GREATER**LONDON**AUTHORITY

representation hearing report GLA/4266/04

21 June 2019

Holiday Inn, Kensington Forum Hotel

97-109 Cromwell Road, Kensington

in the Royal Borough of Kensington & Chelsea

planning application no. PP/18/03461

Planning application

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008 ("the Order").

The proposal

Comprehensive redevelopment and erection of a part 30, part 22 and part 9 storey building comprising hotel bedrooms and serviced apartments (Class C1) with ancillary bar, restaurants, conferencing and dining areas, leisure facilities and back of house areas; residential accommodation (Class C3); with associated basement, energy centre, plant, car parking, cycle parking, refuse stores, servicing areas; associated highway works and creation of new publicly accessible open space with associated hard and soft landscaping.

The applicant

The applicant is **Queensgate Bow UK Holdco Limited**, and the architect is **SimpsonHaugh Architects.**

Recommendation summary

The Mayor, acting as Local Planning Authority for the purpose of determining this application,

i. grants conditional planning permission in respect of application PP/18/03461 for the reasons set out in the reasons for approval section below, and subject to the prior completion of a section 106 legal agreement;

ii. delegates authority to the Chief Planner - Planning and the Executive Director of Development, Enterprise and Environment to issue the planning permission and agree, add, delete or vary, the final detailed wording of the conditions and informatives as required, and authority to negotiate, agree the final wording, and sign and execute, the section 106 legal agreement;

iii. delegates authority to the Chief Planner and the Executive Director of Development, Enterprise and Environment to agree any variations to the proposed heads of terms for the section 106 legal agreement;

iv. delegates authority to the Chief Planner and Executive Director of Development, Enterprise and Environment to refuse planning permission, if by 21 September 2019, the section 106 legal agreement has not been completed;

v. notes that approval of details pursuant to conditions imposed on the planning permission would be submitted to, and determined by, Kensington and Chelsea Council;

vi. notes that Kensington and Chelsea Council would be responsible for the enforcement of the conditions attached to the planning permission.

Drawing numbers and documents

Existing plans and drawings	
10106-A-DRG-Z0-G100-0000-PL_REV A Site Boundary	10106-A-DRG-Z0-G100-4000-PL Context Elevation - Existing - North
10106-A-DRG-Z0-G100-2000-PL Site Plan	10106-A-DRG-Z0-G100-4001-PL Context Elevation - Existing - East
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10106-A-DRG-Z2-G200-3003-PL_REV A GA Section CC	10106-A-DRG-Z2-G200-3004-PL_REV A GA Section DD
10106-A-DRG-Z2-G200-3005-PL_REV A GA Section EE	
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10106-A-DRG-Z2-F200-2101-PL Typical Hotel Layout Plans (Page 2)	10106-A-DRG-Z2-F200-2102-PL Typical Hotel Wheelchair Accessible Layout Plans
10106-A-DRG-Z2-F200-2201-PLTypical Serviced Apartment Layout Plans	10106-A-DRG-Z2-F200-2202-PL Typical Serviced Apartment Wheelchair Accessible Layouts
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10106-A-DRG-Z2-G200-4002-PL_REV A East Elevation – Ashburn Gardens	10106-A-DRG-Z2-G200-4003-PL_REV A South Elevation - Courtfield Road
10106-A-DRG-Z0-G100-4004-PL_REV A	10106-A-DRG-Z0-G100-4005-PL_REV A
Detailed Façade Studies – Rendered Elevation/Plan/Section	
10106-A-DRG-Z0-G251-5100-PL_Rev A Podium - Typical Conference Room Elevation	10106-A-DRG-Z0-G251-5101-PL_Rev A Podium - Double Height Glazed Façade to Hotel Lobby
10106-A-DRG-Z0-G251-5102-PL_Rev A Podium - Glazed Façade to Cromwell Road Restaurant	10106-A-DRG-Z0-G251-5103-PL_Rev A Podium - Glazed Façade to Garden Restaurant
10106-A-DRG-Z0-G251-5104-PL_Rev A Podium - Hotel Conservatory	10106-A-DRG-Z0-G251-5105-PL_Rev A Podium - Hotel Entrance
10106-A-DRG-Z0-G251-5106-PL Podium - Coach Drop-Off Frontage	10106-A-DRG-Z0-G251-5107-PL Podium - Loading Bay Entrance
10106-A-DRG-Z0-G251-5108-PL Podium - Residential Attic Storey	10106-A-DRG-Z0-G251-5200-PL_Rev A Towers - Typical Serrated Bay Windows
10106-A-DRG-Z0-G251-5201-PL_Rev A Towers - Cromwell Road Staggered Bay Windows	10106-A-DRG-Z0-G251-5202-PL_Rev A Towers - Executive Lounge
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Supporting documents	
Title	**Date**
Cover Letter	January 2019
Revised Planning Application Form	January 2019
CIL Form	January 2019
Environmental Statement Non-Technical Summary	June 2018
Environmental Statement Volume I (Main Report)	June 2018
Environmental Statement Volume II (Townscape, Visual and Heritage Impact Assessment)	June 2018
Environmental Statement Volume III (Technical Appendices)	June 2018
Addendum Environmental Statement Non-Technical Summary	January 2019
Addendum Environmental Statement Volume I (Main Report)	January 2019
Addendum Environmental Statement Volume II (Townscape, Visual and Heritage Impact Assessment)	January 2019
Addendum Environmental Statement Volume III (Technical Appendices)	January 2019
Design and Access Statement	June 2018
Design and Access Statement Addendum	January 2019
Planning Statement	June 2018

Waste Management Strategy	January 2019
Internal Daylight Assessment	June 2018
Internal Daylight Assessment Addendum	January 2019
Energy Statement	June 2018
Energy Statement Addendum	January 2019
Waste Management Strategy	January 2019
Basement Construction Method Statement Letter of Conformity	January 2019
Flood Risk Assessment Letter of Conformity	January 2019
Hotel Market Overview Report	June 2018
Basement Impact Assessment	June 2018
Basement Construction Method Statement Letter of Conformity	January 2019
Draft Open Space Management Plan	June 2018
Statement of Community Involvement	June 2018
Sustainability Statement	June 2018
Viability Assessment	June 2018
S.106 Obligations Statement	June 2018
Arboriculture Assessment	June 2018

Introduction

1 Having assumed authority to determine this planning application, this report sets out the matters that the Mayor must consider in determining whether to grant or refuse planning permission and to guide his decision making at the upcoming representation hearing. This report includes a recommendation from GLA officers, as set out below.

Officer recommendation - reasons for approval

2 The Mayor, acting as the Local Planning Authority, has considered the circumstances of this application and relevant national, strategic and local planning policy, relevant supplementary planning guidance and all material planning considerations. He has also had regard to the Royal Borough of Kensington and Chelsea (RBKC) Council's planning committee report dated 27 September 2018, the minutes of that meeting, the draft decision notice setting out three reasons for refusal and all consultation responses and representations made on the case both to him directly and to the RBKC Council. The below reasons set out why this application is acceptable in planning policy terms:

I. The intensification of uses on this highly accessible site by way of a hotel-led mixed-use redevelopment is supported in principle as it is consistent with both strategic and local planning policy. The proposal would deliver new, modern and diverse serviced visitor accommodation with a 749-bedroom hotel, including a function room and restaurant, and 340 serviced apartments. This would result in a net increase of visitor accommodation on the site and would contribute to the overall quality, quantity and diversity of serviced visitor accommodation and facilities in London, which is critical to maintaining London's status as a leading global city and in line with the Mayor's vision for new serviced accommodation and suitable facilities for meetings, conference and exhibitions. The proposed development would also provide 62 London Affordable Rented homes in a borough that has consistently failed to meet its overall targets for the provision of additional homes and affordable units. Furthermore, the public open space around the building would be reconfigured as part of the proposal, increasing its quantum, and enhancing its accessibility and quality. The proposed development is therefore supported in land use terms because it accords with the relevant policies within the National Planning Policy Framework (NPPF), London Plan Policies 3.1, 3.3, 3.4, 4.1, 4.5 and 7.18; draft London Plan Policies GG1, GG2, GG4, GG5, E10, G4, H1, HC6 and T3; and, RBKC CLP Policies CH1, CR5 and CF8.

II. The scheme would deliver 100% affordable housing (62 London Affordable Rent units), which is the Mayor's default rent for affordable rented units and is therefore acceptable as being genuinely affordable. The housing proposed is of a high quality; and overall the scheme would contribute to housing delivery targets for the Royal Borough of Kensington and Chelsea. On this basis, the application accords with London Plan Policies 3.3, 3.4, 3.5, 3.8, 3.11 and 3.12; the Mayor's Housing SPG (2016); the Mayor's Affordable Housing & Viability SPG (2017); and draft London Plan Policies GG4, D4, D5, D6, H1, H5, H6, H7 and Kensington and Chelsea Consolidated Local Plan Policies CH1and CH2.

III. The design and layout principles are well-considered. The massing and layout respond to the site's constraints and sensitivities including the character of the wider conservation areas, registered parks and gardens and listed buildings in proximity. The proposed tall building replaces the existing tall building and would provide a distinctive and high-quality Metropolitan-scale landmark. The scheme provides for well-defined public and private spaces, amenity and play spaces, and landscaping elements that respond to the proposed character areas of the site. The identified harm to significance of nearby designated heritage assets would be less than substantial and would be clearly outweighed by the public benefits of the scheme, namely the economic benefits to be derived from the modern visitor accommodation proposed, the 62 London Affordable Rent housing units and the re-established publicly accessible green space. The proposals adhere to the principles of designing out crime. As such the proposal complies with Policies 3.5, 3.6, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8 and 7.13 of the London Plan; draft London Plan Policies GG6, D1, D2, D4, D7, D8, D9, D10, D11, D13, HC1 and G5; and, RBKC CLP Policies CL1, CL2, CL3, CL4 and CL11.

IV. The proposed development enhances inclusive access and would comply with the relevant inclusive design standards for housing and visitor accommodation. As such, the scheme complies with London Plan Policies 3.8, 7.1, 7.2, 7.5, 7.6; draft London Plan Policies GG1, D3, D5, the Accessible London SPG (2014) and RBKC CLP Policy CH2.

V. The proposed development has demonstrated that a high standard of sustainable design and construction would be achieved, minimising carbon dioxide emissions, using energy efficiently and including renewable energy in accordance with the energy hierarchy. The development would deliver sustainable urban drainage, ecology and urban greening benefits over the existing situation at the site. The environmental impacts of the development, in terms of wind microclimate, minimising exposure to poor air quality, addressing

contaminated land and waste management, are acceptable considering the proposed mitigation measures. As such the scheme complies with the policies contained in Chapter 5 and Policies 7.7, 7.14 and 7.19 of the London Plan; draft London Plan Policies GG3, G4, G5, G6, G7, SI1, SI2, SI3, SI4, SI5, SI7, SI8, SI12, SI13, Sustainable Design and Construction SPG, and RBKC CLP Policies CE1, CE2, CE3, CE4, CE5 and CE7.

VI. The development proposals would have an acceptable impact on neighbouring amenity. Few neighbouring residential properties would experience any noticeable reductions to their daylight and sunlight and where losses occur, the impacts would not have an unacceptable impact on residential amenity. The proposals would not unacceptably reduce privacy to neighbouring residential properties and issues of noise and disturbance would be adequately mitigated through planning conditions. As such the proposed development complies with London Plan Policies 7.6, 7.7, 7.14 and 7.15; draft London Plan Policies D2, D4 and D13, and RBKC CLP Policies CE6 and CL5.

VII. The proposal for a mixed-use development in this highly accessible location would reduce the need to travel, particularly by car, and this is reflected in the low parking ratio of the scheme which is supported by strategic and local planning policy. The quantum of proposed car parking is acceptable subject to a suitable framework of controls including a car parking management plan, provisions for restricting resident parking permits for new residents, electric vehicle charging points and travel plan. The proposal strikes an appropriate balance between promoting new development and encouraging cycling, walking and public transport use, providing appropriate mitigation as required. As such the proposed development complies with the policies contained within Chapter 6 of the London Plan; the policies contained within Chapter 10 of the draft London Plan, and RBKC CLP Policies CT1 and CR7.

Recommendation

3 That the Mayor acting as Local Planning Authority, grants planning permission in respect of application PP/18/03461, subject to prior completion of a section 106 legal agreement, and the inclusion of planning conditions and informatives, as summarised below. The detailed wording of conditions and informatives will be set out in an addendum to this report.

4 That the Mayor delegates authority to the Chief Planner and the Director of Development, Enterprise and Environment to issue the planning permission and agree, add, delete or vary the final wording of the conditions and informatives as required.

5 That the Mayor agrees that the Chief Planner and the Director of Development and Environment, be given delegated authority to negotiate and complete the s106 legal agreement, the principles of which have been agreed with the applicant as set out in the heads of terms detailed below.

6 That the Mayor delegates authority to the Chief Planner and the Director of Development, Enterprise and Environment to refuse planning permission if, by 21 September 2019 the s106 legal agreement has not been completed

7 That the Mayor notes the approval of details pursuant to conditions imposed on the planning permission would be submitted to, and determined by, Kensington and Chelsea Council (the "Council").

8 That the Mayor notes that the Council would be responsible for the enforcement of the conditions attached to the permission.

Section 106 Legal agreement and conditions

9 The following are recommended as the heads of terms for the Section 106 agreement, referred to in the above Recommendation.

Affordable housing

10 The following affordable housing provisions would be secured:

- 62 affordable rent units;
- 10% of the units to be provided as wheelchair user units in compliance with Building Regulation requirement M4(3) 'wheelchair user dwellings' and the remaining 90% as wheelchair accessible and adaptable units in compliance with Building Regulation requirement M4(2) 'accessible and adaptable dwellings';
- details of affordable housing definitions, fit out, transfer/lease to a Registered Provider, nominations, service charges, rent levels for the affordable rented units and the retention of the affordable units at the proposed rent levels; and,
- all affordable rent units would be let at London Affordable Rent in accordance with GLA standard definitions.

Transport

11 The following transport mitigation and improvement measures would be secured:

- travel plan monitoring fee of £1,000.00 per assessment to be paid to the Council;
- construction traffic management plan fee of £2,800.00 per assessment to be paid to the Council;
- delivery and servicing plan fee of £2,800.00 per assessment to be paid to the Council;
- demolition traffic management assessment fee of £2,800.00 to be paid to the Council;
- event traffic management monitoring and enforcement to be secured in agreement with RBKC;
- parking permit exemption for future residents;
- a financial contribution of £50,000 towards the cycle hire scheme; and,
- Legible London contribution up to £20,000.00.

Employment, skills and training

12 The following employment, skills and training measures would be secured:

- an employment and recruitment strategy detailing the process for employment and training, as well as apprenticeships, during the operation phase;
- employment and skills financial contribution of £377,790.00 (index-linked) to be paid to the Council; and,
- financial contribution of £969,000.00 (index-linked) to be paid to the Council towards construction training and the submission of a construction training plan.

Other obligations

13 Other obligations would be secured as follows:

- compliance with Local Procurement Code, including submission of a Local Procurement Schedule and the provision of opportunities for local businesses to bid/tender for the provision of goods and services required during and after construction;
- local procurement financial contribution of £9,762.00 (index-linked) to be paid to the Council;
- completion of public realm and Ashburn Garden Square, and submission of final Ashburn Garden Square management plan;
- a financial contribution of £2,450, 000.00 (index-linked) to be paid to the Council towards public realm improvements;
- compensation for loss of amenity to tree contribution of £77,000.00 (index-linked) to be paid to the Council;
- public art strategy and provision of public art to the value of £387,600;
- carbon off-set contribution of £52,200; and,
- a payment of £58,574.00 (index-linked) to the Council towards the costs of monitoring.

Conditions to be secured [1]

1. Approved plans
2. Time limit
3. Compliance with EIA
4. Material samples
5. Detailed drawings
6. Surface water drainage
7. Serviced apartments restriction
8. Landscaping, public realm play space and boundary treatments
9. Cycle parking
10. Electric vehicle charging points
11. Noise fixed plant
12. Noise and vibration
13. External lighting
14. BREEAM
15. Compliance with energy strategy
16. Accessibility and adaptability
17. Secured by Design
18. Air quality - boilers
19. Air quality – CHP
20. Contamination
21. Piling
22. Construction Environment Management Plan
23. Site waste management plan
24. Wind mitigation measures
25. Solar glare
26. Future connection to heating, cooling and power networks

[1] Draft conditions have been prepared and will be published as an addendum to this report; this list provides a summary of the draft notice condition headings

27. Water efficiency measures
28. Considerate Constructors Scheme
29. Retention of architect
30. Delivery and Servicing Plan
31. Construction Management Plan
32. Demolition Traffic management Plan
33. Travel plan
34. Events Management Plan
35. Protection of trees
36. Final short-stay cycle parking placement and design

Informatives

1. Stopping up of highways
2. Thames Water

Publication protocol

14 This report has been published seven clear days prior to the Representation Hearing, in accordance with the GLA procedure for Representation Hearings. Where necessary, an addendum to this report will be published on the day of the Representation Hearing. This report, any addendum, draft decision notices and the Mayor's decision on this case will be made available on the GLA website: https://www.london.gov.uk/what-we-do/planning/planning-applications-and-decisions/public-hearings/kensington-forum-hotel-public-hearing

Site description

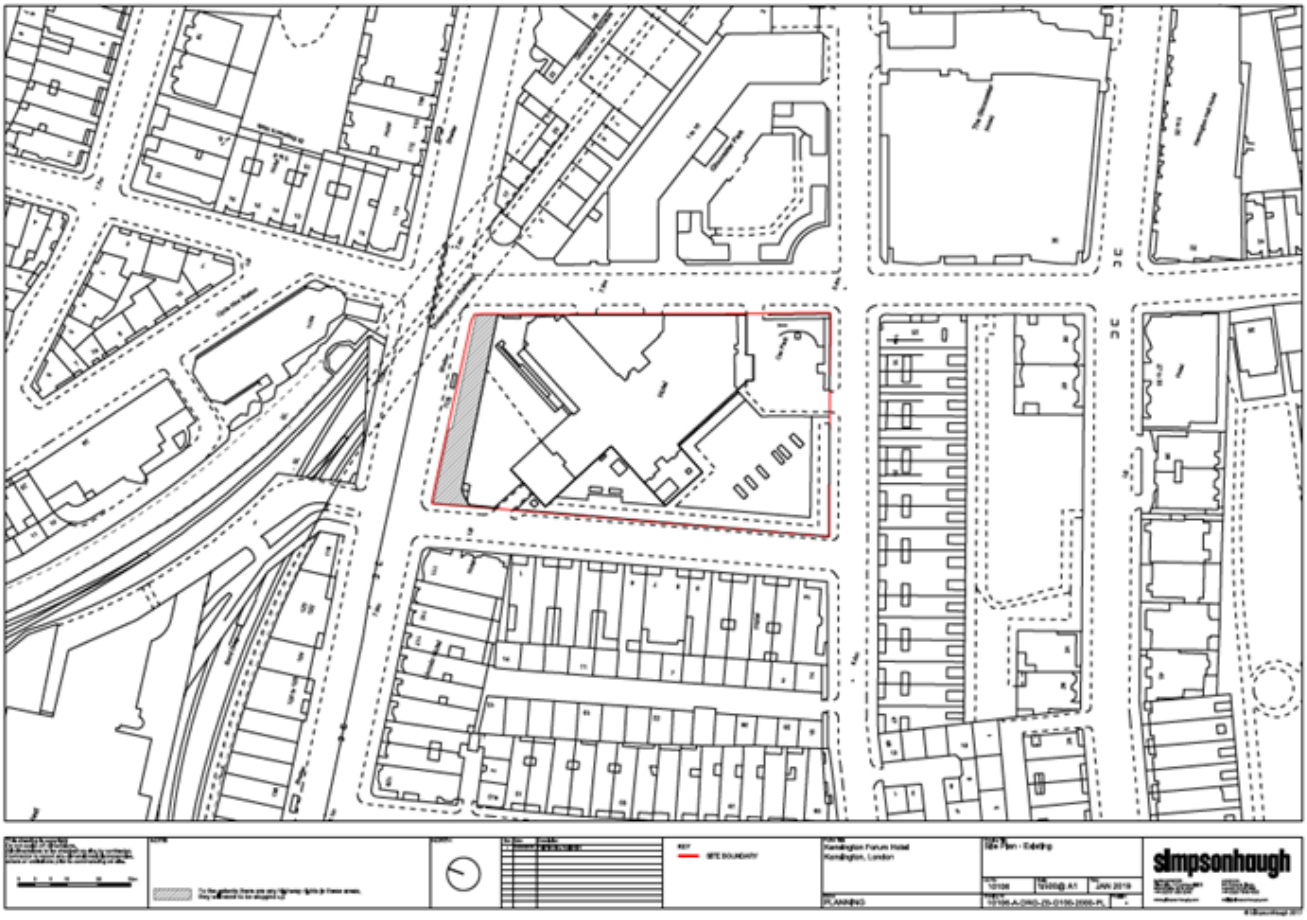
15 The application site comprises the existing Kensington Forum Hotel building in the Royal Borough of Kensington & Chelsea near Gloucester Road Underground station and London's Museum Quarter. The site is bound by Cromwell Road to the north, which is part of Transport for London Road Network, Ashburn Place to the east, Courtfield Road to the south and Ashburn Gardens to the west.

16 The existing building was designed by Richard Seifert and Partners and contains a 906-room hotel, with associated open space and approximately 100 car parking spaces at basement level. The building is arranged in a cruciform shape, comprising three podiums of 8 storeys each with a 28-storey tower and plant area above. Sections of the building can be seen in long views from public vantage points, including Kensington Gardens and Battersea Bridge. Parts of the site are currently designated as a London Square under the London Squares Preservation Act 1931. This gives the square statutory protection and ensures it is retained and used for an ornamental garden, pleasure ground or ground for play, rest or recreation as expressed in the Act.

17 The site is less than 500 metres away from the Central Activities Zone and South Kensington District Centre. Additionally, there are many significant visitor attractions within a 10-minute walk of the site including the Natural History Museum, the Victoria and Albert Museum, and the Royal Albert Hall.

18 The area surrounding the site is a mix of residential, commercial and retail uses in buildings of varying scale and architecture. With regards to the immediate vicinity, the site is bounded by five storey terraces typical of the Kensington area to the west and south comprising private residential properties, serviced apartments and hotels. To the east of the site is a twelve storey apart-hotel building and the Gloucester Road Underground station with a local supermarket attached. To the north on the adjacent side of Cromwell Road and railway cutting is a 7-storey office building.

