 reiterates the point:

"The Mayor believes that the public sector must be an exemplar in its land dealings. Public land holdings are vital to delivering the highest quantity of affordable homes and the best possible quality. Public bodies with land holdings should make a clear commitment to ensuring that development on their land delivers the London Plan target of 50 per cent affordable housing and other social priorities"

4.7 There is a second strand to this argument. There can be no question but that the issue of affordable housing is now central to the government agenda in the context of the need to provide more housing generally. The cascade of government statements set out in section 2 of this evidence indicates this.

4.8 This is set out in formal policy in PPS3 and Delivering Affordable Housing. From PPS3, the London Plan, and the draft text of LBI's Core Strategy, there is now no question as to the importance of the need to contribute the maximum amount of affordable housing within all development sites. It is of note to follow the change that has occurred within LBI, from the original UDP requirement of 35%, through the Consultation Draft Core Strategy with either 25% and 40% for sites of up to 100-units, and the Submitted Draft objective of seeking 50% on sites down to 10 units, thus aligning itself with the London Plan. 'Homes for the Future' implies that more than 50% should be sought. The increasing importance of the issue is clear.

4.9 It is the case that government policy is for PPS3 to be paramount. The Government Office for London and the Panel dealing with the FALP clearly thought so, despite evidence given to them that it should not always be.

4.10 The point, finally, is therefore a simple one. Land that is being disposed of by the UK government should not be developed without full regard to the government's own policies, and to the regional and local policies that properly flow from it.

Even if it was not a government-owned site, the same principle would apply. To date, there has been no justification provided to LBI as to why this principle should not apply.

- 4.11 In the context of LBI's Affordable Housing SPG of 2003, and PPS3, whilst LBI cannot insist that information in respect of viability is provided to them, it stands to reason that exceptional costs associated with individual sites cannot be assessed if they have not been made available. Without such information, the conclusion has to be reached that the site is capable of providing the required proportion of affordable housing.

The overall conclusion

- 4.12 This evidence concerns the Triangle site, and not the main site within Camden. The Triangle site is concerned primarily with housing, as distinct from the main site.
- 4.13 It is understood that the LBC case is for approval to be granted. For LBI, the situation is different. Their concern is housing. They do not object to a high level of development on the site, subject to environmental assessment, but they do wish to see the maximum level of affordable units possible. This should be in line with government, regional and local policy.
- 4.14 The proposals do not accord with the Development Plan, in that they do not provide for the long-term recycling of subsidy from intermediate units that are stair-cased out. The proposals do not accord with the Development Plan, in that they do not provide for 50% affordable housing as set down in the London Plan; there is no evidence to suggest how the proposals can be considered to accord with LBI's policy for maximization of affordable housing and as far as LBC's policies are concerned, the requirement for 50% provision through UDP Policy KC4 is absolute, with this only becoming a target when over 1000 units are provided.

This is mark of the supreme importance of the KXOA area and LBI is aware of no evidence put to LBC by the Appellants to justify the significantly smaller percentage proposed.

- 4.15 The application should therefore be dismissed to allow an amended scheme to come forward with an appropriate quantum of affordable housing within it.

5. CONDITIONS & THE s106 AGREEMENT

- 5.1 LBI are obliged to suggest conditions in the event that the Secretary of State decides to grant planning permission. The conditions that were attached to the West Area Planning Committee of 18 April 2006 may be taken as a starting point. It is understood that, in principle, these are acceptable to the appellants. Only condition 27 no longer applies. In view of the Planning Inspectorate's concerns over noise and vibration, conditions 37 and 38 may also no longer apply, and there may be consequential changes necessary to conditions 39-44.
- 5.2 The April 2006 Committee report also contains Affordable Housing obligations as Appendix 2, suitable for inclusion within a s106 agreement. As these provided for 34% of units (that is, 84 units out of 246) these are no longer acceptable.

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