Figure 1: Existing location plan (10106-A-DRG-Z0-G100-2001-PL_REV A)



19 The historic grain and scale in the local area are periodically interrupted by modern development, especially along the A4 corridor in response to the post war road widening scheme and the promotion of London's tourism industry that locally saw the construction of the West London Air Terminal (now demolished and replaced by Point West development) and several large hotels in the 1960s and 70s, most notably the existing building. The site is close to several conservation areas but is not within one itself. The closest conservations areas are Cornwall and De Vere Conservation Areas to the north, Queensgate Conservation Area to the east, Thurloe/Smith's Charity Conservation Area to the south and Courtfield, Earl's Court Village and Lexham Conservation Areas to the west. Nearby listed buildings include the Grade II* listed Church of St. Stephen, Church of St. Jude, numbers 35 & 37, 39, 41, 43 and 45 Harrington Gardens and the Grade II listed Gloucester Road Underground Station, 20 & 22 Harrington Gardens, and 24 & 26 Harrington Gardens.

20 The site records an excellent level of public transport accessibility scoring 6a, on a scale of 1 to 6b. This is as a result of bus routes nearby on Cromwell Road, Old Brompton Road, and Gloucester Road, and London Underground services from the nearby Gloucester Road Station. Quietway 15 and Cycle Superhighway 3 are also located within close proximity to the site.

Details of the proposal

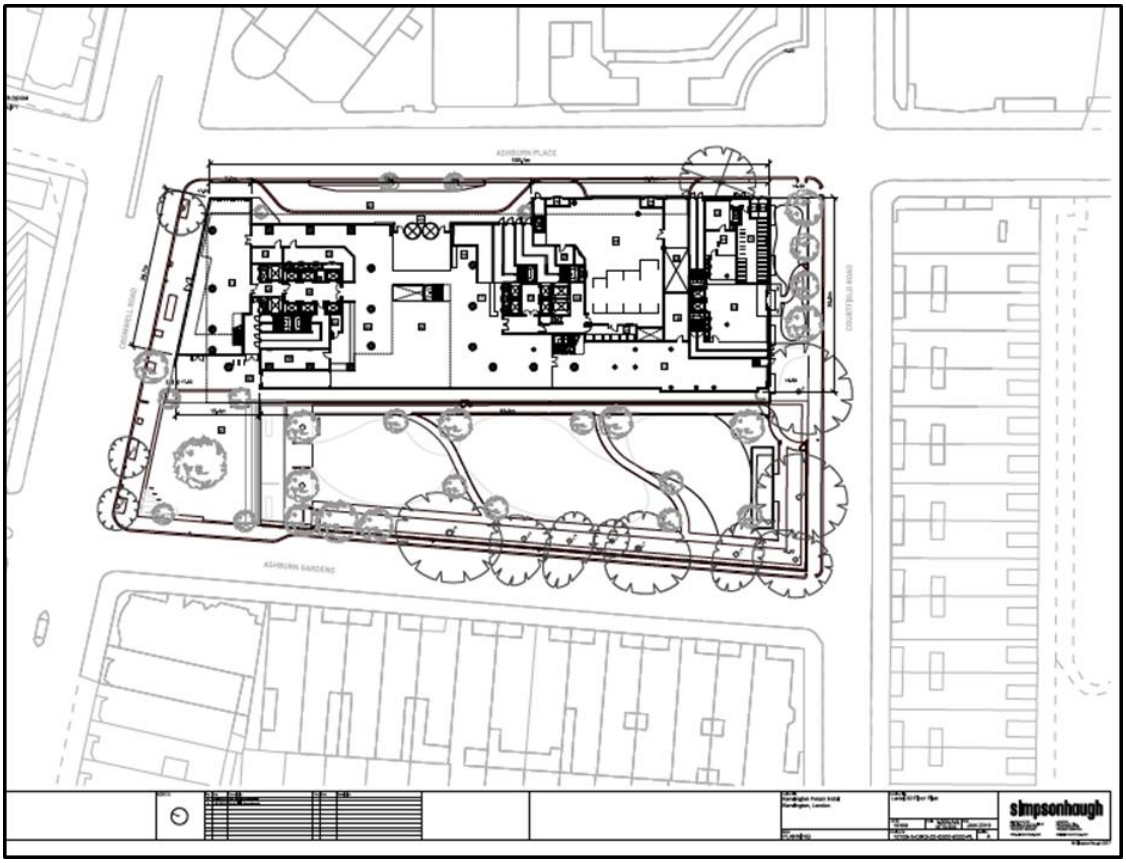
21 The application submitted to RBKC Council sought full planning permission for the demolition of the existing buildings, and the redevelopment of the site for a mixed-use development comprising a 749-bedroom hotel, 340 serviced apartments and 46 residential units, including affordable housing, in addition to bar, restaurant, conferencing and dining areas ancillary to the hotel function, within a building of part 30, part 22 and part 7 storeys. A new publicly

accessible garden square, commensurate in size to the existing open space on site was also proposed. The proposed number of residential units included 20 affordable units comprised of 11 social rented and 9 intermediate shared ownership units, equating to 47% by habitable room and 44% by unit.

22 Following the Mayor's decision to call in the application, acting as local planning authority for the purposes of determining it, the applicant has made amendments to the scheme, which were subject to public consultation between 3 May 2019 and 5 June 2019. These amendments are as follows:

- an increase in the number of residential units from 46 to 62;
- an increase in the height of the seven-storey element of the building containing the residential units by two storeys to nine storeys;
- all the residential units now proposed as affordable;
- internal and external reconfiguration of the residential element of the building;
- other external alterations to the elevational design, including integration of wind mitigation measures; and,
- amendments to cycle and refuse storage at ground and basement level.

Figure 2: Proposed Site Plan (10106-A-DRG-Z2-G200-2000-PL_REV A)

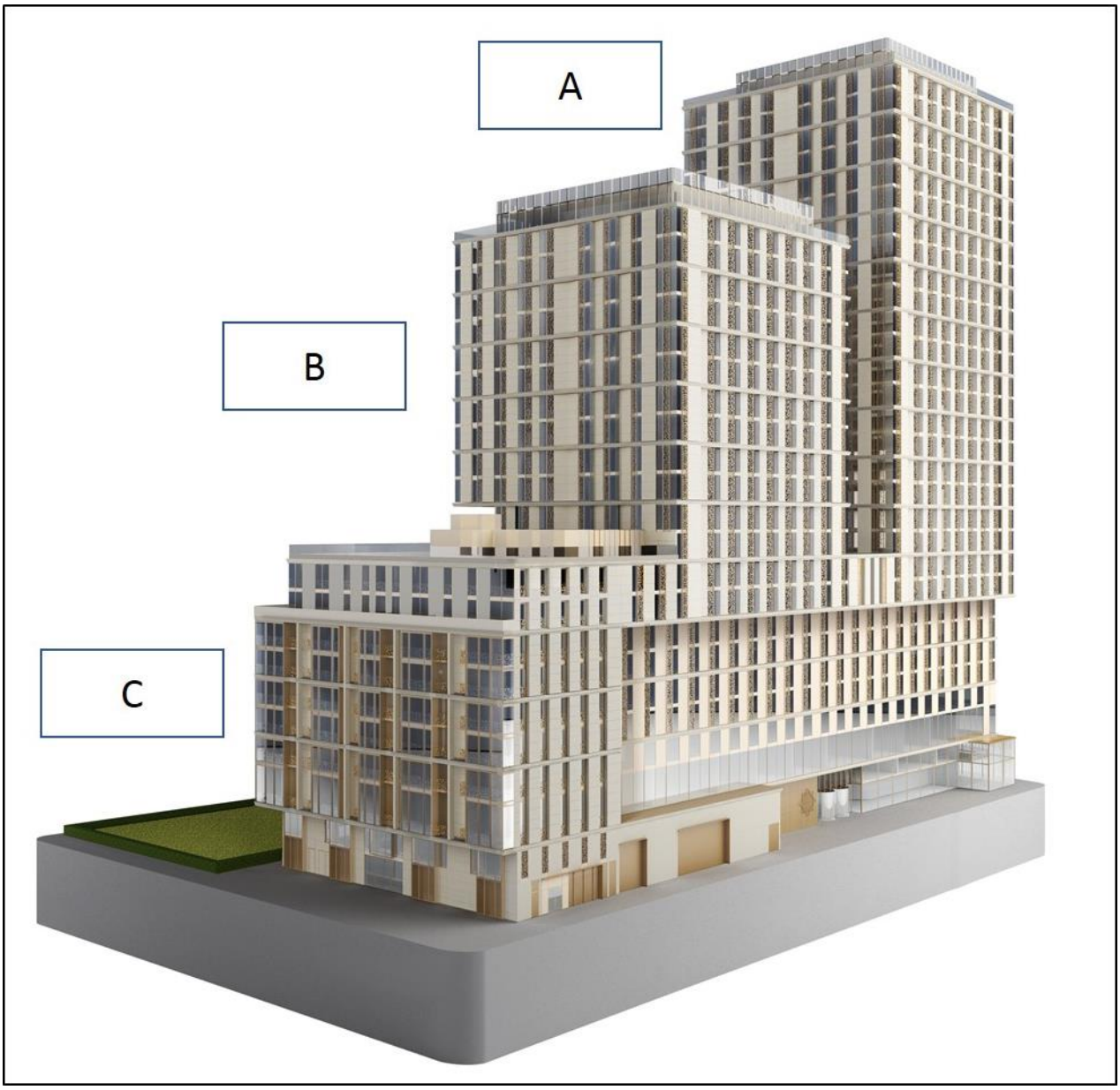


23 As shown in Figure 2 above, the proposed building would be located on the eastern section of the site along Ashburton Place (with a slight setback from Courtfield Road to create a landscaped garden). A replacement garden square would occupy most of the western half and an 'arrival' space in the north-west corner. The development would be comprised of a 7-storey rectangular podium, which extends for almost its full length on a north-south orientation from Cromwell Road to Courtfield Road,

with two towers and a 2-level attic storey above. The two towers are located above the podium and are slightly off-set, cantilevering partly above the Ashburn Place and Cromwell Road frontages, whilst setting back from the podium's western elevation, which is onto the replacement garden square.

24 As illustrated in Figure 3 below, the tallest tower, the 30-storey 'A', would be located on the northern edge of the site and would contain hotel accommodation. The 22-storey 'B' would be more centrally located and would accommodate the serviced apartments; and the residential units would be provided within the southern end of the podium, with the 2-storey attic, which is represented as 'C' in Figure 3. This southern end of the building has been increased by two storeys since the Mayor's decision to take over the application.

Figure 3: Revised massing model taken form the Addendum to the DAS.



25 The lobbies for the hotel, serviced apartments and residential units as well as a restaurant would be provided on the ground floor, with additional restaurant space proposed at mezzanine level. The entrance to the residential element would be via a large lobby facing on to the proposed private garden along Courtfield Road. Regarding the hotel and serviced apartments, a shared main entrance would be provided on Cromwell Road on the northwest corner of the podium block, with access points

from Cromwell Road and from the proposed drop-off point. A secondary entrance would be located on Ashburn Place, with a taxi and coach drop-off. Off-street loading bays would also be provided on Ashburn Place.

26 The proposed development would also include the retention and reuse of the existing basement and the increase in the size of the second level of basement to reflect the footprint of the first level. This 2-storey basement would provide both back and front hotel uses including: conference space, a gym, kitchens, linen stores, hotel offices, parking, refuse storage, an energy centre and associated plant rooms.

27 As previously stated, a replacement garden square would be provided comprising lawn grassed areas, paths and planting. This garden would be delineated from the pickup/drop-off area by a wall with an integrated water feature and shelter.

28 The scheme proposes 31 car parking spaces in car stackers at basement level, including 6 Blue Badge spaces for the residential element. A further 10% to 100% of the remaining car park spaces are to be provided as Blue Badge spaces for the visitor accommodation. Entry to the car parking would be via a car lift located on Ashburn Place. Regarding cycle parking, a combined 164 long-stay spaces are proposed at ground for residential users and at mezzanine level for the hotel. Short-stay cycle parking totalling 24 spaces would also be provided.

Relevant planning history

29 Planning permission was granted for the establishment of a 25-storey hotel on the site with 760 bedrooms and ancillary facilities in 1970. An application to add a 3-storey infill extension; new entrance lobby onto Cromwell Road; a side extension onto Ashburn Gardens to form a lobby; the re-cladding of the podium; relocation of the coach and car setting down areas to the Cromwell Road frontage; the re-landscaping of the Courtfield Road side of the hotel; and a new landscaped area adjacent to the Cromwell Road was granted permission in 1990. It is understood that this permission was partly implemented. In April 2015, a planning application for a two-storey infill extension onto the Cromwell Road for use as a casino was refused.

Current application

30 In May 2017 and May 2018, pre-planning application meetings were held with GLA officers, which focused on strategic level London Plan issues for a mixed-use residential redevelopment of the site. GLA officers supported the proposed demolition of the existing hotel building and the mixed-use redevelopment of the site to provide a replacement hotel, residential units and a new consolidated public space in the form of a garden square. Further information and discussion on affordable housing delivery was required, in addition to issues relating to urban design, housing, inclusive design, sustainable development and transport.

31 Stage 1: On 10 July 2018, RBKC Council notified the Mayor of London that a planning application had been submitted that was of potential strategic importance, referring it under Categories 1B and 1C to the Order:

- *1B(c) – Development (other than development which only comprises the provision of houses, flats or houses and flats) which comprises or includes the erection of a building or buildings outside of Central London and with a total floorspace of more than 15,000 square metres."*

- *1C – "Development which comprises or includes the erection of a building more than 30 metres high outside the City of London."*

32 On 28 August 2018, the Mayor considered a GLA planning report reference: D&P/4266/01. This report advised the Council that the scheme did not fully comply with the London Plan; but the resolution of issues relating to affordable housing, urban design, energy, sustainable drainage and water efficiency and transport could lead to the application becoming compliant with the London Plan.

33 On 27 September 2018, the Council's planning committee resolved to refuse planning permission for the application, against officers' recommendation; and on 23 October 2018, the GLA, on behalf of the Mayor, confirmed receipt of the relevant documentation for the purposes of article 5(1)(b)(i) of the Order. The Council's draft decision notice included the following reasons for refusal:

1. The height and massing of the proposed development, including an additional tower, would cause less than substantial harm to the character and appearance of nearby heritage assets, especially in nearby views. The elevational treatments would be of an insufficiently high design quality to have a wholly positive impact on the character and quality of the townscape, and the relevant tests for tall buildings in the Building Height SPD have not been undertaken. The benefits of the development would not outweigh these harms. The proposal is, therefore, contrary to Consolidated Local Plan policies CL1, CL2, CL3, CL4, CL11, & CL12 and the Building Height (in the Royal Borough) SPD.
2. In the absence of agreed Section 106 obligations, and provisions under section 16 of the General Powers Act, which would secure the necessary mitigation measures and infrastructure which are necessary to make the development acceptable, the proposal would be contrary to policies of the Consolidated Local Plan, Policies C1, CT1, CR1, CR4, CR5, CR6, CE1, CE5, and CH2 and the London Plan.

34 On 5 November 2018 the Mayor considered a GLA planning report reference GLA/4266/02. The report recommended that having regard to the details of the application, the development is of such a nature and scale that it would have a significant impact on the implementation of the London Plan, it would have a significant effect on more than one borough and there are sound planning reasons for the Mayor to intervene in this case and issue a direction under Article 7 of the Order that he would act as the Local Planning Authority for the purpose of determining the application. The Mayor agreed this recommendation and issued a direction on 5 November 2018.

35 On 14 December 2018 RBKC filed a Judicial Review (JR) claim form with the High Court, challenging the Mayor's decision to direct that he is to act as the Local Planning Authority for the purpose of determining the application. On 19 March 2019, the Mayor filed a Consent Order with the High Court agreeing that the decision of 5 November 2018 ought to be quashed. The Consent Order was approved by the Court on 16 April 2019. On 23 April 2019, the Mayor considered a GLA planning report reference GLA/4266/03, which similarly recommended that the Mayor intervene in this case and issue a direction under Article 7 of the Order that he would act as the Local Planning Authority. The Mayor agreed to this recommendation and issued a direction on 23 April 2019.

36 Since the Mayor issued this direction, GLA officers have worked with the applicant to secure a revised affordable housing offer of 100%. Revised plans were submitted by the applicant on 24 April 2019 and are discussed below.

37 Re-consultation on amended scheme: A 34-day re-consultation was carried out by the Mayor on 3 May 2019, notifying interested parties of proposed amendments by the applicant to plans and documents in relation to the amendments outlined above.

38 Site visit: The Mayor will undertake an accompanied site visit in advance of the Representation Hearing with GLA and TfL officers, representatives of the Council, and the applicant's team.

Relevant legislation, policies and guidance

39 This application for planning permission must be determined by the Mayor in accordance with the requirement of s.70(2) of the Town and Country Planning Act 1990 and s.38(6) of the Planning and Compulsory Purchase Act 2004. In particular the Mayor is required to determine the application in accordance with the development plan unless material considerations indicate otherwise. The development plan for this purpose comprises the 2016 London Plan (consolidated with alterations since 2011), RBKC Consolidated Local Plan (2015) and Extant Unitary Development Plan Policies.

40 On 1 December 2017, the Mayor published his draft London Plan for public consultation, which closed on 2 March 2018. On 13 August 2018, the Mayor published a version of the draft Plan that includes his Minor Suggested Changes. The draft Plan has now undergone an examination in public and a number of Matters Statements have been published covering various topics. This is a material consideration, with weight to be attached to the draft Plan reflecting its stage of preparation and the other criteria referred to within the NPPF paragraph 48.

41 On 23 July 2018, RBKC Council published the Local Plan Partial Review Main Modifications - July 2018 (LPPR) for consultation, which closed on 17 September 2018. This is also a material consideration with the weight to be attached to be ascribed by reference to the criteria and approach set out within the NPPF paragraph 48.

42 The Mayor is also required to have regard to other material considerations including the National Planning Policy Framework ("NPPF"), National Planning Policy Guidance ("NPPG"), supplementary planning documents.

43 The principal planning considerations which arise in the context of the current application are: land use principles (mixed-use development, residential, visitor accommodation); housing (including delivery of affordable housing, tenure, mix, density, quality, play space); urban design and heritage (including urban design, views, the historic environment, listed buildings and archaeology); inclusive design; neighbouring amenity impacts (including privacy/overlooking, light pollution and noise/disturbance); trees; natural environment; sustainable development (including climate change mitigation and adaption, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage); other environmental considerations (including air quality, contaminated land and waste management); transport, including parking provision; and, mitigating the impact of development through planning obligations. The relevant planning policies and guidance at the national, regional and local levels are as follows.

National planning policy and guidance

44 The NPPF provides the Government's overarching planning policy, key to which, is a presumption in favour of sustainable development. The NPPF in defining sustainable development sets out three facets of sustainable development: an economic role contributing to building a strong, responsive and competitive economy; a social role supporting strong, vibrant and healthy communities; and, an environmental role contributing to protecting and enhancing our natural, built and historic environment. The relevant components of the NPPF are:

- 2. Achieving sustainable development;
- 5. Delivering a sufficient supply of homes;
- 6. Building a strong, competitive economy;
- 8. Promoting healthy and safe communities;
- 9. Promoting sustainable transport;
- 11. Making effective use of land;

- 12. Achieving well-designed places;
- 14. Meeting the challenge of climate change, flooding and coastal change;
- 15. Conserving and enhancing the natural environment; and,
- 16. Conserving and enhancing the historic environment.

45 The National Planning Practice Guidance is also a material consideration.

Spatial Development Plan policy and guidance

46 The London Plan 2016 is the Spatial Development Strategy for Greater London. It forms part of the statutory development plan for the purposes of s70(2) of the 1990 Act and s.38(6) of the 2004 Act.

47 The NPPF paragraph 213 explains that "due weight" should be given to existing policies in development plans "according to their degree of consistency with this Framework." Thus, the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given to them.

The London Plan (2016):

- Policy 1.1 Delivering the strategic vision and objectives for London;
- Policy 2.1 London in its global, European and United Kingdom context;
- Policy 2.9 Inner London;
- Policy 2.18 Green infrastructure;
- Policy 3.2 Improving health and addressing health inequalities;
- Policy 3.3 Increasing housing supply;
- Policy 3.4 Optimising housing potential;
- Policy 3.5 Quality and design of housing developments;
- Policy 3.6 Children and young people's play and informal recreation facilities;
- Policy 3.8 Housing choice;
- Policy 3.9 Mixed and balanced communities;
- Policy 3.10 Definition of affordable housing;
- Policy 3.11 Affordable housing targets;
- Policy 3.12 Negotiating affordable housing;
- Policy 3.13 Affordable housing thresholds;
- Policy 4.1 Developing London's economy;
- Policy 4.5 London's visitor infrastructure;
- Policy 4.12 Improving opportunities for all;
- Policy 5.1 Climate change mitigation;
- Policy 5.2 Minimising carbon dioxide emissions;
- Policy 5.3 Sustainable design and construction;
- Policy 5.5 Decentralised energy networks;
- Policy 5.6 Decentralised energy in development proposals;
- Policy 5.7 Renewable energy;
- Policy 5.9 Overheating and cooling;
- Policy 5.10 Urban greening;
- Policy 5.11 Green roofs and development site environs;
- Policy 5.12 Flood risk management;
- Policy 5.13 Sustainable drainage;
- Policy 5.14 Water quality and wastewater infrastructure;

- Policy 5.15 Water use and supplies;
- Policy 5.17 Waste capacity;
- Policy 5.18 Construction, excavation and demolition waste;
- Policy 5.21 Contaminated land;
- Policy 6.1 Strategic approach;
- Policy 6.3 Assessing the effects of development on transport capacity;
- Policy 6.5 Funding Crossrail and other strategically important transport infrastructure;
- Policy 6.7 Better streets and surface transport;
- Policy 6.8 Coaches;
- Policy 6.9 Cycling;
- Policy 6.10 Walking;
- Policy 6.11 Smoothing traffic flow and tackling congestion;
- Policy 6.12 Road network capacity;
- Policy 6.13 Parking;
- Policy 6.14 Freight;
- Policy 7.1 Lifetime neighbourhoods;
- Policy 7.2 An inclusive environment;
- Policy 7.3 Designing out crime;
- Policy 7.4 Local character;
- Policy 7.5 Public realm;
- Policy 7.6 Architecture;
- Policy 7.7 Location and design of tall and large buildings;
- Policy 7.8 Heritage assets and archaeology;
- Policy 7.13 Safety, security and resilience to emergency;
- Policy 7.14 Improving air quality;
- Policy 7.15 Reducing noise and enhancing soundscapes;
- Policy 7.18 Protecting open space and addressing deficiency;
- Policy 7.19 Biodiversity and access to nature;
- Policy 7.21 Trees and woodlands;
- Policy 8.2 Planning obligations; and,
- Policy 8.3 Community Infrastructure Levy.

48 The following published supplementary planning guidance (SPG), strategies and other documents are also relevant:

- Mayor's Housing Strategy (2018);
- Mayor's Environment Strategy (2018);
- Mayor's Transport Strategy (2018);
- Affordable Housing and Viability SPG (2017);
- Culture and Night-Time Economy SPG (2017);
- Housing SPG (March 2016, as amended);
- Accessible London: achieving an inclusive environment SPG (2014);
- The control of dust and emissions during construction and demolition SPG (2014);
- Character and Context (2014);
- Sustainable Design and Construction SPG (2014); and,
- Shaping Neighbourhoods: play and informal recreation SPG (2012).

Draft London Plan (2017)

49 The legal status of this is as set out in paragraph 40.

50 The following policies are considered relevant:

- Policy GG1 Building strong and inclusive communities;
- Policy GG2 Making best use of land;
- Policy GG3 Creating a healthy city;
- Policy GG4 Delivering the homes Londoners need;
- Policy GG5 Growing a good economy;
- Policy GG6 Increasing efficiency and resilience;
- Policy D1 London's form and characteristics;
- Policy D2 Delivering good design;
- Policy D3 Inclusive design;
- Policy D4 Housing quality and standards;
- Policy D5 Accessible housing;
- Policy D6 Optimising housing density;
- Policy D7 Public realm;
- Policy D8 Tall Buildings;
- Policy D9 Basements;
- Policy D10 Safety, security and resilience to emergency;
- Policy D11 Fire Safety;
- Policy D13 Noise;
- Policy H1 Increasing housing supply;
- Policy H3 Monitoring housing targets;
- Policy H5 Delivering affordable housing;
- Policy H6 Threshold approach to applications;
- Policy H7 Affordable housing tenure;
- Policy H12 Housing size mix;
- Policy S4 Play and informal recreation;
- Policy E10 Visitor infrastructure;
- Policy E11 Skills and opportunities for all;
- Policy HC1 Heritage conservation and growth;
- Policy HC3 Strategic and local views;
- Policy HC6 Supporting the night-time economy;
- Policy HC7 Protecting public houses;
- Policy G1 Green infrastructure;
- Policy G4 Open space;
- Policy G5 Urban greening;
- Policy G6 Biodiversity and access to nature;
- Policy G7 Trees and woodland;
- Policy SI1 Improving air quality;
- Policy SI2 Minimising greenhouse gas emissions;
- Policy SI3 Energy infrastructure;
- Policy SI4 Managing heat risk;
- Policy SI5 Water infrastructure;
- Policy SI7 Reducing waste and promoting a circular economy;
- Policy SI12 Flood Risk Management;
- Policy SI13 Sustainable drainage;

- Policy T1 Strategic approach to transport;
- Policy T2 Healthy streets;
- Policy T3 Transport capacity, connectivity and safeguarding;
- Policy T4 Assessing and mitigating transport impacts;
- Policy T5 Cycling;
- Policy T6 Car parking;
- Policy T7 Freight and servicing;
- Policy T9 Funding transport through planning; and,
- Policy DF1 Delivery of the plan and planning obligations.

Local planning policy and guidance

51 The 2015 RBKC Consolidated Local Plan (RBKC CLP) and Saved Policies of the Unitary Development Plan (2002), provide the local policy approach for the Borough. The relevant policies are:

- Policy CE1 Climate change;
- Policy CE2 Flooding;
- Policy CE3 Waste;
- Policy CE4 Biodiversity;
- Policy CE5 Air Quality;
- Policy CE6 Noise and Vibration;
- Policy CE7 Contaminated Land;
- Policy CH1 Housing;
- Policy CH2 Housing diversity:
- Policy CF8 Hotels
- Policy CL1 Context and Character;
- Policy CL2 Design Quality;
- Policy CL3 Heritage Assets - Conservation Areas and Historic Spaces;
- Policy CL4 Heritage Assets - Listed Buildings, Scheduled Ancient Monuments and Archaeology;
- Policy CL5 Living Conditions;
- Policy CL7 Basements;
- Policy CL11 Views;
- Policy CL12 Building Heights;
- Policy CR1 Street Network;
- Policy CR2 Three-dimensional Street Form;
- Policy CR3 Street and Outdoor Life;
- Policy CR4 Streetscape;
- Policy CR5 Parks, Gardens, Open Spaces and Waterways;
- Policy CR6 Trees and landscape;
- Policy CR7 Servicing;
- Policy CT1 Improving alternatives to car use; and,
- Policy C1 Infrastructure Delivery and Planning Obligations.

52 As explained above, "due weight" should be given to these existing policies according to their degree of consistency with the NPPF.

Supplementary planning guidance (SPG) and supplementary planning documents (SPD)

53 The following adopted SPDs and SPG are also relevant to the proposal:

- Transport and Streets SPD, (RBKC Council, 2016);
- Trees and Development SPD (RBKC Council, 2010);
- Building Height SPD (RBKC Council, 2010);
- Basements SPD (RBKC Council, 2016);
- Noise SPD (RBKC Council, 2009);
- Planning Obligations SPD (RBKC Council, 2010);
- Access Design Guide SPD (RBKC Council, 2010); and,
- Air Quality SPD (RBKC Council, 2009).
- Public Art SPG (RBKC Council, 2008);
- The Streetscape Guide (RBKC Council, 2012);
- Designing Out Crime SPD (RBKC Council 2008);
- Courtfield Conservation Area Appraisal (RBKC Council, 2015);
- Cornwall Conservation Area Appraisal (RBKC Council, 2016);
- Queen's Gate Conservation Area Proposals Statement;
- De Vere Conservation Area Appraisal (RBKC Council, 2016);
- Thurloe Estate and Smith's Charity Conservation Area Appraisal (RBKC Council, 2016);
- The Boltons Conservation Area Appraisal (RBKC Council, 2015);
- Earl's Court Village Conservation Area Appraisal (RBKC Council, 2017);
- Lexham Gardens Conservation Area Appraisal, (RBKC Council, 2017);
- Kensington Palace Conservation Area Proposals Statement, (RBKC Council, 1997);

Other relevant documents

54 The Council is currently undertaking a partial review of the Consolidated Local Plan and the extant policies of the Unitary Development Plan. The review proposes amendments to some policies including: housing; climate change; flooding & drainage; waste; air quality; planning contributions for public art & open space; archaeology; and, infrastructure & planning contributions. Consultation on the 'Local Plan Partial Review Main Modifications – July 2018' (LPPR) commenced on 23 July 2018. The policies in this draft plan are capable of being a material consideration to planning decisions; but the weight to be given to this draft Plan must be determined having regard to the guidance given in the NPPF, as referred to above. The policies will gain more weight as they move through the examination process to adoption. At this stage, moderate weight is to be given to this draft plan. The Council also published the Queen's Gate Draft Conservation Area Appraisal in February 2019, which is currently subject to consultation.

RBKC Community Infrastructure Levy

55 London borough councils are permitted to introduce Community Infrastructure Levy (CIL) charges which are payable in addition to the Mayor's CIL (which sets a charging rate of £50 per sq.m. in RBKC. RBKC Council's CIL came into effect on 6 April 2015. The RBKC CIL charging schedule for "Zone B" of the borough (where the application proposal is located) sets a rate of £590 per sq.m. for housing and £160 per sq.m. for hotels. There is a nil charge for all other uses.

Response to consultation

56 As part of the planning process the Council has carried out statutory consultation on the application. The application was advertised by site and press notices, and 4,527 nearby

owners/occupiers were directly notified. The consultation also included all relevant statutory bodies.

57 All consultation responses received in response to the Council's local consultation process, and any other representations received by the Council and/or the Mayor of London in respect of this application at the time of writing this report, are summarised below, and have been considered in this report. The Mayor has had all consultation responses made available to him in either electronic or hard copy.

58 In addition, the Mayor has carried out consultation on revised plans submitted after him taking over the application, and comments received are outlined below.

Statutory consultee responses to Kensington and Chelsea Council

59 Greater London Authority (including Transport for London): The Mayor's consultation stage comments (GLA report ref: GLA/4266/01) and the Mayor's stage II decision (GLA report ref: GLA/4266/03) are set out in those reports and summarised in the 'Relevant case history 'section above.

60 Transport for London: Raised concerns in relation to the arrangements and management of drop off and pick up at the development, including impacts on the TLRN and on pedestrians and cyclists. Requested a contribution of £50,000 towards cycle hire and a detailed construction logistics plan, which should be secured by condition or s106 agreement.

61 Historic England: Did not wish to offer any comments and advised the Council to seek the views of its specialist conservation advisers, as relevant.

62 Historic England (Greater London Archaeological Advisory Service): Advised that the proposals would be unlikely to have a significant effect on heritage assets of archaeological interest and no further assessment or conditions are necessary.

63 Thames Water: No objection, subject to informatives and planning conditions relating to surface water infrastructure; water infrastructure capacity and safeguarding; run-off rates and a piling method statement.

64 Lead Local Flood Authority: No objection, subject to conditions.

65 London Underground: No comments received.

66 Natural England: Offered no comments.

67 Environment Agency: Provided no comments.

68 City of Westminster: No comments received.

69 Royal Parks: No comments received.

70 London Fire and Emergency Planning Authority: No comments received.

Individual neighbourhood responses

71 At the time of reporting the application to its planning committee, RBKC Council reported that it had received 794 letters of objection, 4 letters of support and 17 with general comments. Included in the list of objectors were: Ashburn Courtfield Gardens Residents' Association (ACGRA);

The Kensington Society; Cornwall Gardens Residents' Association; Nevern Square Conservation Area Residents' Association; The Boltons Garden Enclosures Committee; South Kensington and Queen's Gate Residents' Association; Earls Court Gardens and Morton Mews Residents' Association; Orpen House Residents' Association; Kempsford Gardens Residents' Association; Earls Court Society; Kensington and Chelsea Liberal Democrats; Cornwall Mews South (West side) Residents' Association; The Boltons Association; Victoria Road Area Residents' Association; Grenville Place, Southwell Gardens and St Stephens Walk Residents' Association; Courtfield Garden West Sub-Committee; Onslow Neighbourhood Association; Thurlowe Owners and Leaseholders Association; Cromwell Mansions Residents' Association; Elm Park and Chelsea Park Residents' Association; The Chelsea Society; Ashburn Garden Square Garden Association; Prince Gate Mews Residents' Association; and, Courtfield Gardens East Garden Committee. Letters of objection were also received from Local Councillors Janet Evans and Gregory Hammond (Courtfield Ward), Charles Williams (Redcliffe Ward) and Max Chauhan, Matthew Palmer, Maxwell Woodger (Queen's Gate Ward). Emma Dent Coad, MP also submitted a letter of objection whilst she was the Councillor for Golborne Ward. All responses were provided to the GLA after the decision to take over the application and have been made available to the Mayor in advance of the hearing.

72 The main concerns and issues raised in objection to the proposals can be summarised as follows:

- impact of design on the conservation area and neighbourhood architecture;
- height, size and scale out of character with the area;
- contrary to planning policy;
- increased sense of enclosure for nearby residents in Ashburn Gardens and Cromwell and Courtfield Road;
- the proposals will obscure existing townscape views for residents;
- loss of light to properties in Ashburn Gardens;
- reduction in air quality;
- construction noise;
- over-densification of the area;
- impact on water infrastructure;
- increased flood risk;
- increased traffic congestion;
- public realm improvements are unnecessary; and,
- flats will be purchased by foreign investors.

73 Representations supporting the proposals have been provided based on the replacement of existing building with a modern, well-designed building; improved appearance; provision of affordable housing; general site improvements; and support for proposed bar and restaurants.

Other responses to the Council, including non-statutory consultees, residents' groups and elected members

74 Internal consultees: Borough officers have provided comments in relation to conservation and design, economic development, arboriculture, transport, waste, environmental health and air quality. The points raised have been considered in the body of the report. In addition, concerns

raised have been considered and are reflected and addressed in the suggested conditions and planning obligations.

75 Cllr Janet Evans, Courtfield Ward: Proposals too ambitious for Courtfield Ward and will have intolerable environmental impact for residents, including air and noise pollution, overlooking, privacy, and increased traffic congestion. Proposals should be built within parameters of the present site and offer added benefits to the surrounding area. Object to addition of another tower on site and further constraints on infrastructure.

76 Cllr Gregory Hammond, Courtfield Ward: Object to replacement of one tall building with a taller bulkier structure; increased height would loom over conservation areas; fire risk and safety concerns; object to massing; is a lost opportunity to redevelop the site for more housing and object to separate residential entrances; access arrangements; strongly support proposed garden square; support public realm improvements although require further details; water and drainage infrastructure concerns.

77 Cllr Charles Williams, Redcliffe Ward: Proposals by being larger than the existing building fails to comply with local building heights policy.

78 Cllr Max Chauhan, Cllr Matthew Palmer, Cllr Maxwell Woodger, Queen's Gate Ward: Objects to height and scale, its harm to existing architecture and does not meet local plan policy.

79 Cllr Emma Dent Coad, Golborne Ward: Objects to height, bulk and massing and its impact on the skyline; impact on the transport infrastructure; impact of demolition and construction impacts; impact on conservation areas; does not accord with London Plan and Local Plan policy.

80 Ashburn Courtfield Gardens Residents' Association (ACGRA): Proposal will cause over-densification of the already dense area; increase sense of enclosure to residents of Ashburn Gardens, Cromwell and Courtfield Road; reduce daylight to Ashburn Gardens; RBKC has refused all tall buildings for the last 45 years, why is it considering this scheme; current infrastructure cannot support proposals; increased air, noise and light pollution, mediocre design; public realm already well maintained; viability parameters should be reassessed.

81 The Kensington Society: Objects to Council's approach to community engagement, its pre-application consultation with the applicant and its assessment of the application against strategic and local planning policy. Objects because the building does not meet relevant London Plan and local plan policy requirements; will cause significant harm to surrounding area, particularly Cornwall and De Vere Conservation Areas; daylight, sunlight and overshadowing impact; impact local and longer-range views; public benefits are limited; and that the existing tall building should not be used to justify the proposals. The methodology used to produce the townscape analysis is also disputed.

82 Cornwall Gardens Residents' Association: Objects because of the proposed architecture and design; introduction of additional buildings; should refurbish and improve existing building and reduce disruption; if approved, it will create a dangerous precedent; gross over-development; impact on privacy, rights to light and increased enclosure; and impact on infrastructure, including the road network.

83 Nevern Square Conservation Area Residents' Association: Objects to proposed taller building and introduction of a second tower which would be out of context with the surrounding townscape and conservation areas and create a precedent for tall buildings; loss of privacy, daylight and increased sense of enclosure; increased traffic congestion; and affordability of affordable housing.

84 The Boltons Garden Enclosures Committee: Objects to height, scale and impact on the skyline and sense of enclosure for nearby residents; loss of daylight to nearby properties; apartments will be bought by overseas investors and concerns over affordability of low-cost housing.

85 South Kensington and Queen's Gate Residents' Association: Strongly objects to inappropriate development; 50% increase in building on site will compound mistake of original building; unwanted impact on the Borough's skyline; object to second tower; out of context of existing residential architecture; loss of daylight and increased sense of enclosure; impact on infrastructure; increased congestion.

86 Earls Court Gardens and Morton Mews Residents' Association: Objects to scale and massing; architecture; daylight impact; increase in built footprint; impact on local amenities; lack of community benefit.

87 Orpen House Residents' Association: Proposal is out of proportion and character to the local area; no public or tourist need for enlargement of the hotel; housing will not be affordable; demolition and construction will be disruptive.

88 Kempsford Gardens Residents' Association: Objects to larger replacement building; impact on heritage assets; building will dominate skyline; increase sense of enclosure to residents and loss of daylight; overlooking and loss of privacy; over-densification of site; materials out of context with conservation areas.

89 Earls Court Society: Proposal is too high and overbearing for surrounding area; has no respect for its surroundings; design is monolithic and does not enhance the conservation areas; existing building should be demolished and not replaced; but given to green space and tree planting; Council should CPO land and permit a smaller building.

90 Kensington and Chelsea Liberal Democrats: Proposals are contrary to the local plan; is out of scale with local area; could put off visitors; likely to increase air and noise pollution.

91 Cornwall Mews South (West side) Residents' Association: Existing building should never have been permitted to destroy garden square and should not set precedent for the proposals; Council may consider listing the building; development too tall and will dominate the skyline; increase wind microclimate; impact on daylight; contrary to local plan; construction impacts.

92 The Boltons Association: Proposals will add to height and mass problems of the existing building and are less sympathetic.

93 Victoria Road Area Residents' Association: Proposal will be more of an eyesore than existing building and will impact daylight to nearby properties; negative construction impacts and against local plan policy and SPD guidance; object to methodology used to produce CGI's.

94 Grenville Place, Southwell Gardens and St Stephens Walk Residents' Association: Proposals breach local planning policy due to massing impact on skyline, particularly views from Grenville Place; over-densification; heritage and townscape impacts; does not enhance the area; daylight and sunlight impacts on nearby properties; overlooking and loss of privacy; traffic impacts.

95 Courtfield Garden West Sub-Committee: Proposals are out of scale with the area and will overwhelm the area.

96 Onslow Neighbourhood Association: Taller, wider and bulkier building does not fit into the context, character and appearance of the surrounding townscape; does not respect local plan

building heights; would dominate the skyline and substantially harm surrounding heritage assets; increase impact on local infrastructure; the construction and operation of the building will disrupt local area; the development does not meet local housing need.

97 Thurloe Owners and Leaseholders Association: The proposed larger mass will destroy the character of the area both visually and by increased infrastructure impact.

98 Cromwell Mansions Residents' Association: Objects to impact on heritage assets; overlooking and privacy issues; increased sense of enclosure; impact on infrastructure; impact on skyline; daylight and sunlight impact; increased pressure on road network from construction, in addition to noise and air quality impact.

99 Elm Park and Chelsea Park Residents' Association: Larger buildings on an already overdeveloped site is unacceptable; 50% increase in floorspace will cause more traffic congestion; development of site should be reduced to 50% of current level; design is oppressive on neighbours; dominates views from Royal Parks to Battersea; design is unacceptable; should be 50% smaller development with more social housing.

100 The Chelsea Society: Existing building is a material consideration and not a precedent to justify taller building; should be refused for same reasons as Newcombe House; the proposed building is contrary to local plan policy and London Plan tall buildings policy; would have a harmful impact on adjoining conservation areas; too dense; intrude in views from Kensington Gardens, Battersea Bridge and Cromwell Road; conferences would cause congestion; public benefits are insufficient to outweigh impacts; viability basis is incorrect.

101 Ashburn Garden Square Garden Association: Objects to height, footprint and massing; loss of local amenity; object to proposed fencing of the garden square; demolition impacts on air quality; water infrastructure impact; impact on broadband speed; object to separate residential entrances; object to reduction in size of the original garden square.

102 Prince Gate Mews Residents' Association: Objects to height and scale and the precedent the proposals would set for the Borough, it does not comply with London Plan, the local plan, would impact residential amenity and would harm the conservation area; lack of consultation and public engagement.

103 Courtfield Gardens East Garden Committee: Proposals do not meet local plan policy with regards to building heights and character and context; object to construction impacts on amenities and infrastructure; opportunity to put something beautiful back; the proposed building will harm the surrounding heritage assets; increased density will further impact infrastructure for water supply; sewage disposal, noise, vibration, traffic, public transport and parking; servicing of the hotel will cause disturbance and inconvenience to residents; proposals do not address London's housing need; the provision of the square is a fulfilment of law not a benefit.

Re-consultation exercise

104 The Mayor took over the planning application for his own determination on 23 April 2019. Since that time, a 34-day re-consultation (which commenced on 3 May 2019 and ended 5 June 2019) was undertaken in response to the amendments made to the scheme since the original consultation exercise. A total of 5,305 letters/emails of notification were distributed to local addresses, as well as to statutory and non-statutory consultees. A press notice was posted in the 3 May 2019 edition of the Kensington & Chelsea Gazette and a site notice was erected. The erection of the site notice and posting of the press notice were arranged by the Council on behalf of the Mayor.

105 Responses: At the time of preparing this report, the Mayor and/or GLA officers have received 336 emails or letters (334 responses in objection and two in support) because of the re-consultation exercise. Most of the objections reiterate concerns raised with the Council at the initial consultation stage, as detailed above. These responses have been made available to the Mayor and the points raised addressed in this report. The 334 objections include responses from the following groups, reiterating the comments and objections to the application that have been raised previously:

- ACGRA, Ashburn Courtfield Gardens Residents' Association;
- Cornwall Gardens Residents' Association;
- Courtfield Gardens East Garden Committee;
- Grenville Place, Southwell Gardens and St Stephens Walk Residents' Association;
- Point West Leaseholders Association Committee;
- The Onslow Neighbourhood Association;
- The Kempsford Gardens Residents Association;
- Cromwell Mansions Residents' Association;
- Kensington Society; and,
- Victoria Road Area Residents' Association.

106 In summary, the issues raised in objection to the revised scheme are:

- Council and residents should be listened to;
- does not conform to local and London Plan policies;
- revisions do not respond to the concerns raised by residents previously;
- previous application for current hotel should not have been approved;
- impact on heritage assets;
- height, scale, density and visual impact;
- could set a precedent for other towers in the area;
- overshadowing, loss of light and loss of privacy;
- a 5-star hotel is not needed, and it will become a budget hotel;
- too many hotels in the area;
- casino gambling will have an adverse impact socially;
- replacement of the existing Holiday Inn based on an assumption of 'Business as Usual' for international air travellers is contrary to that declaration;
- poor architecture, appearance and design;
- demolish the existing building and rebuild a similar one;
- building should be kept and renovated;
- the proposed benefits, including the 62 flats on offer at affordable rents, are illusory;
- the affordable flats will be unaffordable for people in that bracket;
- enough affordable housing is in the area, and its doubtful 62 units will make much a difference;
- impact on car parking nearby and increased traffic;
- sustainability concerns and impact of construction activity;
- dust from construction;
- noise pollution;
- adverse impact on water and sewage system;
- will have a deleterious effect on the surrounding area, visually, socially and environmentally;

- air quality impact; and
- fire hazard.

107 In terms of support, the two responses listed the state of the existing building and the provision of a modern hotel, affordable housing, improved activation on Ashburn Place and the benefits of the scheme to the overall vision for the area.

108 Historic England: No response.

109 Historic England (Greater London Archaeological Advisory Service): No response.

110 Thames Water: No response.

111 London Underground: No response.

112 Natural England: No objection.

113 Environment Agency: No response.

114 City of Westminster: No response.

115 Royal Parks: Objects to the proposal because the tower block would be visible above the line of tree canopies from several viewpoints inside Kensington Gardens and would have a detrimental impact upon the wider setting of Kensington Palace.

116 An objection to the scheme was received from the Royal Borough of Kensington and Chelsea. The Council, against officer recommendation, objects for the following reasons:

- The height and massing of the proposed development, including an additional tower, would cause less than substantial harm to the character and appearance of nearby heritage assets, especially in nearby views. The elevational treatments would be of an insufficiently high design quality to have a wholly positive impact on the character and quality of the townscape, and the relevant tests for tall buildings in the Building Height SPD have not been undertaken. The benefits of the development would not outweigh these harms. The proposal is, therefore, contrary to Consolidated Local Plan policies CL1, CL2, CL3, CL4, CL11, & CL12 and the Building Height (in the Royal Borough) SPD;
- the revisions secured by the GLA exacerbate the Council's previous objections to the design, worsening the negative impacts of the proposal, and weakening the design rationale for the original development; and,
- the public benefits are still insufficient to outweigh the harms to the character and appearance of nearby heritage assets, and character and quality of the townscape.

Representations summary

117 All the representations received in respect of this application have been made available to the Mayor however; in the interests of conciseness, and for ease of reference, the issues raised have been summarised in this report as detailed above.

118 The key issues raised by the consultation responses, and the various other representations received, are addressed within the planning issues section of this report, and, where appropriate, through the proposed planning conditions, planning obligations and/or informatives outlined in the recommendation section of this report.

Planning issues

119 Having regard to the site and the details of the proposed development, relevant planning policy at the local, regional and national levels; and, the consultation responses and representations received, the principal planning issues raised by the application that the Mayor must consider are:

- Land use principles (including visitor accommodation, mixed use development, provision of publicly accessible open space/garden and residential uses);
- Housing (including delivery of affordable housing, tenure, mix, density, quality);
- Urban design and heritage (including urban design, public realm, play space, views, the setting of listed buildings and conservation areas and archaeology);
- Inclusive design;
- Residential amenity (including daylight and sunlight, overshadowing, privacy/overlooking; noise/disturbance, basement development);
- Sustainable development (including climate change mitigation and adaptation, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage);
- Other environmental issues (including air quality, contaminated land and waste management);
- Transport, including parking and cycling provision; and,
- Mitigating the impact of development through planning obligations and conditions.

120 These issues are considered within the following sections of the report.

Land use principles

121 Paragraph 11 of the revised NPPF requires the application of the presumption in favour of sustainable development. GLA officers consider the following matters set out in the NPPF to be of relevance to the principle of development on the site:

- deliver enough supply of homes through significantly boosting house building, having regard to the specific housing needs of certain groups and provide on-site affordable housing to meet identified need;
- build a strong and competitive economy through creating conditions where businesses can invest, expand and adapt and through recognising and addressing specific locational requirements of different sectors;
- promote healthy and safe communities, through planning policies and decisions that aim to achieve healthy, inclusive and safe places;
- promote sustainable transport modes through focusing significant development in locations that are, or can be made, sustainable through limiting need to travel and offering a genuine choice; and,
- make an effective use of land through maximising the use of previously-developed or 'brownfield' land.

122 The presumption in favour of sustainable development makes it clear that, for **decision-taking** this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which

are most important for determining the application are out-of-date, granting permission unless, i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

123 In light of the Secretary of State's conclusion in the William Sutton Estate appeal decision (APP/K5600/W/17/3177810) and the latest position of the Inspector considering the Council's Local Plan Review, it is considered that the Council cannot currently demonstrate a 5-year housing and land supply. As such, it is concluded that the relevant policies within the Development Plan are out of date and the 'tilted balance' in paragraph 11 of the NPPF is engaged.

124 The principle of the redevelopment the site must also be considered in the context of the adopted development plan i.e. the London Plan and the Council's adopted development plan documents as well as with regard to the draft London Plan and the Council's emerging policies. Regard must also be had to the NPPF, together with other policies relating to mixed-use development, serviced visitor accommodation and associated facilities, housing, open spaces and transport uses.

Housing

125 The London Plan and draft London Plan identify the optimisation of land as a key part of the strategy for delivering additional homes in London. London Plan Policy 3.3 provides explicit strategic support for the provision of housing within London and sets a target for the Council to deliver a minimum of 7,330 homes in the Plan period 2015-2025. In monitoring delivery against this target, RBKC is expected to deliver an annual target of a minimum of 733 net additional homes per year. The draft London Plan sets a reduced ten-year target of 4,880, with an assigned annual target of a minimum of 488 net additional homes per year.

126 Locally, Policy CH1 of the RBKC CLP acknowledges that the Council's exact targets for overall net housing delivery and net affordable housing delivery will be set through the London Plan process. The Council's SHMA estimates that the overall net annual need for affordable housing is 1,171 homes per annum.

127 The table below details the Council's delivery (during financial years 2014-2017) against the targets set out in the London Plan for RBKC.

Table 1: Delivery against London Plan net housing target and London Plan affordable housing target (2014-2017)

net delivery	2014-2015	2015-2016	2016-2017	total	net delivery %
homes target	584	733	733	2,050	65.5% of target
homes delivered	911	114	319	1,344	
affordable homes target	200	293*	293*	786	18% of target
affordable homes delivered	53	67	23	286	

Delivery against London Plan net housing target and London Plan affordable housing target (source: London Plan Annual Monitoring Reports 2014/15 to 2016/17). *Based on absolute target of 40% across London as set out in the London Plan.

128 Based on the information in Table 1, it is evident that the delivery of new homes and affordable housing in the Royal Borough of Kensington and Chelsea has fallen significantly below target levels set out in the London Plan. The Borough has consistently failed to meet the targets for overall additional homes and affordable units. Of the overall provision of affordable housing units delivered over the 3-year period set out above, this equates to 18% of the total affordable homes target, which is substantially below the London Plan target. It should also be noted that all targets

are expressed as minima, with a clear expectation in the London Plan and Local Plan that delivery of housing should be maximised. Furthermore, notwithstanding the reduced draft London Plan target set for the RBKC, there has been a shortfall against that target.

129 According to the Council's committee report in response to the revised scheme, during the period 2015-16 to 2017-18, 34 social rented homes have been granted planning permission in the borough, and 130 have been built. The report further states that the 2017-2018 figure is somewhat distorted owing to the completion of 68 homes on Kensington Row, purchased in direct response to the need stemming from the Grenfell Tower tragedy. The report also questions the Mayor's approach to determining the performance against London Plan targets as set out in the above paragraph. It is the Council's contention that the application of an absolute target to assess performance is misguided given the large number of small sites within the borough and its local policy in relation to the size, namely: that only sites over 1,200 sq.m. are required to provide on-site affordable housing; a financial contribution is required for sites between 800 sq.m. and 1,200 sq.m.; and, those less than 800 sq.m. no affordable housing requirement at all.

130 It is acknowledged that RBKC has received financial contributions in lieu of on-site affordable housing due to the high number of small sites in the borough and the impracticality of delivering affordable housing on-site in these circumstances. However, it should also be noted that the Mayor's approach to setting housing targets is a robust exercise, which is contextual and therefore recognises the individual characteristics of each borough when determining an appropriate target. As such, the target set for RBKC would have factored in the predominance of small sites within the borough and other characteristics; hence, the comparatively low target assigned. More importantly, considering as mentioned earlier that all targets are expressed as minima, to address the housing shortage sites such as this one, with good public transport accessibility, should be intensified where practical as articulated in draft London Plan Policy GG2. It could therefore be argued that the predominance of small sites within the borough necessitates the consideration of proposals that seek to provide housing through intensification. In any event, even the numbers presented by the borough indicate an insufficient supply of affordable housing, especially since the Council's SHMA estimates an overall net need of 1,171 affordable housing annually and its waiting list for social housing was over 3,500 at December 2018.

131 On 5 November 2018, the Council outlined its proposals for delivery of new homes on Council-owned land (Housing & Property Scrutiny Committee Report A4). It is proposed to deliver 600 new homes, including a minimum of 300 social rent homes. The Report identifies several sites, but many do not have planning permission yet. Further, the projected potential commencement is not until 2020. The programme is also reliant on grant funding that is conditional on the project commencing by March 2022. Overall, whilst the Council's proposals are welcomed, as the figures in Table 2 demonstrate this project alone would not of itself address years of under-delivery. Furthermore, and in any event, there is no certainty at this stage that the housing will be delivered. As a result, it is considered appropriate to give these proposals limited weight.

132 The proposed scheme would deliver 62 new residential units, all of which would be genuinely affordable rented units. This is almost double the number of social rented homes granted planning permission by the Council between the years 2015-16 and 2017-18. The delivery of the proposed number of residential units is therefore strongly supported and would assist in remedying the above under-delivery in line with the London Plan and draft London Plan. The housing element of the proposed development is discussed in further detail in paragraphs 144-173 of this report.

Visitor accommodation

133 The principle of a hotel use is already established on this site through its current use and therefore the re-provision of modern visitor accommodation as part of the proposed mix of uses is supported in principle. In strategic policy terms, London Plan Policy 4.5 and Policy E10 of the draft

London Plan seek to strengthen London's visitor economy through the enhancement of supporting infrastructure, including providing additional accessible visitor accommodation. London Plan Policy 4.5 seeks to achieve 40,000 net additional hotel bedrooms by 2036, which is updated to 58,000 bedrooms of serviced accommodation by 2041 in the draft London Plan, of which at least 10% should be wheelchair accessible. Beyond the Central Activities Zone, London Plan and draft London Plan policy guides hotel development towards town centre locations and Opportunity Areas, where there is good public transport access to central London. Policy 4.5, however, also acknowledges that there may be a need for accommodation outside of the abovementioned locations in areas where there are major visitor attractions. As set out above, the application site benefits from excellent public transport access and is in proximity of several of London's major tourist attractions including the Natural History Museum, the Victoria and Albert Museum and the Royal Albert Hall.

134 At the local level, Policy CF8 of the RBKC CLP states that the Council will protect existing hotels (except in Earl's Court ward) and support the appropriate provision of hotels to ensure that the visitor economy is supported. Policy CF8c encourages the upgrade of existing hotels if doing so would assist in the vitality of town centres being maintained, no loss of residential accommodation or harm to amenity materially.

135 The proposed redevelopment of the site would encompass the re-provision of 1,089 serviced visitor accommodation units, an uplift of 183. This re-provision of high quality visitor accommodation and conference facilities, that would deliver a net increase in bed spaces and a substantial qualitative and quantitative improvement in business facilities, in a highly accessible and sustainable location on the fringe of the CAZ and in proximity to a Strategic Cultural Area, would contribute towards the overarching London Plan objective of ensuring London remains an internationally competitive and successful city with a strong and diverse economy and retains and extends its global role as a sustainable and competitive centre for business and a world class visitor destination through delivering significant visitor infrastructure to support the Capital's visitor economy.

136 In view of the above potential contribution to the quality and quantity of London's stock of visitor accommodation, and the enhancement of the Capital's status as a leading global city, the re-provision of visitor accommodation accords with the strategic location principles set out within the London Plan and draft London Plan, as well as the requirements of RBKC policy, and is supported. To ensure that these serviced apartments are not used as permanent residential units, it is recommended that a condition be imposed restricting each stay to no more than 90 days and nights.

Improving opportunities for all

137 London Plan Policy 4.12 emphasises the need for strategic development proposals to support local employment, skills development and training opportunities. Similarly, draft London Plan Policies E11 and GG1 encapsulate and promote the importance of strategic development supporting local employment, skills development and opportunities for training. There are approximately 200 full-time jobs at the existing hotel; the proposed scheme would generate 443 to 817 full-time jobs, which equates to 243 to 617 net full-time jobs. A bespoke training package targeting residents living in the borough, with a focus on hospitality and catering, will be delivered by London Training Centre at a cost of £20,000 on the behalf of the applicant. This strategy and an employment and recruitment strategy detailing the process for employment and training during the construction phase would be secured through the Section 106 agreement to ensure compliance with London Plan Policy 4.12 and draft London Plan Policies E11 and GG1.

Re-provision of garden square

138 The proposed re-establishment of a publicly accessible garden square (Ashburn Garden Square) accords with the objectives of London Plan Policy 7.18 and draft London Plan Policy G4, which both promote the enhancement of existing open spaces. Locally, RBKC CLP Policy CR5 makes

clear that existing parks and gardens will be protected and enhanced, and new outdoor spaces of the highest quality required. The proposed re-development of the application site includes the enhancement and expansion of the existing garden, namely the increase in the size of the useable and accessible green space by 44 sq.m. and the incorporation of open lawn elements that could be used for informal play and other activities associated with open spaces of a similar scale. The siting of the proposed development adjacent to the garden square is not considered to be detrimental to its quality and usability when considered in the context of planning policy and environmental impacts. In particular, the space will be well-lit and will have acceptable wind conditions for its intended use. A petanque area, benches and seats would also be included in the re-provided garden square. The transformation of the existing garden into a publicly accessible garden square, which re-establishes its historic purpose, is therefore strongly supported in line with London Plan, draft London Plan and local planning policies and its management and maintenance would be secured in the Section 106 agreement.

139 Parts of the site are currently designated as a London Square under the London Squares Preservation Act 1931. This gives the square statutory protection and ensures it is retained and used for the authorised purposes set out in the Act, namely 'an ornamental garden pleasure ground or ground for play rest recreation.' The hotel development in the 1970's has compromised the original function of the square and the accessibility and quality of the space is limited as a result. The applicant is required to make an application under the London Squares Preservation Act 1931 to re-arrange the garden square, which is an entirely separate matter to the planning considerations for the proposal.

Social infrastructure and funding

140 London Plan Policy 3.16 requires boroughs to ensure that adequate social infrastructure provision is made to support new developments. Kensington and Chelsea CLP Policies CK1 and C1 seek the use of planning obligations and funding mechanisms to support the delivery of infrastructure facilities and services to meet needs generated by new development and mitigate the impacts. Since the introduction of the borough's community infrastructure levy (CIL), CIL receipts from new development are expected to take the place of traditional individual S106 contributions towards the provision of necessary additional social infrastructure such as school places and leisure facilities. The Borough CIL receipt from this development is expected to be up to £6,211,175. Site specific works, such as landscaping and public realm and contributions to open space to mitigate the impacts of the development, are secured via the s106 agreement, as set out in paragraphs 371-373 below.

141 It is noted that a public house, 'The Tavern', currently occupies part of the Cromwell Road frontage. Draft London Plan Policy HC7 resists the loss of public houses with 'heritage, cultural, economic or social value' and this is echoed in the Mayor's Culture & Night Time Economy SPG. There is no general local policy protection for public houses. In view of the circumstances of this case, the limited weight to be attached to Draft Policy HC7 and the absence of any representations against the loss of the existing pub, its loss is accepted in this instance.

Principle of development conclusion

142 Given the existing hotel use on the site and the strategic priority assigned to housing in the London Plan and draft London Plan, the principle of intensifying uses on this site is strongly supported. The application would deliver modern visitor infrastructure comprised of 1,089 serviced visitor accommodation units, resulting in a net increase in the number of bed spaces and full-time jobs, 62 new genuinely affordable rented residential units and the re-establishment of a publicly accessible garden square.

143 A hotel-led mixed-use redevelopment of the site is compliant with the NPPF and consistent with the aims of strategic and local planning policy, including London Plan Policies 3.3, 3.16, 4.5, 4.12 and 7.18; draft London Plan Policies E10, E11, GG1, GG2, G4 and H1; and, RBKC CLP Policies CH1, CF8 and CR5.

Housing

Affordable housing

144 London Plan Policy 3.11 states that the Mayor will, and boroughs and other relevant agencies and partners should, seek to maximise affordable housing provision and ensure an average of at least 17,000 more affordable homes per year in London up to 2031. Policy H5 of the draft London Plan expands on this and sets a clear strategic target of 50% of all new homes delivered across London to be affordable.

145 London Plan Policy 3.12 requires that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed-use schemes. Negotiations on sites should take account of their individual circumstances including development viability, resources available from registered providers (including public subsidy), the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements.

146 In August 2017 the Mayor published his Affordable Housing and Viability Supplementary Planning Guidance (SPG) which sets out his preferred approach to the delivery of affordable housing, introducing a Fast Track Route for applications that deliver at least 35% affordable housing (by habitable room) on site, without public subsidy, subject to tenure and increasing this further with grant funding. Paragraph 4.7.13 of the draft London Plan and paragraph 2.42 of the Mayor's Affordable Housing and Viability SPG, however, allow for a more flexible approach to affordable tenure mix for schemes delivering 75% or more affordable housing. The Mayor's SPG also sets out detailed guidance to the form, content and transparency of viability assessments and the requirements for review mechanisms. The threshold approach to affordable housing is also set out in draft London Plan Policies H6 and H7. The Mayor also launched in November 2016 a new Affordable Homes Funding Programme for the period of 2016-21, which introduced new affordable products, rent benchmarks and grant rates.

147 London Plan Policy 3.11 also identifies a preferred tenure split of 60% social and affordable rent and 40% for intermediate rent or sale. It goes further and states that priority should be accorded to the provision of affordable family housing. Policy H7 of the draft London Plan and the Mayor's Affordable Housing and Viability SPG sets out a preferred tenure split of at least 30% low cost rent (social or affordable rent significantly less than 80% of market rent), at least 30% intermediate (with London Living Rent and shared ownership being the default products), and the remaining 40% to be determined by the Local Planning Authority.

148 Locally, Policy CH2i of RBKC CLP requires developments to provide affordable housing at 50% (by floor area) on developments delivering more than 800 sq.m. gross external area (GEA) of residential floorspace. Moreover, in accordance with RBKC CLP Policy CH2k, this housing must be provided on-site where the proposed residential floorspace exceeds 1,200 sq.m. of GEA, unless exceptional circumstances exist. In terms of affordable tenure mix, RBKC CLP Policy CH2q requires developments in Courtfield Ward, where the application site is located, to include a minimum of 85% social rented housing. This has been been reviewed in the Council's emerging policy, which seeks a tenure mix of 50% social rent/affordable rent and 50% intermediate.

149 When the Mayor considered this application at Stage 1, the application proposed 20 affordable units, equating to 47% of the scheme on a habitable room basis. Once the Mayor decided to take over the application in April 2019, GLA officers worked with the applicant to secure additional affordable housing.

150 Since Stage 2, the proposal has been revised from 46 to 62 (an uplift of 16 units) and the affordable housing offer has increased from 47% by habitable room (43.5% by unit) to 100%. The changes to the provision of affordable housing from the application submitted to the RBKC Council is set out in Table 2 below.

Table 2: affordable housing history

tenure	**recent application (Stage I)** (July 2018)	**revised proposal** (April 2019)
private	26	0
social rented	11	62
intermediate	9	0
total affordable units	**20** (47% by habitable room)	**62** (100% by habitable room)
total	**46**	**62**
Notes	Considered by the Mayor at Stage I (August 2018) and Stage II (April 2019)	Current proposal

151 The proposed development would deliver 100% genuinely affordable rented units at London Affordable Rent levels, which are set out later in this report. Whilst this differs from the London Plan, Draft London Plan, the Mayor's Affordable Housing and Viability SPG and RBKC CLP Policy CH2q tenure split requirements, the absence of intermediate housing is accepted in this instance in view of the pressing need for low cost rented housing in RBKC. The absence of private market housing is acceptable given the predominance in the housing stock in the local area and the provision of London Affordable Rent units would assist in achieving a mixed and balanced community in line with London Plan Policy 3.9. The proposed tenure is therefore acceptable, and details of the proposed housing mix are set out in Table 3 below.

Table 3: housing mix

unit type	**number of units**
studio	6
1-Bed	19
2-Bed	26
3-Bed	11
total	**62**

Affordability

152 The draft London Plan and Mayor's Affordable Housing & Viability SPG make clear that in determining tenure, homes are to be genuinely affordable. For the low-cost rent element, whilst a local planning authority may specify rental levels they consider to be genuinely affordable, the Mayor expects this to be significantly less than 80% of market rent. The affordable rented housing would be let at London Affordable Rent (LAR) levels, which are set out in the below table, with market rents provided for comparison.

Table 4: comparison of proposed affordable rents (LAR) against market rents

unit type	London Affordable Rent (2019-2020 benchmark)/week	Market rents (derived from London Rents Map)/week	London Affordable Rent as % of market rent/week
1-Bed	£155.13	£474.92	33%
2-Bed	£164.24	£697.62	24%
3-Bed	£173.37	£1,200.00	14%

Conclusion on affordable housing

153 At Stage I and Stage II, the application proposed the provision of 47% affordable housing by habitable room; this met the Mayor's criteria for the Fast Track Route. Since the Mayor's decision to take over the application for his own determination, GLA officers have worked with the applicant to increase the level of affordable housing provision to 100%, which would be delivered at genuinely affordable London Affordable Rent levels.

154 Given the above, the application is acceptable in line with the policies of the London Plan, draft London Plan, the Mayor's Affordable Housing and Viability SPG and RBKC CLP. Details of the affordable housing would be secured in the Section 106 agreement, should permission be granted. This would include details of affordable housing definition, fit out, transfer/lease to a Registered Provider and London Affordable Rent levels. Owing to the wholly low cost rented nature of the affordable housing provision, no review mechanisms are required.

Housing mix

155 As amended, the application would deliver 62 London Affordable Rented units. London Plan Policy 3.8, draft London Plan Policy H12 and the Mayor's Housing SPG promote housing choice in terms of the mix of housing sizes and types, taking account of the housing requirements of diverse groups and the changing roles of different sectors in meeting these. London Plan Policy 3.11 and draft London Plan Policy H12 state that priority should be accorded to the provision of affordable family housing.

156 RBKC CLP Policy CH2a requires a mix of tenures that reflects the varying needs of the borough and current evidence in relation to housing need. Paragraph 35.3.10 of the RBKC CLP identifies housing with four bedrooms or more as the largest shortage within the social rented tenure; a high demand for one and two-bedroom intermediate units; and a greater need for units with three, four or more bedrooms in relation to market housing. The CLP also recognises that it would be unrealistic to expect these proportions to be adhered to in each case; but in the private market and social rented sectors the need for as high a proportion of large dwellings is emphasised. Paragraph 35.3.11 of the CLP, however, also underscores that the exact mix of houses of any scheme will also be determined by other factors such as the characteristics of the site, including its location, size and built context.

157 The evidence base on local housing requirements in the borough has been updated with the publication of the SHMA 2015, which sets out a breakdown by bedroom size of the objectively assessed need (OAN) for all types of housing. The evidence is of a 50/50 split between smaller (1-2 bedrooms) and larger (3-4+ bedrooms) units. The proposed mix of 82% smaller units is not in accordance with this benchmark; however, given the characteristics of the site and the mixed-use nature of the scheme, the need to optimise housing delivery and the 100% genuinely affordable housing proposed, on balance, the proposed mix is acceptable in line with CLP Policy CH2a.

Housing quality and residential standards

Density

158 London Plan Policy 3.4 and draft London Plan Policy D6 seek to optimise the potential of sites, having regard to local context, design principles, public transport accessibility and capacity of existing and future transport services. The higher the density of a development, the greater the level of design scrutiny that is required, particularly qualitative aspects of the development design, as described in draft London Plan Policies D2 and D4.

159 Policy CL1 of the RBKC CLP emphasises the importance of respecting the existing context, character and appearance in undertaking development. Policy CL1 further states that development should contribute positively to the townscape through the architecture and urban form, whilst sensitively optimising the density of development. Although paragraph 34.3.7 of the CLP in addressing density makes clear that the density matrix in the London Plan should be considered as part of the design process, RBKC's emerging policy (the Local plan Partial Review) references the approach articulated in the draft London Plan.

160 The site has a public transport accessibility level (PTAL) of 6a and is classified as central in character. Based on a PTAL rating of 6a, the London Plan density matrix (Table 3.2 in support of London Plan Policy 3.4) suggests a residential density of between 650-1100 habitable rooms or 140-405 units per hectare for this site. Additionally, the threshold set for design scrutiny in draft London Plan Policy D6(C) is 405 units per hectare for sites with a PTAL of 6.

161 Based on the net residential site area of approximately 0.08 hectares, the net residential density would be 775 units per hectare and 2,075 habitable rooms per hectare. This exceeds the guidance ranges in Table 3.2 of the London Plan and the thresholds for increased scrutiny of design quality set out in the draft London Plan. The proposal, however, ensures development is optimised and would deliver 100% genuinely affordable housing, good design and residential standards. Given this and the highly accessible location, the density is acceptable. In line with Policy D6, the applicant must submit a management plan detailing day-to-day servicing and delivery arrangements and long-term maintenance implications, as detailed in paragraph 3.6.8 of the draft London Plan. A condition is recommended to be imposed requiring the applicant to submit this maintenance plan for approval.

Standard of accommodation

162 London Plan Policy 3.5 and Policy D4 of the draft London Plan seek to ensure that housing developments are of the highest quality internally, externally, and in relation to their context and to the wider environment. London Plan Table 3.3 and draft London Plan Table 3.1, which supports this policy, sets out minimum space standards for dwellings. The Mayor's Housing SPG builds on this approach and provides further detailed guidance on key residential design standards including unit to core ratios, and the need for developments to minimise north facing single aspect dwellings.

163 Paragraph 35.3.13 of the RBKC CLP states that London Plan Policy 3.5 and the accompanying Table 3.3, will inform the borough's space standards requirements. Policy CH3 of the

Council's draft LPPR reiterates this position, stating that new developments must meet the space and access standards set out in the London Plan. In addition, Policy CH3 of the Council's draft LPPR requires residential developments to provide outdoor amenity.

164 Internal and external space standards: All units meet the London Plan, draft London Plan, Mayor's Housing SPG and therefore also accord with RBKC internal space standards, with floor to ceiling heights of 2.7 metres. All units would have access to private amenity space in the form of a roof terrace, winter garden or balcony. Some units would have access to a winter garden and a balcony. The proposed private amenity spaces meet the Mayor's Housing SPG standards. In addition, a communal amenity space would be provided on the ninth floor.

165 Layout, aspect and daylight: The are no north facing units proposed, and the provision of single aspect units has been minimised. In terms of units per core, there would be a maximum of eight units per core and each core would be served by two lifts. This accords with the Mayor's Housing SPG standard. The applicant's internal daylight and sunlight assessment demonstrates that apart from one living room/kitchen, all the bedrooms and living rooms/kitchens meet the minimum Average Daylight Factor (ADF) recommended by the Building Research Establishment's guidelines (which form the industry standard for assessing appropriate natural lighting levels).

166 Noise: London Plan Policy 7.15, draft London Plan Policy D13 and Kensington and RBKC CLP Policy CL5 seek to ensure an acceptable environment in new residential developments regarding noise. Chapter 8 of the Environmental Statement (ES) and the ES Addendum set out the noise and vibration assessment undertaken for the proposed redevelopment of the site. With the implementation of the mitigation measures identified in the assessment, such as sound facade insulation screening and mechanical ventilation strategy, an acceptable internal level of noise can be achieved. A condition is recommended to be imposed requiring the applicant to submit for approval detailed design for the noise insulation of the building facades, and to incorporate these measures into the final build. Regarding vibration, the applicant's assessment concludes that the ground borne noise criterion for residential developments would be achieved across the proposed development, with negligible impact; hence requiring no mitigation. In assessing the potential impacts from noise, plant noise and noise from the entertainment/leisure facilities proposed were considered. Noise emanating from these activities are also unlikely to unduly impact on residential amenity, subject to conditions requiring detailed specification of equipment and internal sound insulation measures between floors to be used for commercial activity and residential floors.

167 Outlook and privacy: Under RBKC CLP Policy CL5, the Council requires reasonable visual privacy for existing occupants and for occupants of new development affected by new schemes. Paragraph 34.3.38 of the CLP states that when considering privacy, about 18 metres between opposite habitable rooms lessens inter-visibility to a degree acceptable to most people. Paragraph 34.3.38 further states that there are many situations in the borough where distances are less. The Mayor's Housing SPG notes that "in the past, planning guidance for privacy has been concerned with achieving visual separation between dwellings by setting a minimum distance of 18- 21 metres between habitable rooms. Whilst these can still be useful yardsticks for visual privacy, adhering rigidly to these measures can limit the variety of urban spaces and housing types in the city, and can sometimes unnecessarily restrict density."

168 The proposed residential units would be situated on the southern end of the building, with habitable rooms facing Courtfield Road, Ashburn Place and the public garden. On Courtfield Road the distance between the proposed residential units and directly opposing facades would be a minimum of 22 metres and over 40 metres from properties on Ashburn Gardens. In relation to the outlook on to Ashburn Place, the distance would be over 30 metres from the serviced apartments with the oblique angle being a significant factor.

169 In summary, the scheme would deliver high quality residential accommodation, and the standard of the units is in broad compliance with London Plan and draft London Plan policies and guidance, and RBKC CLP policies.

Open space and play space

170 London Plan Policy 3.5 and draft London Plan Policies D4 and D7 set out expectations in relation to quality and design of housing developments, to include public, communal and open spaces. Policy 3.6 of the London Plan and draft London Plan Policy S4 require developments that include housing to make provision for play and informal recreation, based on the expected child population generated by the scheme and an assessment of future needs. Guidance on the application of this policy is set out in the 'Shaping Neighbourhoods: Children and Young People's Play and Informal Recreation SPG'. This sets a benchmark of 10 square metres of useable child play space to be provided per child, with under-five's play space provided on-site as a minimum (within 100 metres walking distance from a residential unit). Provision for 5-11-year olds should be provided within 400 metres of residential units and provision for over-12s should be provided within 800 metres. Locally, RBKC CLP Policy CH2o seeks to ensure developments deliver equivalent amenity in relation to a variety of factors, including proximity to open space and play space. RBKC CLP Policy CR5f expects the provision of on-site external play space based on expected child occupancy.

171 In this instance, the anticipated child yield of the development is 53 children (28 under-5s, 16 in the 5-11 age group and 9 in the over 12 age group); therefore, 530 sq.m. of on-site play space is required. The development would provide 540 sq.m. of dedicated external child play space within the residents' terrace at level 9, and on the ground floor as part of the Courtfield residents' garden. This provision would exceed the required quantum and the spaces would allow for passive surveillance, incorporating safe, flexible, diverse and accessible play elements, including mounds and sculptural playable items.

172 In addition to the residents' terrace and Courtfield residents' garden, the re-established garden square would provide 2,702 sq.m. of improved, useable and accessible green space, with an open lawn, pétanque area, benches and seats. Discussions are ongoing between residents and the developer in relation to the preparation of a management plan for the proposed Ashburn Garden Square, which is to be secured in the Section 106 as previously stated in this report.

173 Given the above proposed provision, the proposal complies with London Plan, draft London Plan and RBKC CLP policies on play space and open space.

Urban design

174 The NPPF (at paragraph 124) states that good design is a key aspect of sustainable development and creates improved places for living and working, which helps make development acceptable to communities. Paragraph 131 states that, in determining applications, great weight should be given to outstanding designs which help raise the standard of design more generally in the area. In achieving the Mayor's vision and objectives relating to neighbourhoods and architecture, Chapter 7 of the London Plan and Chapter 3 of the draft London Plan sets out a series of policies about the places and spaces in which Londoners live, work and visit. In relation to the London Plan, Policy 7.1 sets some overarching design principles for development in London as does Policy D2 of the draft London Plan.

175 Other relevant design policies in Chapter 7 of the London Plan and Chapter 3 of the draft London Plan include specific design requirements relating to: inclusive design (London Plan Policy 7.2/ draft London Plan Policies D3 and D5); designing out crime (London Plan Policy 7.3/ draft

London Plan Policy D10); local character (London Plan Policy 7.4/ draft London Plan Policy D1); public realm (London Plan Policy 7.5/ draft London Plan Policy D7); architecture (London Plan Policy 7.6 and draft London Plan Policy D2); tall and large scale buildings (London Plan Policy 7.7 and draft London Plan Policy D8) and heritage assets (London Plan Policies 7.8 and 7.9 and draft London Policies HC1 and HC3). These are discussed more specifically below.

176 Locally, RBKC CLP Policy CL1 requires all development to respect the existing character, appearance and context of their surroundings, ensuring that any available opportunities to improve the quality and character of buildings and the location are utilised. CLP Policy CL2 focuses on design quality and requires that all developments are of the highest urban and architectural design quality to improve the quality and character of buildings in the area. CLP Policy CL12 articulates the Council's approach to managing the heights of new buildings proposed in developments and emphasises the requirement for new buildings to respect the setting of the borough's valued townscapes and landscapes, through appropriate building heights. Additionally, the Borough's Building Height Supplementary Planning Document (BHSPD) sets out building heights, particularly in relation to tall buildings, within the borough.

177 In relation to heritage, RBKC CLP Policies CL3 and CL4 both require developments to preserve, protect and, where appropriate, enhance the significance, appearance, character and setting of the heritage asset itself, and the surrounding historic environment. Additionally, CLP Policy CL11 sets out the Council's requirements for development to protect and enhance gaps, views, vistas and the skyline.

178 The scheme has been considered in detail at pre-application stage, during the initial Stage I consideration by the Mayor, and by the Council's planning officers (who recommended approval) in reporting the application to Committee. As set out in paragraph 33, the primary reason for RBKC's refusal relates to design, notably that the height and massing of the proposed development would cause less than substantial harm to the character and appearance of nearby heritage assets, and the elevational treatments would be of an insufficiently high design quality to have a wholly positive impact on the character and quality of the townscape.

Layout

179 The arrangement of the building in a podium block (plus towers and an attic storey above) on the eastern section of the site along the length of Ashburn Place, with the re-established public garden occupying most of the western half of the site, creates a simple and legible layout. This approach greatly improves on the existing condition and the simple plan form of the proposed building responds positively to all four public facing edges of the site.

180 The proposed building is stepped down in height from its tallest element fronting Cromwell Road to the residential block overlooking Courtfield Road. By doing so, the proposal's impact on the residential amenity of those properties located on Courtfield Road would be minimised. The proposed ground plan is designed to maximise the extent of active frontages and entrances to the street and includes the potential to create visual permeability through the hotel lobby to the gardens from Ashburn Place. This, in tandem with the proposed enhancements to the public realm along Ashburn Place, would help to improve on its existing low-quality pedestrian environment. The full extent of the garden square frontage is flanked with hotel lobby and restaurant uses, which would animate the space and create passive surveillance.

181 Regarding the garden square, the square is generously sized and the high-quality landscaping and edge treatments to the garden would enhance the public realm and setting of the neighbouring conservation areas. Its layout is simple, and for the most part traditional, reincorporating the retained, mature London planes and provides additional tree planting, completing the perimeter tree cover.

182 The visual impact of the proposal and its response to policy on tall buildings is discussed in more detail in the relevant section below; however, the height of and location of the tallest building adjacent to Cromwell Road is considered an appropriate design response by both GLA and RBKC planning officers and provides a rational and well-considered layout to the development.

Landscaping

183 The scheme provides a good level of planting for an urban development in line with the objectives of London Plan Policy 5.10 and draft London Plan Policy G5, including tree planting and shrubs. Most of the existing trees have been identified for retention, including 12 London Plane trees, and a total of 20 net additional trees would be provided. A water feature running the length of the wall dividing the arrival space from the garden square would also form part of the proposed landscaping strategy. Appropriate provision is also made for lighting, seating and visitor's cycle storage. Subject to the submission of details, the proposed strategy would ensure a high-quality setting for the buildings proposed. It is recommended that a condition be imposed requesting the submission of these details. The impact of the development on trees is addressed in more detail later in this report.

Summary of layout

184 The proposed building layout and landscaping proposals optimise the development capacity of the site whilst responding well to the neighbouring properties. The layout is simple and legible, providing an improved pedestrian environment, with vastly improved active frontages. The layout also allows for the re-introduction of a public garden, which is an improvement on the existing open space in terms of quality and opportunities for recreation.

Height and massing

Tall buildings policy

185 In view of the site's adjacency to the Courtfield Conservation Area and proximity to other conservation areas, the site is classified as being within a buffer zone considered highly sensitive for tall buildings in the BHSPD. RBKC CLP Policy CL11 and the BHSPD set out the categories by which tall buildings are defined within the RBKC, namely: local, District and Metropolitan landmarks. A Metropolitan landmark is defined as a building with a height that is more than four times the typical building height, and district landmarks are significantly taller than the immediate townscape and typically up to four times higher than surrounding buildings. As discussed earlier, the proposed development would step down from a 30-storey tower fronting Cromwell Road to a 22-storey tower and then 9-storey block. As such, the two towers are tall buildings of a Metropolitan and district landmark scale respectively.

186 London Plan Policy 7.7 and draft London Plan Policy D8 set out the strategic policy regarding tall buildings and establish that the Mayor will promote the development of tall buildings where they create attractive landmarks enhancing London's character, and help to provide a catalyst for regeneration where they are acceptable in terms of design and impact on their surroundings.

187 RBKC CLP Policies CL1, CL2, CL11 and CL12 and the BHSPD set out the Borough's requirements for new buildings; and Policies CL11 and CL12 and the BHSPD are the key reference points for analysing tall buildings. Policy CL12 states that the Council will *"resist buildings significantly taller than the surrounding townscape other than in exceptionally rare circumstances, where the development has a wholly positive impact on the character and quality of the townscape*." The BHSPD sets out sieve tests and proactive tests in RBKC, with the former assessing

what locations in the borough are inappropriate for tall buildings and the latter setting out three tests to support the case for locating a tall building.

188 As already stated in this report the site is presently occupied by a 28-storey hotel, which the BHSPD characterises as a Metropolitan landmark that acts as a significant landmark on a city-wide scale. The Cheval Gloucester Park serviced apartments immediately to the east of the site on Ashburn Place is 12/13 storeys. Other buildings along the neighbouring streets generally range from five to seven storeys.

Tall building and massing analysis

189 Given the current circumstances i.e. the existence of an already Metropolitan landmark building on the site, the principle of a tall building on the site has already been established; therefore, a replacement building of a similar height is acceptable in principle. This is a significant material consideration weighing in favour of the principle of tall building(s) on this site. The Council's reason for refusal indicates that the relevant tests for tall buildings in the Building Height SPD have not been undertaken. In response, the applicant has submitted a supporting document setting out the requisite tests. A detailed assessment against the sieve tests and positive tests criteria, which will also encapsulate the requirements of RBKC CLP Policies CL11 and CL12, are set out below. It is noted that the Council made its assessment based on a scheme with a 7-storey podium prior to the most recent amendments.

Positive tests

190 Design quality: The massing strategy for the site has been carefully considered in line with the above policies and in the context of an existing Metropolitan landmark building on the site. As such, the proposed height and massing arrangement has been developed through a thorough design-led process with due regard given to the amenity requirements of neighbouring buildings and the setting of neighbouring conservation areas, listed buildings and parks and gardens. The quality of the architecture would be high, with floor slabs that project in combination with vertically aligned bays in the towers resulting in a depth and articulation that creates visual interest. With a small palette of high quality, robust materials, the appearance of the proposed scheme would be simple and well-articulated.

191 Townscape legibility: The existing building, as mentioned earlier, is a Metropolitan-scale landmark building that assists in wayfinding within the local area and beyond. The proposed scheme, a composite block with two taller elements that better align with the Cromwell Road building line, exhibits enough clarity and architectural integrity to distinguish the building as a more attractive and engaging Metropolitan landmark prominently situated on one of the gateways into Central London. This is important given the nearby Gloucester Road London Underground station and many significant visitor attractions. The proposed development also includes the re-establishment of a garden square, which would also add to the legibility and itself be landmarked by the building.

192 London-wide public uses: The development would contribute to London's visitor economy with the re-provision of visitor accommodation in an area that is near to significant tourist attractions in in the South Kensington Museum Complex and Royal Albert Hall Strategic Cultural Area as well as ancillary services that would be available to the public as well. The scheme would also re-establish the protected public garden square and provide other facilities for use by Londoners, including conferencing and function facilities.

Sieve tests

193 Relationship to context: As stated earlier in this report, the site is currently occupied by a Metropolitan-scale landmark building. The proposed development seeks to provide a building of a similar status, taking into consideration the protected status of parts of the site as a garden square. Therefore, the site layout approach focuses on containing the building within the eastern edge of the site to re-provide the garden square on the west. Cognisant of the surrounding conservation areas, the building height steps down from the north to a scale that relates to the residential properties on Courtfield Road in height, facade treatment and use.

194 The tallest tower proposed would be 30 storeys (109 metres AOD) and similarly positioned, fronting onto Cromwell Road creating legibility for the building. The height of the building steps down from Cromwell Road (30 storeys) to 22 storeys and then to the 9-storey residential block facing onto Courtfield Road to the south of the site. This new 9-storey (38 metres) residential block, with the two-storey attic recessed, would be setback by 7 metres from the pavement edge on Courtfield Road and sensitively reflects the scale and plot widths of the Victorian townhouse properties opposite, which are 5 1/2 storeys (21m) in height. Additionally, the podium's height would sit well below the height of the Cheval Gloucester Park serviced apartment block to the immediate east along Ashburn Place, resulting in a comfortable scale onto the street.

195 Impact on historic assets and views: The Council noted in its reason for refusal, that the height and massing of the proposed development, including an additional tower, would cause less than substantial harm to the character and appearance of nearby heritage assets, especially in nearby views. The THVA and the Addendum includes views from within the nearby conservation areas and showing the setting of listed buildings. The height of the two towers has not been increased and the proposed development would only be visible in some parts of the surrounding conservation areas and in some instances would be visible in the setting of some listed buildings and views into and out of conservation areas. However, it is near views where the harm is most significant, with longer views not substantially different from the existing building. As concluded by the Council, the visual impact on conservation areas and listed buildings would be less than substantial to these heritage assets. Council officers concurred with this view in their initial report as well as the follow up report in response to the amendments. A full assessment of the impact on all nearby heritage assets is undertaken in paragraphs 219-260 of this report.

196 Architectural quality: As set out above, the quality of the architecture would be high with robust materials, a limited palette and simple and refined detailing.

197 The building's articulation is successfully defined with floor slabs that project in combination with vertically aligned bays in the towers. This would provide an overall sense of order within the elevations. The projection of the floor slabs and the angled or inset nature of bays would provide visually interesting depth and articulation to the facades. The use of a limited palette of good quality materials, and the regular nature of the elevations, would allow the building to respond positively to the character and proportions of the surrounding built context.

198 Relationship to public realm: The proposed scheme would create a strong relationship with the surrounding streets. The building line would better align with Cromwell Road and maintain a street line along Ashburn Place. Notwithstanding the increase in height, the glazed facade and the off-setting of the upper blocks from the podium negates the building's impact on the footway. In addition, the development would deliver an improved public garden square with net additional trees, seating and lawns, an arrivals square on the northwest and a residents' garden on the south. Hedgerows or railings are to be used to define these areas. Public realm improvements outside of the site aimed at enhancing the routes to Gloucester Road Underground station are also proposed. GLA officers consider this criteria to be satisfied.

199 Urban design quality: The development would be a replacement landmark building of a higher quality that would contribute to wayfinding and legibility. The building would align with the established building line on its Cromwell Road boundary, with a well animated ground floor and legible entrances. Connectivity and permeability would also be improved through the provision of new pedestrian routes through and alongside the garden square.

200 Impact on local environment: This criteria requires proposed tall buildings to address the effects of wind and microclimatic conditions, loss of daylight/sunlight, overshadowing and solar glare and noise reflection through careful siting, orientation and sensitive architectural form. Overall, the scheme would achieve a very good level of compliance with relevant BRE Guidance and a wind assessment has been undertaken, which demonstrates that proposal would not cause any adverse impact on wind conditions. GLA officers consider this criteria to be satisfied and these matters are addressed fully later in this report at paragraphs 269-285 and 324-332.

201 Delivers sustainability: The application is supported by an Environmental Statement and an Addendum and other documents that set out strategies to ensure compliance with local and London Plan policies on energy, sustainable building design, water efficiency, comprehensive waste management, BREEAM, enhancement of biodiversity, sustainable drainage and urban greening. On-site reductions of CO_2 per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected for the domestic and non-domestic buildings and the scheme would be compliant with BREEAM and water efficiency standards. In addition, a waste management strategy, sustainability report and flood risk assessment have been submitted with the application that demonstrate compliance with the relevant policies. GLA officers therefore consider that this requirement has been satisfactorily addressed, and the individual elements are fully addressed later in this report at paragraphs 295-323.

202 Protection of design quality: The proposed materials and treatments, and the project architect will be retained through planning conditions to ensure that the design quality of the proposal is protected.

203 Land use: As set out at paragraph 192, the development would contribute to London's visitor economy with the re-provision of visitor accommodation in an area that is near to significant tourist attractions and enhance and expand the protected public garden square while providing other facilities for public use. The proposed scheme would benefit from animated frontages, with the hotel lobby, its entrances and restaurants activating Ashburn Place, Cromwell Road and the elevation running adjacent to the pedestrian route to the east of the garden. The restaurant along Cromwell Road is accessed directly from the street at the front and at the side from the hotel arrivals square which would provide a concentration of passive pedestrian activity.

London Plan

204 The tall building is also broadly consistent with the criteria set out in London Plan Policy 7.7 and draft London Plan D8. The site is well located for public transport and, whilst it is not in the Central Activities Zone, Opportunity Area or town centre, there is an existing tall building on site which is a significant material consideration. The proposal would have an acceptable massing and relationship to the surroundings, and as the Kensington Forum Hotel is currently doing, the tall building would better assist in wayfinding to the underground station and even the visitor attractions in the vicinity and enhance the skyline through high quality architecture and use of materials. An improved level of active frontage will be provided on the ground floor at Cromwell Road and Ashburn Place, as well as new routes and spaces to enhance the permeability of the site and improving connectivity. Moreover, the scheme would provide net additional visitor accommodation, an enhanced and enlarged public garden, as well as affordable housing which has been significantly increased from 46% to 100% since the Council's committee decision, albeit without increasing the height of the towers. In accordance with the technical assessments discussed

in the relevant sections of this report and subject to mitigation recommended through conditions in some instances, the development would not impact adversely in terms of microclimate, wind turbulence, daylight/sunlight, overshadowing, noise or solar glare. The development would also comply with energy, water efficiency and BREEAM requirements. There would be no adverse impact on local or strategic views.

Summary of height and massing

205 The provision of replacement tall buildings is acceptable, subject to the detailed consideration of design quality and visual impact. The proposal would have a noticeable impact on certain views within the local townscape, especially when close to the site due to its bulk and prominence. However, the significance of the degree of change does not necessarily indicate that the proposal would have an adverse impact. In this case, the proposal would involve the redevelopment of a site that is currently occupied by a Metropolitan-scale building that is identified as an eyesore in local policy, replaced with a scheme of demonstrably high-quality architecture that will improve townscape legibility, provide useable public space of a higher quantity and quality, re-provide modern visitor accommodation and provide 100% affordable housing.

206 The building would act as a landmark, and the height and massing of the scheme is considered appropriate as the tallest building is positioned in a more appropriate part of the site than the existing, adjacent to Cromwell Road. The massing of the proposal responds sensitively to the proximity of the conservation areas by reducing in scale to the south in view of the residential properties along Courtfield Road and Cheval Gloucester Park serviced apartments on Ashburn Place. By containing the building within the eastern part of the site, a larger open space would be created and the distance between residential properties located on Ashburn Road and built form on the site increased.

207 A condition is recommended to be imposed requiring the submission of detailed design and architectural quality, which is considered further below. Subject to this, the principle of the proposed height and massing is acceptable in line with the policy context set out above. The impact on heritage is considered separately in paragraphs 219-260 below.

Detailed design and architecture

208 The scheme demonstrates a unified approach to each building element, drawing together the two tower elements, attic levels and lower portion of the block through simple detailing and material treatment. The overall design rationale remains the same, apart from minor changes to the Courtfield Road elevation, following the recent amendments to increase the height of the southernmost block containing the residential units.

209 The podium block is primarily curtain wall glazing that is transparent and exhibits, through subtle changes in framework detailing and laminated glass fins that express the different functional uses. The towers would be defined by a combination of stonework and fritted metalwork panels that fold to give the facades a detailed saw-tooth profile. The use of brickwork on the Courtfield Road facade to connect to the materiality of the neighbouring residential properties proposed in the initial application has been replaced with the same stone cladding material as the remainder of the scheme; however, they maintain a townhouse-style appearance and now have a 2-storey attic, consistent with the historic architectural language neighbouring the site.

210 Planning conditions will ensure that a high quality of detailing and materials will be used in the completed development and retention of the scheme architects in the construction process. Council officers concluded that the design and architecture of the proposal, which has not materially changed with the amendments submitted, was acceptable, and GLA officers concur with

this assessment. In addition, the design was subject to two reviews by RBKC Architects Advisory Panel.

Fire safety

211 In the interests of fire safety and to ensure the safety of all building users, Policy D11 of the draft London Plan seeks to ensure that development proposals achieve the highest standards of fire safety.

212 The applicant has submitted a fire strategy prepared by a suitably qualified third-party assessor, which demonstrates that all features and materials would comply with Building Regulations Approved Document B and BS999 for the visitor accommodation element and BS9991 for the residential component. The proposed visitor accommodation would be fully sprinklered, with each tower equipped with a single firefighting lift and stair; and rooms fitted with smoke detectors and a comprehensive fire alarm system. Additionally, adequate wet risers would also be provided. These firefighting lifts and stairs would also service the basement, and additional wet risers would be provided at basement level firefighting lift lobbies. Regarding smoke, a mechanically assisted smoke extraction shaft would be provided in each firefighting lobby and a vent at roof level that would be opened automatically or manually, used to inject replacement air. A similar extraction process, activated by the sprinkler or automatic fire detection systems, would be employed at basement level.

213 Similarly, the residential block would be fully sprinklered and each floor would be provided with a firefighting stair and lift, with a dry riser outlet at each level. Open plan apartments and those provided with protected hallway access would be equipped with LDI and at least LD3 standard automatic fire detection and alarm respectively. A smoke extraction system, with mechanical smoke shafts and an automatically opening vent would be installed. In instances where the stairs serve separate corridors, both common corridors would be provided with smoke extract. Further features of the fire strategy proposed for the residential element includes protected smoke vented lobbies and fire-resistant construction for ancillary accommodation.

214 The fire evacuation strategy put forward would ensure safe evacuation of the building if needed. The submitted fire statement demonstrates that the proposal would deliver the highest standard of fire safety in accordance with draft London Plan Policy D11.

Designing out crime

215 Policy 7.3 of the London Plan and draft London Plan D10 seeks to ensure that measures to design out crime are integral to development proposals and considered early in the design process. Several criteria are set out in this policy regarding reducing opportunities for criminal behaviour and contributing to a sense of security without being overbearing or intimidating. RBKC CLP Policies CL1 and CL2 emphasise the need for all development to be designed to minimise crime. The scheme has carefully considered the interaction of the buildings with the public realm, and this is demonstrated through the provision of active frontages along Cromwell Road, Ashburn Place and Courtfield Road streets. In addition, residential properties and visitor accommodation would overlook shared communal spaces and or public garden, providing a level of passive surveillance.

216 A condition is recommended to be imposed to ensure that the scheme achieves Secured by Design accreditation. As such, the proposals are acceptable with respect to designing out crime and comply with London Plan Policy 7.3, draft London Plan Policy D10 and RBKC CLP Policies CL1 and CL2.

Conclusion on urban design

217 The Council resolved to refuse the application on the grounds of height and massing, an insufficient high design quality of the elevational treatments, impact on the character and quality of the townscape, and the absence of the relevant tests for tall buildings in the Building Height SPD. The Council also indicated that the benefits of the development would not outweigh harm. This decision was reached contrary to officer recommendation. As such and having regard to the above assessment, the additional visual impact of the increase in height since the Council's resolution to refuse the application is not considered to result in any adverse harm to the surrounding townscape, visual amenity or historic environment. Additionally, the public benefits previously proposed have been substantially improved, with the scheme now delivering 100% affordable housing; this further weighs in favour of approving the application.

218 GLA officers consider that the design of the scheme is well-considered, responds to the development principles set out in the London Plan, draft London Plan and local policies. It achieves a high quality of place making and the massing strategy responds to the site's characteristics and context. The tallest tower, although higher than the existing Kensington Forum Hotel on the site, is well designed and justified in the context of the relevant criteria set out in the BHSPD, RBKC Local Plan, London Plan and draft London Plan. The quality of the design, architecture and materials would ensure a distinctive and high-quality replacement Metropolitan-scale landmark building, which would contribute positively to wayfinding locally and legibility. The development will thus comply with the relevant development plan policies set out in paragraphs 185-188 above.

Heritage

219 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out certain statutory duties to which a planning decision maker must have regard. In relation to listed buildings section 66 of the act states that all planning decisions should *"have special regard to the* desirability *of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.

220 Pursuant to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, planning decisions must also give special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas which may be affected by the proposed development.

221 The NPPF identifies that the extent and importance of the significance of the heritage asset is integral to assessing the potential impact, and therefore acceptability. The definition of significance in this context is the value of the heritage asset in relation to its heritage interest and this may be archaeological, architectural, cultural or historic. It may also derive from a heritage asset's physical presence as part of the townscape or its setting. Where a proposed development will lead to 'substantial harm' or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where a development will lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

222 The Barnwell Manor Wind Farm Energy Limited v East Northamptonshire District Council case tells us that "Parliament in enacting section 66(1) did intend that the desirability of preserving listed buildings should not simply be given careful consideration by the decision-maker for deciding whether there would be some harm but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise." The case also makes it clear that there is a strong presumption against granting planning permission that would harm the character and appearance of a conservation area. The NPPF emphasises that great weight should be given to the

conservation of heritage assets (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

223 Criterion D of Policy 7.8 of the London Plan states "*Development affecting heritage assets and their setting should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail*". The supportive text explains that development that affects the setting of heritage assets should be of the highest quality of architecture and design and respond positively to local context and character. This is also stated in Policy HC1 of the draft London Plan. Criterion E states that new development should make provision for the protection of archaeological resources, landscapes and significant memorials.

224 RBKC CLP Policies CL3 and CL4 promote the conservation of the historic significance of Kensington and Chelsea's heritage assets, their setting and the wider historic environment. Under CLP Policy CL3, the Council will:

a. require development to preserve or enhance the character or appearance of the conservation area and protect the special architectural or historic interest of the area and its setting;

b. resist the change of use of any building where the current use contributes to the character of the surrounding area and to its sense of place; and,

c. resist substantial demolition in conservation areas.

225 Similarly, the Council under CLP Policy CL4 will:

a. require all development and any works for alterations or extensions related to listed buildings, scheduled ancient monuments and sites of archaeological interest, to preserve the heritage significance of the building, monument or site or their setting or any features of special architectural or historic interest;

b. resist the change of use of a listed building that would materially harm its character;

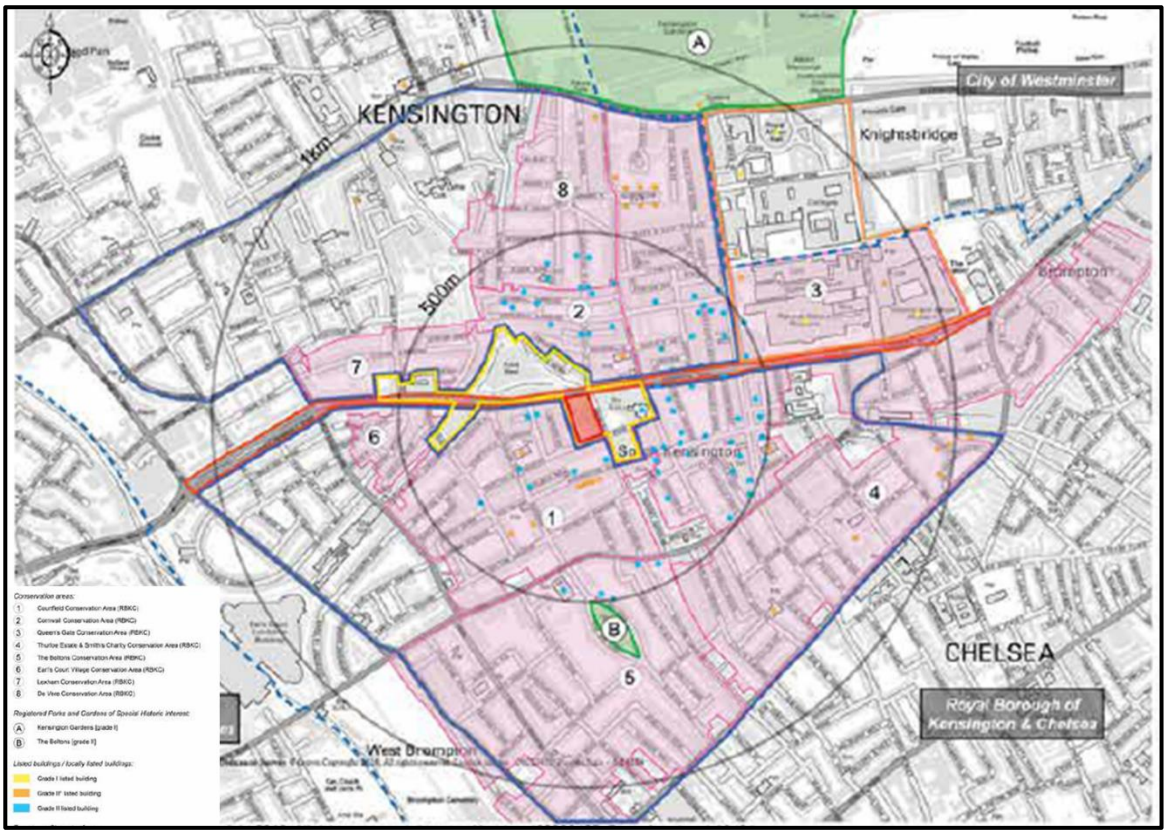
d. require any work to a listed building to sustain the significance of the heritage asset and as such strongly encourage any works to a listed building to be carried out in a correct, scholarly manner by appropriate specialists; and,

e. require desk-based assessments and where necessary archaeological field evaluation before development proposals are determined, where development is proposed on sites of archaeological significance or potential.

226 The site is not in a conservation area and the existing building has a Certificate of Immunity against being statutorily listed or served with a building preservation notice. Notwithstanding, there are several heritage assets in proximity of the application site, including: Courtfield Conservation Area to the immediate south and west; Cornwall Conservation Area to the north; and, Queensgate Conservation Area to the east and southeast. Regarding listed buildings, the Grade II Listed Gloucester Road Underground Station, Entrance Arch from Courtfield Gardens, 20 & 22 and 24 & 26 Harrington Gardens, and Grade II* listed Church of St. Jude and 35 & 37, 39, 41, 43 and 45 Harrington Gardens are some of the 55 such heritage assets located within a 500-metre radius of the application site. The Kensington Place Conservation Area, with the Grade I listed registered park Kensington Palace Gardens, is one kilometre to the north. Figure 4 depicts the conservation areas and listed buildings within a 500-metre radius and Registered Parks and Gardens of Special Historic Interest (RPGSHI) within a 1-kilometre radius of the site.

227 It is important to note that the existing Kensington Forum Hotel is prominent in the background of many historic buildings and townscape views, particularly in close proximity of the application site. It should further be noted that as part of the consultation process Historic England did not raise any objections and advised RBKC to seek its specialist conservation advisers' views. The Council's Conservation and Design Officer raised no objection, subject to conditions securing the quality of the detailed designs.

Figure 4: Conservation Areas, listed buildings (within a 500-metre and RPGHSI within 1-kilometre radius of the application site (outlined in red).



228 The applicant has carried out an assessment of the impacts of the proposals on heritage assets as part of the TVHIA within the Environmental Statement and the Addendum to the TVHIA and has assessed the impacts on each heritage asset which could be affected. The assessment considers 37 views (with winter and summer scenarios for each) from various locations and officers are satisfied that these assessment points form a comprehensive basis from which to assess the proposal's impact on heritage assets. The TVHIA has been carried out using industry standard methodology. Concerns have been raised in response to consultation about the appropriateness of using a wide-angle lens. GLA officers recognise that such an approach can lead to the building appearing less prominent than if viewed in reality, but this photographic methodology does enable as much of the foreground (usually containing the heritage asset(s) affected) to be captured in a single accurate image. GLA officers have visited the important views set out in the TVHIA to assess the impact fully and the Mayor will also conduct a site visit prior to the Representation Hearing.

229 The heritage assets affected are:

- Heritage Receptors (Conservation Areas) – Courtfield Conservation Area; Cornwall Conservation Area; Queen's Gate Conservation Area; The Boltons Conservation Area; De Vere Conservation Area; Earl's Court Village Conservation Area; Lexham Gardens Conservation Area; Kensington Palace Conservation Area; and, Thurloe Estate & Smith's Charity Conservation Area.

- Heritage Receptors (Listed Buildings) – Gloucester Road Underground Station; Church of St Jude; Nos. 1-8 (consec.); nos. 9-18 (consec.), 11A and 18A Collingham Gardens; Nos. 35 and 37, 39, 41, 43 and 45 Harrington Gardens; Nos. 20 and 22 Harrington Gardens; Nos. 24 and 26 Harrington Gardens; Nos. 1 and 3 Harrington Gardens including basement area railings; Two Entrance Arches from Courtfield Gardens; Pillar Box, Courtfield Gardens; Entrance Arch from Collingham Road; Entrance arch from Laverton Place; Church of St Stephen; nos. 6-16 Cornwall Gardens; nos. 17-44 Cornwall Gardens; Nos. 55-82 Cornwall Gardens (consec.) and 83-93 Cornwall Gardens (consec.); Cornwall House & Garden House; Pillar box adjacent to Cornwall House; Railings to east of Cornwall House and Garden House; East and west entrance arches from Grenville Place; Entrance arch from Gloucester Road; Church of St Augustine; Stanhope Gardens/ Harrington Gardens/ Hereford Square; Stanhope Court Hotel; nos. 46-52 Stanhope Gardens; Nos. 57-62 Stanhope Gardens (consec.); nos. 53-56 Stanhope Gardens (consec.); nos. 59-79 Cromwell Road (odd); Entrance arch from Cromwell Road; Entrance arch from Stanhope Gardens; Entrance arch from Harrington Gardens, with flank pavilions; Pair of K6 telephone kiosks (on forecourt of post office at junction with Gloucester Road); nos. 32-45 Stanhope Gardens (consec.); nos. 21-31 Stanhope Gardens (consec.); Cast iron area railings to three sides of communal garden; Nos. 10-23 Hereford Square (consec.); Nos. 27-35 Hereford Square (consec.); Nos. 68-87 Queen's Gate (consec.); nos. 127-134 Queen's Gate (consec.); nos. 123-126 Queen's Gate (consec.); Nos. 114-116 Queen's Gate (consec.); nos. 108-113 Queen's Gate (consec.); nos. 88-99 Queen's Gate (consec.); nos. 100-107 Queen's Gate (consec.); Entrance arch from Queen's Gate; Our Lady of Victories RC Primary School including covered play area and boundary wall; nos. 108 and 110 Old Brompton Road; Nos. 54-66 and 68-86 Cromwell Road (even); Nos. 11-23 Queen's Gate Gardens (consec.); Nos. 24-39 Queen's Gate Gardens (consec.); Nos. 41-52 Queen's Gate Gardens (consec.); Nos. 53-64 Queen's Gate (consec.); Nos. 47-52 Queen's Gate (consec.); Nos. 16, 17 and 18; and 19, 20 and 21, Queen's Gate Place; Entrance arch from Queen's Gate Place; Nos. 5-15 Queen's Gate Place (consec.); Nos. 44, 45 and 46 Queen's Gate; Southernmost and northernmost K2 telephone kiosks at junction with Cromwell Road; Lodge west of Natural History Museum; Nos. 1 and 2; 3 and 4; 5 and 6; and 16 and 17 The Boltons Drayton Arms Public House; Drayton Terrace, nos. 135-151 Old Brompton Road (odd); Bousfield School including water tower; East and west entrance arches from Launceston Place; Nos. 5-22 Launceston Place (consec.); Nos. 23-34 Launceston Place (consec.); Christ Church; Eldon Lodge; Natural History Museum, Front Lodge and Gates, Gate piers and Railings; Victoria and Albert Museum; Cole Wing, Victoria and Albert Museum; No. 167 Queen's Gate; No. 170 Queen's Gate; Royal Albert Hall; Church of the Holy Trinity; Gates, gate piers and railings to Queen's Gate; No. 1A Palace Gate including area railings; No. 10 Palace Gate; Nos. 14 and 15; 16 and 17; and 28 and 29 Kensington Gate; Nos. 4-13 and 18-27 Kensington Gate (consec.); Nos. 1-3 Kensington Gate (consec.); Marks and Spencers, British Home Stores and the Roof Garden; No. 1 Palace Green; Parish Church of St Mary Abbot and railings to churchyard; Church of St Sarkis (Armenian Church); Church of St Peter (Armenian Church); Chapel of St Luke, Brompton Hospital; Nos. 1-14 Pelham Crescent (consec.); Nos. 15-27 Pelham Crescent (consec.); Nos. 2-14 Pelham Place (even); and, Nos. 1-29 Pelham Place (odd).

- Registered Park and Garden of Special Historic Interest (RPGSHI) Receptors – The Boltons; and Kensington Gardens.

Conservation Areas

230 The views presented in the TVHIA are primarily from within Courtfield Conservation Area and Queen's Gate Conservation Area, with limited views provided from De Vere Conservation Area, The Boltons Conservation Area, Kensington Palace Conservation Area, Lexham Conservation Area and Cornwall Conservation Area.

Courtfield Conservation Area

231 Courtfield Conservation Area is to the immediate west of the application site. Predominately residential in character, the buildings exemplify well preserved late Victorian architecture, with mature gardens and generous road widths. Residences range in height from 2 to 3-storey terrace houses and semi-detached houses to 6 and 7-storey mansion blocks. The earlier buildings are of Italianate style, whereas the later buildings, post 1880, were built in a more ornate manner, often in red brick.

232 The following listed buildings are located within Courtfield Conservation Area: Grade II* Listed Church of St Jude; nos. 1-8 (consec.); and, nos. 9-18 (consec.), 11A and 18A Collingham Gardens; and Grade II listed nos. 35 and 37, 39, 41, 43 and 45 Harrington Gardens; nos. 20 and 22 Harrington Gardens; nos. 24 and 26 Harrington Gardens; nos. 1 and 3 Harrington Gardens including basement area railings; Two Entrance Arches from Courtfield Gardens; Pillar Box, Courtfield Gardens; Entrance Arch from Collingham Road; and, the Entrance Arch from Laverton Place.

233 Views 05 (Collingham Road / Courtfield Gardens), View 06 (Collingham Road), 07 (Collingham Road / Courtfield Gardens), 08 (Courtfield Gardens), 09 (Courtfield Road, near Astwood Mews), 10 (Courtfield Road, near Ashburn), 11(Harrington Gardens / Ashburn Place), 12 (Wetherby Place / Ashburn Place), 13 (Bina Gardens), 14 (Bina Gardens / Old Brompton Road), 32 (Courtfield Mews) presented in the TVHIA are all taken from within the Courtfield Conservation Area. In each instance, the Kensington Forum Hotel appears in the existing view and the impact of the proposed development would be negligible or slightly beneficial to the townscape view.

234 View 06 (Collingham Road) captures the entrance to, and lower element of, the Grade II* listed Church of St. Jude. At present the existing tower appears attached to the Church in winter views. The proposed development although more prominent would appear separate and distinct from the Church in terms of its position and articulation in both winter and summer views, which enhances the setting of the Church and its significance. The proposed building would be prominent in Views 08, 09 and 10 as is demonstrated in the TVHIA. This becomes more evident as the views move from a long to close range (Courtfield Gardens to Courtfield Road). The most significant impact therefore would be in View 10 taken from Courtfield Road, near Ashburn Gardens. However, the high-quality architecture and landscaping, including the retention of mature trees, would aid in reducing this impact. There would be less than substantial harm.

235 Views 13 and 14 demonstrate that the view looking northwards from within Bina Gardens would be an improvement to the townscape, with the proposed building appearing at a similar height but slenderer due to its orientation. GLA officers are of the view that in Views 7, 11 (with the Grade II listed nos. 20 and 22 Harrington Gardens prominent in the view), 12 and 32, the TVHIA demonstrates that the proposed development would cause no harm to the significance of the heritage assets.

236 In summary, notwithstanding the proposed increased scale and dominance in close range views, given the quality of architecture and orientation, GLA officers are of the view that this would result in at most, less than substantial harm to the significance of the Courtfield Conservation Area and listed buildings within it.

Queen's Gate Conservation Area

237 Queen's Gate Conservation Area is located to the east of the site and is bound by the City of Westminster to the east and north and Gloucester Road to the west. Designated in 1969, it is a large conservation area with a of variety materials and building types and contrasting scales. Predominantly residential in nature, there are former residences that have been converted to

museums, hotels and embassies. There are large terraces and small mews terraces and the streets in this area are wide and are often lined with large trees.

238 There are several listed buildings in the Queen's Gate Conservation Area that are within a 500-metre radius of the site. These are: Church of St Augustine (Grade II*) and the Grade II listed Stanhope Gardens/ Harrington Gardens/ Hereford Square; Stanhope Court Hotel; nos. 46-52 Stanhope Gardens; Nos. 57-62 Stanhope Gardens (consec.); nos. 53-56 Stanhope Gardens (consec.); nos. 59-79 Cromwell Road (odd); Entrance arch from Cromwell Road; Entrance arch from Stanhope Gardens; Entrance arch from Harrington Gardens, with flank pavilions; Pair of K6 telephone kiosks (on forecourt of post office at junction with Gloucester Road); nos. 32-45 Stanhope Gardens (consec.); nos. 21-31 Stanhope Gardens (consec.); Cast iron area railings to three sides of communal garden; Nos. 10-23 Hereford Square (consec.); Nos. 27-35 Hereford Square (consec.); Nos. 68-87 Queen's Gate (consec.); nos. 127-134 Queen's Gate (consec.); nos. 123-126 Queen's Gate (consec.); Nos. 114-116 Queen's Gate (consec.); nos. 108-113 Queen's Gate (consec.); nos. 88-99 Queen's Gate (consec.); nos. 100-107 Queen's Gate (consec.); Entrance arch from Queen's Gate; Our Lady of Victories RC Primary School including covered play area and boundary wall; nos. 108 and 110 Old Brompton Road; Nos. 54-66 and 68-86 Cromwell Road (even); Nos. 11-23 Queen's Gate Gardens (consec.); Nos. 24-39 Queen's Gate Gardens (consec.); Nos. 41-52 Queen's Gate Gardens (consec.); Nos. 53-64 Queen's Gate (consec.); Nos. 47-52 Queen's Gate (consec.); Nos. 16, 17 and 18; and 19, 20 and 21, Queen's Gate Place; Entrance arch from Queen's Gate Place; Nos. 5-15 Queen's Gate Place (consec.); Nos. 44, 45 and 46 Queen's Gate; Southernmost and northernmost K2 telephone kiosks at junction with Cromwell Road; and, Lodge west of Natural History Museum.

239 The TVHIA provides the following views taken from locations within Queen's Gate Conservation Area: View 17(Gloucester Road); View 19(Cromwell Road, near junction with Gloucester Road); View 20(Gloucester Road / Queen's Gate Gardens); View 21(Cromwell Road / Queen's Gate); View 22(Cromwell Road, outside main gate of Natural History Museum); View 23(Cromwell Road, outside Victoria and Albert Museum); View 26(Gloucester Road, near Queen's gate junction); View 29(Kensington High Street / De Vere Gardens); View 31(Hereford Square); and, View 33(Queen's Gate Gardens).

240 In Views 19-23, 26, 29, 31 and 33, the TVHIA demonstrates that Kensington Forum Hotel is visible in the existing views. Views 19-23 are all taken from various points along the northern side of Cromwell Road looking west towards the application site. In the near views, 19 and 20, the proposed building would appear more prominent; but owing to its siting and high-quality architecture, any harm caused would be less than substantial. In views 21-23, which are further away, there would be no harm caused to the significance of the Conservation Area. Similarly, no harm would be caused to the setting of the Grade I listed Natural History Museum and Grade I listed Victoria and Albert Museum, which are partially visible in Views 22 and 23 respectively. The existing building is only visible during winter in View 31 and this would be the case with the proposed development. Notwithstanding the increase in height, there would be no harm caused to the significance of the Conservation Area. In View 33, most of the view is of the Conservation Area and the proposed building would be viewed similarly and as such its impact would be negligible, causing no harm to the significance of the Conservation Area.

241 The Grade II* listed Church of St. Stephen, which is in Cornwall Conservation Area, is prominent in View 26. In the existing view the top of the hotel is slightly above the tallest point of the church, a rooftop ornamental cross. The proposed building would be taller and more prominent in the background of the Church but with its light-coloured facade would appear recessive resulting in less than substantial harm to the significance of the Church.

242 In the case of View 17(Gloucester Road), which is taken from the eastern side of Gloucester Road, looking westwards, the Grade II listed Gloucester Road London Underground station is

prominent in this view. To the front of the listed station is a large mature tree and in the background are Cheval Gloucester Park serviced apartments to the left and Point West apartments on the right. In the winter view, a small part of the Kensington Forum Hotel is visible behind the serviced apartments. The proposed development would be more visible owing to the increase in height and extension northwards and southwards towards Cromwell Road and Courtfield Road respectively. This change, however, as demonstrated in the TVHIA would cause no harm to the significance of the listed station.

243 In conclusion, GLA officers are of the view that the impact of the proposed development would be neutral or cause no more than less than substantial harm to the significance of the Queen's Gate Conservation Area or listed buildings within it.

Cornwall Conservation Area

244 Cornwall Conservation Area is situated on the opposite side of Cromwell Road to the northeast. Designated in 1969, Cornwall Gardens Conservation Area was one of the earliest conservation areas with extensions in 1982, 1983 and 1985 to include Emperor's Gate, Osten Mews and Cornwall Gardens Walk, and St Stephen's Church respectively. Victorian speculative terraced houses of good quality predominate the area's character. These Victorian houses are some of the tallest in the borough at five storeys.

245 The listed building within this conservation area include: Church of St Stephen; nos. 6-16 Cornwall Gardens; nos. 17-44 Cornwall Gardens; Nos. 55-82 Cornwall Gardens (consec.) and 83-93 Cornwall Gardens (consec.); Cornwall House & Garden House; Pillar box adjacent to Cornwall House; Railings to east of Cornwall House and Garden House; East and west entrance arches from Grenville Place; and, the Entrance arch from Gloucester Road.

246 The views taken within this conservation area that are set out in the accompanying TVHIA are View 18(Cromwell Road, opposite Gloucester Arcade); View 24(McLeod's Mews); 25(Grenville Place / Southwell Gardens); and, View 27(Launceston Place / Cornwall Gardens). In each view, the existing Kensington Forum Hotel is dominant as would be the proposed new building. Views 18, 24 and 27 there would be harm to the significance of the Conservation Area. Regarding Views 25 and 27, the building would appear bulky and prominent looking out of the conservation area towards Cromwell Road, especially in View 25 which is a short-range view. This bulk and prominence would have a harmful impact; however, this is considered to be less than substantial harm to the significance of the Conservation Area. In the case of View 18, the impact would be neutral/beneficial owing to the orientation of the building and the stepped design with the taller tower appearing as a singular slender building and the bulk primarily at the mid to lower levels of the building in the view.

247 In summary, notwithstanding the proposed increased scale and dominance in close range views, given the quality of architecture, orientation etc, GLA officers are of the view that its impact would be neutral/beneficial and that it would cause no more than less than substantial harm to the significance of the Cornwall Conservation Area or listed buildings within it.

The Boltons Conservation Area

248 The Boltons Conservation Area is predominantly residential and is located south of the application site. Developed between 1850 and 1876 in primarily an Italianate style, its Victorian character is complemented with mature trees and squares along the streets, notably The Boltons and Redcliffe Square which both focus on churches at their centre. The Boltons is Grade II listed, with the similarly listed St. Mary Church at its centre. Other listed buildings within The Boltons Conservation Area are nos. 1 and 2, 3 and 4, 5 and 6, and 16 and 17 The Boltons; Drayton Arms

Public House; Drayton Terrace, nos. 135-151 Old Brompton Road (odd); and, Bousfield School including water tower. View 15(Drayton Gardens) is taken from within this conservation area, just south of the junction with Old Brompton Road and looking northwards into Courtfield Conservation Area. Kensington Forum Hotel is prominent in the background of the existing view as is the proposed development; however, given the positioning and shape of the proposed building it appears slender and would enhance the townscape view and would cause no harm to the significance of the Conservation Area.

De Vere Conservation Area

249 The De Vere Conservation Area was designated in 1969 as the Kensington New Town Conservation Area and extended north and westwards in the 1970s and 1980s. Today, the Conservation Area encompasses four late Georgian houses, a swathe of early Victorian villas and an enclave of late Victorian terraces and flats. Each distinct group has its own special character. The Inderwick (1837-43) and Vallotton Estates (chiefly, 1840s-1850s) have a peaceful suburban charm principally because of their lush garden planting, trees and the fact that later development did not respect the intended street pattern and closed off roads to the west. This area attracted artists in the mid-late nineteenth century and several blue plaques mark their homes and the studios present in the area, notably Kensington Studios, St Alban's Studios and Eldon Lodge.

250 Views 28(Launceston Place / Victoria Grove) and 30(Kensington High Street / Victoria Road) set out in the TVHIA are taken from within the De Vere Conservation Area. View 28 would include Grade II listed 5-22 and 23-24 Launceston Place but the building would appear in long range views as is the existing structure and would not cause any harm to the significance of the heritage assets. This assessment is also applicable to View 30.

251 To summarise, due to the long-range nature of the views there would be no material adverse impact upon the significance of the De Vere Conservation Area or listed buildings within it.

Kensington Palace Conservation Area

252 Views 35 (Kensington Palace by Queen Victoria Statue) and 37 (Kensington Palace by Queen Victoria Statue) were taken from within the Kensington Palace Conservation Area. In the existing view, the Kensington Forum Hotel and other buildings are visible in the distant view. The proposed development would be visible in a similar manner and, though taller and of increased scale, its impact would be negligible. Officers consider that no material harm would be caused to the significance of the heritage assets.

Earl's Court Village, Lexham Gardens and Thurloe Estate & Smith's Charity Conservation Areas

253 Lexham Gardens Conservation Area, Earl's Court Village Conservation Area and Thurloe Estate & Smith's Charity Conservation Area are located to the north-west, west and southeast of the application site respectively. There is limited to no visibility of the existing building from within these Conservation Areas and this would remain so with the proposed development. View 1(Cromwell Road West) is taken from within Lexham Conservation Area. View 02(Cromwell Road / Marloes Road) is not within a conservation area but is in proximity of Earl's Court Village and Lexham Gardens Conservation Areas. Both views look eastwards along Cromwell Road towards the application site and the existing Kensington Forum Hotel is visible in the background of the view. The proposed development would be similarly visible and notwithstanding the increased scale and height would cause no harm to the setting.

254 In view of the limited to no visibility existing and proposed, GLA officers are of the view that the impact of the proposed development would be neutral or cause no harm to the setting of these Conservation Areas and listed buildings within.

Other views

255 The following views have also been submitted: View 03(Cromwell Road, opposite Collingham Road); View 04 Cromwell Road, opposite Courtfield Gardens); View 16(Courtfield Road, near Gloucester Road London Underground Station); and, View 36(Battersea Bridge). In View 16, which is taken on Courtfield Road within the buffer zone and includes views into Courtfield Conservation Area, the existing Kensington Forum Hotel is dominant. The proposed development would be more prominent; however, given the layout (which would enhance the streetscape) and the quality of architecture, GLA officers conclude that the proposed development would cause less than substantial harm to the setting of this Conservation Area. Views 03 and 04 are also within the buffer zone and are taken on the northern side of Cromwell Road looking easterly towards the application site, with Courtfield Conservation Area to the south. As is the case with the existing building on the site, the proposed development would be prominent in both views, especially in View 04, which is closer to the site. In View 04, however, the 30-storey tower appears slender and the colour and materials complement the prevailing palette and materiality of the nearby buildings within the Conservation Area. Therefore, no more than less than substantial harm would be caused to the significance of this heritage asset. In View 36 taken from Battersea Bridge, the impact, including on the setting of the listed bridge itself, would be neutral.

Listed buildings

256 As listed under paragraph 229, there are several listed buildings within 500 metres of the application site. In the above assessments of the views set out in the TVHIA, GLA officers have considered the impact of the proposals on the Grade II* listed Church of St. Stephen, Grade II* listed Church of St. Jude; Grade II listed Gloucester Road London Underground station, 5-22 and 23-24 Launceston Place and nos. 20 and 22 Harrington Gardens. With respect to the other listed buildings, given their location in relation to the application site, change to their setting would be minimal and their significance would not be materially harmed.

Registered Parks and Gardens

257 The special historic character of the Grade I listed Kensington Gardens, which also forms a substantial part of Royal Parks Conservation Area within the City of Westminster, would not be materially harmed. As stated earlier, Views 35 (Kensington Palace by Queen Victoria Statue) and 37 (Kensington Palace by Queen Victoria Statue) in the TVHIA demonstrate that the impact of the proposed building would be negligible causing no harm. The Grade II RPGSHI Boltons Garden is within The Boltons Conservation Area and the proposed development would have no material impact on this heritage asset.

Archaeology

258 Historic England (Archaeology) concluded that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest and has not recommended an archaeological requirement.

Conclusion on heritage assets

259 The Council's reason for refusal noted that the height and massing of the proposed development, including an additional tower, would cause less than substantial harm to the character

and appearance of nearby heritage assets, especially in nearby views; although it is unclear to which heritage assets this refers. The TVHIA demonstrates that the proposed development would be visible in views that fall within the relevant conservation areas and their settings and also within the setting of other heritage assets set out above. However, GLA officers consider that the likely effects would not be overly harmful to the significance of the relevant heritage assets.

260 In summary, GLA officers consider that in instances where harm to significance would be caused, it would be less than substantial. Even though that harm is to be given considerable importance and weight, the view is taken that a clear and convincing justification for the scheme exists and that the harm identified is outweighed by the public benefits the scheme would deliver, namely improved and modern visitor accommodation that would deliver London-wide economic benefits, 62 genuinely affordable rented housing units and a public garden square. These benefits collectively should be given very significant weight in the circumstances of this case. The proposal would therefore address the requirements of the policies set out above. In coming to these conclusions, GLA officers have taken account of the statutory duties contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposals comply with the NPPF, London Plan Policies 7.8, Policy HC1 of the draft London Plan and RBKC CLP Policies CL3 and CL4.

Inclusive design

261 London Plan Policy 7.2 and draft London Plan Policy D3 require all future development to meet the highest standards of accessibility and inclusion, and that the design process has considered how everyone, including those with disabilities, older people, children and young people, will be able to use the places and spaces that are proposed. The application is supported by an accessibility statement, which sets out how the proposed development would comply with relevant policy and key inclusive design features incorporated. Sample layouts have been provided.

Accessible homes

262 London Plan Policy 7.6 requires that buildings and structures meet the principles of inclusive design; and London Plan Policy 3.8 and draft London Plan Policy D5 require that ninety percent of new housing meets Building Regulation requirement M4(2) 'accessible and adaptable dwellings' and ten per cent of new housing meets Building Regulation requirement M4(3) 'wheelchair user dwellings', that is, designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users. Policy CH2b (iii) of the RBKC CLP requires 10% of dwellings to be wheelchair accessible. In accordance with London Plan Policy 3.8 and draft London Plan Policy D5 and local policy, 10% of the residential units would be designed to Building Regulation standard M4(3), with the remaining 90% designed to Building Regulation standard M4(2). A condition is recommended to be imposed to secure this provision.

Visitor accommodation

263 In relation to visitor accommodation, 10% of the hotel rooms and serviced apartments would be wheelchair accessible and designed to the standards required by Building Regulations Approved Document M Vol.2. This accords with London Plan Policy 4.5 and draft London Plan Policy E10. To ensure the delivery of this provision, a condition is recommended to be imposed. The function/conference room would also comply with the required inclusive design standards.

Public realm

264 The submitted drawings and landscape drawings demonstrate that appropriate levels and gradients can be provided across the site to ensure an inclusive environment throughout. The wider

public realm has been designed to be inclusive to all users, including adequate illumination and tactile and visual aids for navigation.

Car parking

265 The overall development would include 31 car parking spaces, of which 6 would be reserved as Blue Badge accessible parking spaces for residential units. A further 10% to 100% would be provided for the visitor accommodation. A car parking management plan, secured through the S106 agreement, will set out measures to monitor and increase this provision, if necessary.

Inclusive design Conclusion

266 In summary, in view of the reasons detailed above and the imposition of the recommended conditions, the proposal would achieve a high level of accessible and inclusive design and would comply with London Plan Policies 3.8, 4.5, 6.13, 7.1, 7.2, 7.5 7.6, draft London Plan Policies GG1, D3, D5, E10, T6.1, T6.5, the Accessible London SPG and Kensington & Chelsea's CLP Policy CH2b(iii).

Neighbouring amenity impacts

267 A core principle of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. London Plan Policy 7.6 and draft London Plan Policy D2 state that the design of new buildings should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings in relation to privacy, overshadowing, wind and microclimate. London Plan Policy 7.7 and draft London Plan Policy D8 state that tall buildings should not affect their surroundings adversely in terms of microclimate, wind turbulence, overshadowing, noise, reflected glare, aviation, navigation and telecommunication interference. London Plan Policy 7.15 and draft London Plan D13 seek to reduce and manage noise associated with development.

268 RBKC CLP Policy CL5 seeks to ensure that development does not harm the amenity of nearby properties through unacceptable noise, vibration, traffic congestion, air pollution, overshadowing, overbearing, poor outlook, privacy or daylight and sunlight. CLP Policies CL11 and CL7 also address the amenity of neighbours in terms of the impact of tall buildings (including their impact on microclimate, overshadowing and overlooking) and the impact of development comprising basements respectively.

Daylight and sunlight assessment

269 In consideration of the revisions to the proposed development, the applicant has submitted an updated Daylight, Sunlight, Overshadowing and Solar Glare (DSOR) assessment in Chapter 10 of the ES Addendum, with further details in the ES Addendum Volume 3: Appendix: Daylight, Sunlight, Overshadowing and Solar Glare Annex 1. This assessment considers the impact of the proposal upon existing nearby properties and the resultant daylight and sunlight levels within the proposed residential units and public spaces. The analysis is based on Building Research Establishment (BRE) Guidelines with specific reference to Vertical Sky Component (VSC) and No Sky Line (NSL) for assessing daylight and Annual Probable Sunlight Hours (APSH) for assessing sunlight.

270 Vertical Sky Component (VSC): This method of assessment is a "spot" measurement of daylight, taken at the mid-point of a window. It represents the amount of visible sky that can be seen from that reference point from over and around the obstruction in front of the window. That area of visible sky is expressed as a percentage of an unobstructed hemisphere of sky and therefore

represents the amount of daylight available for that window. The maximum VSC value is almost 40% for a completely unobstructed vertical wall or window. A window may be adversely affected if its VSC measured at the centre of the window is less than 27% and less than 0.8 times is former value.

271 It should also be noted however that the 27% VSC recommended guideline is based on a low-density suburban housing model and in an urban environment it is recognised that VSC values more than 20% are considered as reasonably good, and that VSC values in the mid-teens are deemed acceptable.

272 No-sky Line (NSL): No-sky line (NSL) is a measure of the distribution of diffuse daylight within a room. The NSL simply follows the division between those parts of a room that can receive some direct skylight from those that cannot. If from a point in a room on the working plane (plane 850 millimetres above the floor) it is possible to see some sky, then that point will lie inside the NSL contour. Conversely, if no sky is visible from that point then it would lie outside the contour. Where large parts of the working plane lie beyond the NSL, the internal natural lighting conditions will be poor regardless of the VSC value, and where there is significant movement in the position of the NSL contour following a development, the impact on internal amenity can be significant. When comparing the NSL for existing buildings against that proposed following development, BRE guidelines state that if the no-sky line moves so that the area of the existing room which does receive direct skylight is reduced to less than 0.8 times its former value, then this will be noticeable to the occupants, and more of the room will appear poorly lit.

273 Average Probable Sunlight Hours (APSH): In relation to sunlight and overshadowing, the revised DSOR sets out an analysis of APSH of windows which face the site and are located within 90° of due south (as per the application of the BRE Guidelines). A window may be adversely affected if a point at the centre of the window receives for the entire year less than 25% of the APSH, including at least 5% of the APSH during the winter months (September 21 to March 21) and less than 0.8 times its former sunlight hours during either period, and for existing neighbouring buildings, if there is a reduction in total APSH which is greater than 4%.

274 To confirm, the BRE Guidance is intended for building designers, developers, consultants and local planning authorities. The advice it gives is not mandatory and should not be used as an instrument of planning policy. Of relevance, the Guidance states: "*This guide is a comprehensive revision of the 1991 edition of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice. It is purely advisory and the numerical target values within it may be varied to meet the needs of the development and its location*." As stated above, the Guidance is based on a suburban model, and in urban areas such as this one, VSC values of less than 27% would be considered to maintain reasonable daylight conditions.

275 The NPPF paragraph 123(c) provides that local planning authorities should refuse applications which they consider fail to take efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities are to take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (if the resulting scheme would provide acceptable living standards).

276 Policy 7.6 of the London Plan requires new development to avoid causing 'unacceptable harm' to the amenity of surrounding land and buildings, particularly in relation to privacy and overshadowing and where tall buildings are proposed. Draft London Plan Policy D6 states that the amenity and privacy of the surrounding context of tall buildings should be protected. An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines are to be applied sensitively to higher density development,

especially in Opportunity Areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time. The degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced, but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.

277 Given the location and surroundings, 45 sensitive receptors (residential properties) with the potential to be most impacted because of the proposal are listed in the table below:

Table 5: List of Daylight and Sunlight Sensitive Receptors

Receptor	Receptor	Receptor
20 Harrington Gardens	31 Courtfield Road	17 Astwood Mews
15-15A Courtfield Road & 25 Ashburn Place	45 - 47 Courtfield Road	18 Astwood Mews
17 - 19 Courtfield Road	9 Ashburn Gardens	10 Grenville Place
26 Astwood Mews	13 Courtfield Mews	19 Astwood Mews
21 - 23 Courtfield Road	8 Ashburn Gardens	55 Courtfield Gardens
27 Astwood Mews	50 Courtfield Gardens	22 Astwood Mews
25 - 27 Courtfield Road	7 Ashburn Gardens	23 Astwood Mews
16 Courtfield Rd	15 Astwood Mews	24 Astwood Mews
25 Astwood Mews	37 - 39 Courtfield Road	6 Ashburn Gardens
28 Astwood Mews	13 Ashburn Gardens	14 Astwood Mews
33-35 Courtfield Road	41 - 43 Courtfield Road	5 Ashburn Gardens
14 Ashburn Gardens	12 Ashburn Gardens	16 Astwood Mews
126-128 Cromwell Road (Bury House)	118 Cromwell Road	21 Astwood Mews
13 Astwood Mews	20 Astwood Mews	52 Courtfield Gardens
124 Cromwell Road (Lilloto House)	53 Courtfield Gardens	51 Courtfield Gardens

278 Daylight: The DSOR sets out an analysis of 872 windows (serving 498 rooms) in the 45 residential properties referred to above, using the VSC criteria. The baseline assessment indicates that only 264 or 30% of the total number of these windows exhibit a VSC of 27% or more. In terms of the potential effects of the proposed development, the assessment concludes that 81% of all windows analysed would either retain a VSC of at least 27% or retain a VSC that is at least 0.8 times its former value (in some instances there would be gains), thereby meeting BRE Guidance criteria. Of this total, 31 properties would continue to receive levels of daylight that are compliant with the guidance in the BRE guidelines to all windows. Regarding the NSL assessment, 92% of the windows would meet the BRE guidelines.

279 Sunlight: The applicant's study analyses 133 rooms across the above-mentioned properties where at least one of the windows serving the room face within 90 degrees of due south. In terms of APSH, it was found that 89% would meet the relevant BRE Guidance. Instances where the level of APSH falls below the required standard, the amount of sunlight retained is considered acceptable in urban locations that are dense.

280 Most of the properties assessed would experience negligible or minor adverse impact on their sunlight and daylight amenity; however, 7 properties would contain some rooms or windows that fall within a range of moderate to major adverse impact. These 7 properties are: 15-15A Courtfield Road & 25 Ashburn Place; 21-23 Courtfield Road; 17-19 Courtfield Road; 13 Ashburn Gardens; 9 Ashburn Gardens; 7 Ashburn Gardens; and, 8 Ashburn Gardens. Notwithstanding this, most of these rooms would retain daylight distribution and VSC daylight values which are commensurate with an urban context.

281 Overshadowing: The revised Daylight, Sunlight and Overshadowing Report also looks at the impact of the scheme in terms of overshadowing to amenity and public spaces. The BRE Guidance suggests that where large buildings are proposed, it is useful and illustrative to plot a shadow plan to show the location of shadows at various times of the day and year. The path of the sun is tracked to determine where the sun would reach the ground and where ground would be overshadowed. BRE Guidance recommends that at least 50% of a garden or amenity area should receive at least 2 hours of sunlight at the Spring Equinox (21 March) to appear adequately sunlit, or else the area which receives 2 hours of direct sunlight on 21 March should not be reduced to less than 0.8 times its former value (i.e. reduced by more than 20%). The proposed development's impact on nearby external amenity areas has been assessed. Notwithstanding that there would be some additional overshadowing during the early afternoons of the spring and autumn months (with no additional summer impact), the change compared to the existing is of a sufficiently small percentage that change is unlikely to be noticeable.

282 Solar Glare: Reflective studies have been undertaken to establish any potential adverse effects on road traffic and residential locations around the application site and has identified the potential for some local adverse impacts of minor to moderate significance. Some of these impacts can be mitigated and the ES has identified mitigation, including special coating, or fritting, of the glazing panels or the application of fins. This will be secured by planning condition.

283 It is important to consider the potential impacts of the scheme in terms of daylight and sunlight with regard to the urban context of the local area and with regard to the need to make efficient use of the land in this highly sustainable location. Officers would draw attention to paragraph 123(c) of the NPPF which raises the concern that an overly rigid application of policy should not inhibit making efficient use of development sites. The Council's planning officers confirmed in their initial committee report that they considered the impact on neighbouring properties in terms of daylight and sunlight to be acceptable. In its report in response to the amended scheme, the Council concludes similarly, determining that the proposed development is compliant with RBKC CLP Policy CL5(b) and GLA officers concur with this view. There would be no material increase in the level of impact because of the increase in height of the proposal since the Mayor took the decision to call in the application for his own determination. The losses of daylight and sunlight that would occur to certain windows in adjacent residential properties result in residual impacts within the levels of acceptability in an urban environment and which are not unusual for the local context. Overall, the scheme achieves a very good level of compliance with relevant BRE Guidance, but some loss of daylight would occur to some existing properties.

284 An independent assessment was also undertaken, which concluded that the effects on the surrounding environment and neighbouring properties are commensurate with the urban location the project is set within and the proposed accommodation seems to achieve levels of daylight and sunlight in line with the expectations of a central London location. The assessment further stated that in relation to solar glare, the mitigating measures discussed within the ES chapter, may warrant conditioning particularly in relation to the highly glazed facade facing onto Cromwell Road.

285 The internal daylighting for units within the proposed scheme has been considered in paragraph 165.

Privacy and overlooking

286 Paragraph 34.3.38 of the RBKC CLP states that about 18 metres between opposite habitable rooms is acceptable when considering privacy; however, it is also acknowledged that there are many instances within the borough where this is not the case due to the Borough's historic fabric. The Mayor's Housing SPG (March 2016) notes that a commonly used minimum separation distance between habitable rooms of 18-21 metres is the yardstick but advocates a more flexible approach to managing privacy.

287 As stated earlier in this report, the proposed residential units would be situated on the southern end of the site, with habitable rooms facing Courtfield Road, Ashburn Place and the public garden. On Courtfield Road, the distance between the proposed residential units and directly opposing facades would be at least 22 metres and those on Ashburn Gardens would be at a minimum of 40 metres away. Regarding residential properties located on the opposite side of Cromwell Road, the distance between the hotel and habitable rooms would be well over the 18-21 metres range.

288 The proposed buildings would therefore have no demonstrable harmful impact on privacy to existing or proposed homes near the site. The impact on privacy to the proposed units within the scheme itself has been addressed at paragraphs 167 above.

Noise and basement development

Noise

289 Chapter 8 of the Environmental Assessment addresses noise and vibration and sets out the likely effects of the proposed development during both the construction and operational phases. The conclusions are upheld as remaining valid in the ES Addendum.

290 During the demolition and construction phase, there will inevitably be some adverse noise impacts on nearby residential properties caused by construction activities and vehicles. These impacts would be temporary, confined to normal working hours and controlled through a demolition traffic management plan, construction traffic management plan and dust mitigation during demolition and construction. These plans would mitigate the impacts of demolition and construction and conditions are recommended to be imposed requiring the submission of each.

291 During the operational phase, potential noise impacts from the development on existing neighbouring properties are likely to be confined to noise from increased pedestrian and vehicular traffic, and plant and services. Regarding the expected increase in noise from pedestrian and vehicular activity, this expected to come from the use of the conference/function facilities for events, and the imposition of a condition requesting the submission of a draft events management plan prior to construction and a final events management plan before occupation is recommended.

292 In relation to noise from plant, a condition is recommended to be imposed to secure anti-vibration mounts for equipment, to protect the amenity for existing and future residents as wells requiring details of plant and machinery associated with the development to be approved. The latter would ensure that noise from plant would be at least 10dB below background noise level, measured at the facade of the nearest noise sensitive premises.

Basements

293 As mentioned earlier in this report, the proposed scheme includes the retention and reuse of the existing basement levels, with an increase in the size of the second level basement. Draft London Plan Policy D9 recognises the potential impact the construction of large-scale basements (i.e. those that are multi-storey and/or those that extend significantly beyond the existing building footprint) can have on neighbouring amenity, including noise, vibration and land and structural stability. The application is supported by a Basement Construction Method Statement (BCMS), which meets the requirements of RBKC CLP Policy CL7 and the Basement SPD. The BCMS adequately demonstrates that the structural stability of the existing nearby buildings could be safeguarded. A condition is recommended to be imposed requiring the basement contractor responsible for the development to be a member of the Considerate Constructors Scheme and to display the details of the membership and contact details on the site. It is noted that both Council

officers and committee members considered the BCMS to be acceptable. In terms of noise and vibration, mitigation like that mentioned at paragraph 290 above would be applied.

Neighbouring amenity impacts conclusion

294 Subject to the imposition of appropriate conditions, the proposals would not have an unacceptable impact on the residential amenity of existing residents close to the site, and the proposals thus comply with London Plan Policies 7.6, 7.7 and 7.15, and RBKC Policies CL4, CL5 and CL11, and Basements SPD and Noise SPD.

Sustainability and climate change

295 London Plan climate change policies, set out in Chapter Five, collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, and to minimise carbon dioxide emissions. London Plan Policy 5.1 sets out the strategic approach to reducing carbon emissions in London, and Policy 5.2 sets out an energy hierarchy for assessing applications. Policy 5.2 sets a minimum target for carbon dioxide emissions reduction in new buildings of 35% beyond Part L of the Building Regulations (as amended 2013) for commercial buildings and zero-carbon for residential buildings. London Plan Policy 5.3 requires future developments to meet the highest standards of sustainable design and construction, and London Plan Policies 5.9-5.15 promote and support the most effective climate change adaptation measures including passive thermal regulation, urban greening, and water management.

296 Draft London Plan climate change policies are set out in Chapter 9, again collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, minimise carbon dioxide emissions and meet the highest standard of sustainable design. The policies go further than the current London Plan setting more stringent standards regarding air quality, greenhouse gas emissions, energy infrastructure, water infrastructure and waste and the support for the circular economy. Draft London Plan Policy G5 (Urban Greening) states that all major development proposals should contribute to the greening of London. The Mayor's Sustainable Design & Construction SPG sets out how these policies should be implemented.

297 RBKC CLP Policies CE1 and CE2 set out the borough's approach to climate change and require developments to meet the highest standards of sustainable drainage and comply with London Plan carbon reduction standards.

Energy strategy

298 The applicant has submitted an energy strategy for the site, which outlines the measures to reduce carbon dioxide emissions beyond the 2013 Building Regulations, in compliance with the London Plan target. In reporting the application at Stage 1, it was observed that the scheme followed the London Plan energy hierarchy, with a range of passive design features and demand reduction measures proposed, and district heating, combined heat and power (CHP) and renewable energy sources, and that the carbon savings were more than the London Plan's targets.

299 Energy efficiency (Be Lean): A range of passive design features and demand reduction measures are proposed to reduce the carbon emissions of the proposed development. Both air permeability and heat loss parameters will be improved beyond the minimum backstop values required by building regulations. Other features include low energy lighting and occupancy linked control. The demand for cooling will be minimised through limited south facing glazing, balconies acting as overhangs, fully openable balcony doors, MVHR units and blinds.

300 District heating (Be Clean): The applicant has identified several proposed and existing networks in the area; however, all of them are at a significant distance from the application site and therefore connection is not proposed. The applicant has, however, provided a commitment to ensuring that the development is designed to allow future connection to a district heating network should one become available. A site heat network where all apartments and non-domestic building uses will be connected. The site heat network will be supplied from a single energy centre. The applicant is proposing to install a 230 kWe / 358 kWth gas fired CHP unit as the lead heat source for the site heat network. The CHP is sized to provide the domestic hot water load, as well as a proportion of the space heating leading to a 65% total contribution to the site's load. A reduction in regulated CO_2 emissions of 1,298 tonnes per annum (29%) will be achieved through this second part of the energy hierarchy.

301 Renewable technology (Be Green): The applicant has investigated the feasibility of a range of renewable energy technologies and is proposing to install 26kWp of Photovoltaic (PV) panels (circa 110sq.m.) and has provided a roof layout of the proposed panels.

302 Overall savings: Based on the energy assessment submitted, an on-site reduction of 33 tonnes of CO_2 per year in regulated emissions compared to a 2013 Building Regulations compliant development is expected for the domestic buildings, equivalent to an overall saving of 53%. For the non-domestic element, an on-site reduction of 1,723 tonnes, equivalent to an overall saving of 40% is expected. The carbon dioxide savings exceed the 35% target for non-domestic buildings but do not meet the zero-carbon target for domestic buildings. As such, a contribution is mandatory to make up for this shortfall, which has been estimated at £52,200 and will be paid into RBKC carbon offset fund. This would be secured in the S106 agreement.

303 A condition is also recommended to be imposed to ensure that the development is designed to allow future connection to a district heating network should one become available. Details of the final energy strategy should be submitted and approved prior to occupation. In this respect, the proposals comply with London Plan and borough policies on energy efficiency and carbon savings.

Flood risk management, sustainable drainage and water efficiency

304 London Plan Policy 5.12 and draft London Plan Policy SI12 seeks to ensure that developments address flood risk and incorporate flood resilient design. Policy 5.13 and draft London Plan Policy SI13 states that developments should use sustainable urban drainage systems (SUDS) and should ensure that surface water run-off is managed as close to its source as possible in line with the London Plan drainage hierarchy. In relation to water efficiency, London Plan Policy 5.15 and draft London Plan Policy SI5, require developments to minimise water use by water saving measures and equipment, and achieve set water consumption targets. RBKC CLP Policy CE2 requires developments to mitigate the effects of, and adapt to, surface water and sewer flooding; as well as adapt to fluvial flooding.

305 The application is supported by an ES, which indicates that the application site is located within Flood Zone 1 and this is confirmed by the Environment Agency flood map; however, the site is at high risk of flooding from groundwater and the sewer. The flood risk assessment considers the risk of flooding from a range of sources, including groundwater and sewer, and addresses the risk of flooding from all sources. Regarding surface water, notwithstanding the site's location within a Critical Drainage Area (CDA), the risk of surface water flooding is low. Suitable mitigation measures to reduce any flooding from surface water have been proposed. On the matter of groundwater flooding, a hydrogeological assessment that demonstrates that the proposed development is unlikely to have any significant impact on flood risk offsite. To avoid groundwater egress, waterproofing of the basement levels is recommended. Lastly, non-return valves to prevent sewer surcharge and a suitable pump device for foul drainage have been recommended.

306 A sustainable drainage strategy (SuDS) has been proposed, comprising water harvesting and attenuation tanks. An active tank, which would manage roof runoff, would simultaneously act as a rainwater harvesting system and standard attenuation tank. The other tank, to be constructed from geo-cellular units located in the external landscape below ground, would address hardstanding runoff. A surface runoff discharge rate of 5 l/s is projected, resulting in a betterment of 92%. The site's impermeable area has been recalculated at 310m3. Additionally, a suitable maintenance plan showing the maintenance and inspection frequency, and maintenance activities for each SuDS measure proposed has been outlined.

307 GLA officers recommend that a condition be imposed requiring the submission of a detailed drainage strategy and flood risk assessment setting out in detail the recommendations identified above and other measures proposed to mitigate flooding from all sources.

308 The Sustainability Statement proposes that the non-residential components of the development will target a minimum BREEAM rating of 'Excellent'. The BREEAM pre-assessment for these components shows a greater than minimum score on water measures, which accords with draft London Plan Policy SI5. The Sustainability Statement also indicates that the development would seek to reduce water consumption to less than 105 litres per person per day. This is expected to be achieved with the use of water efficient fittings, including washing machines and dishwashers, taps and water closets. This accords with the relevant London Plan and draft London Plan policies. A condition is recommended to be imposed to ensure that these are secured.

309 The development would comply with London Plan Policies 5.12, 5.13 and 5.15, draft London Plan Policies SI5, SI12 and SI13, and RBKC CLP Policy CE2.

Sustainability strategy

310 The applicant has submitted a Sustainability Statement for the site, which sets out several climate change adaptation measures proposed in the design and construction process. Where appropriate, the themes within the Sustainability Statement have been considered separately in this report under sections addressing energy, flood risk and drainage, transport, ecology and biodiversity, waste management, landscape, noise, heritage, and air pollution. The remaining themes are considered as follows:

311 BREEAM: The applicant is targeting a BREEAM "Excellent" rating for the commercial element of the scheme. A condition is recommended to be imposed to ensure that the commitment relating to BREEAM is secured in line with the requirements of RBKC CLP Policy CE1.

312 Water use demand: As stated above, the applicant has set out the measures that would be incorporated into the scheme to reduce water consumption within the development, including water efficient appliances and fittings. This is welcomed in accordance with London Plan Policy 5.15, draft London Plan Policy SI5 and RBKC CLP Policy CE1. A condition is recommended to be imposed to ensure that these are secured.

313 Materials and construction waste recycling: The applicant has set out commitments to, where possible, recycle materials, utilise materials with low environmental impact and 'responsibly sourced' materials. A condition is recommended to be imposed to ensure that a site waste management plan, including the mitigation measures and monitoring commitments set out in Chapter 14 of the ES – Volume 1, is secured.

Trees and urban greening

314 London Plan Policies 5.10 and 7.21 seek to retain existing trees of value, or mitigate their loss, and require developments to incorporate urban greening measures. Draft London Plan Policies

G5 and G7 go beyond the London Plan requirements by embedding urban greening measures and retention of existing trees of quality into the planning process. As set out in draft London Plan Policy G5, the Mayor has developed a generic Urban Greening Factor (UGF) model to assist boroughs and developers in determining the appropriate provision of urban greening for new developments. This model is based on a review of green space factors in other cities. The factors outlined in Table 8.2 of the policy are a simplified measure of numerous benefits provided by soils, vegetation and water based on their potential for rainwater infiltration as a proxy to provide a range of benefits such as improved health, climate change adaption and biodiversity conservation.

315 The protection of existing trees and the provision of new trees to enhance or create green areas of the highest quality that deliver amenity and biodiversity benefits is a requirement of Policy CR6 of the RBKC CLP. Policy CR6 sets out several ways this will be achieved by the Council such as resisting the loss of trees, requiring appropriate replacements where practicable in the event trees are felled, demanding the protection of trees during development and serving Tree Preservation Orders or attach planning conditions to protect trees of townscape or amenity value that are threatened by development.

316 As mentioned earlier, the existing garden area is designated as a London Square under the London Squares Preservation Act 1931. This gives the square statutory protection and ensures it is retained and used for the authorised purposes set out in the Act. The developer would therefore be required to make a separate application under the London Squares Preservation Act 1931 to re-arrange the garden square.

317 The application is supported by an Arboriculture Assessment, which evaluates the 19 existing trees on the site and three outside the application site boundary—two located along Cromwell Road and one on Ashburn Place. According to this assessment, there are 8 Category A trees, 6 Category B, and 8 are Category C.

318 There would be a net gain of 20 trees across the site resulting from the proposed development. The removal of 9 trees would be required to facilitate the proposed development: 7 Category C, and 2 Category B. Only two of the trees that would be lost, however, would have a noticeable impact on amenity—a Cappadocian Maple and a Tree of Heaven. There are 12 London Plane trees currently on the site and all would be retained; however, one of these mature London Plane trees would have a large part of its canopy removed to facilitate the proposed development. This action would result in a loss of some amenity value. Nevertheless, in view of the overall net gain of 20 trees across the site, GLA officers consider that the harm resulting from the loss of the two trees and the canopy of one London Plan tree would be outweighed by the overall uplift in tree planting across the site. It will therefore be important to ensure that the quality and maturity of the replacement specimens is of the highest standards, and that the tree pit design and maintenance regime is suitable. Furthermore, a compensatory fee of £77,000 based on the Council's Capital Asset Value for Amenity Trees (CAVAT) System is recommended to be secured via the Section 106 for the loss of the amenity owing to the reduction in the canopy of the London Plane described above. Tree protection measures are also being recommended to be imposed through planning conditions, as well as the submission and approval of a full landscaping and maintenance scheme to ensure the proposals are carried through to the build out.

319 The UGF for the proposal has been calculated in line with the criteria set out in draft London Plan Policy G5 and has recorded a score of 0.37. This accords with draft Policy G5, which recommends a target score of 0.3 for predominantly commercial developments,

320 It is noted that Council officers, in their assessment of the scheme, also considered that the impact on trees was acceptable, subject to conditions and a Section106 obligation in relation to the loss of canopy.

Ecology and biodiversity

321 London Plan Policy 7.19 and draft London Plan Policy G6 require developments to make a positive contribution to the protection, enhancement and creation of biodiversity. Locally, RBKC CLP Policy CE4 promotes the protection of biodiversity and requires opportunities to be undertaken to enhance biodiversity. RBKC CLP Policies CR5 and CR6 also emphasise the importance of development optimising benefit to biodiversity.

322 The site does not fall within the boundaries of any statutory or non-statutory sites of nature conservation and is not designated for any nature conservation purposes; however, the Natural History Museum Gardens SINC is situated approximately 450 metres to the east of the site and is designated as being of borough importance (Grade II). A survey was undertaken, which identified potential roosting features that were of low bat roosting potential. The resulting bat survey concluded that there is no evidence of any roosting on-site. Several recommendations are made, aimed at enhancing biodiversity on the site, including native planting within the development, provision of bird and bat boxes, and appropriate lighting design to minimise intrusion on fauna. It is recommended that a condition be imposed requesting details of these measures; and accordingly, it is considered the scheme would be in accordance with strategic and local policies on ecology and biodiversity.

Conclusion on climate change and sustainability

323 The proposed development would minimise carbon dioxide emissions to meet London Plan targets and local policy regarding climate change. The development would not increase flood risk and would deliver sustainable urban drainage benefits over the existing situation at the site. The development has committed to achieve high standards in sustainable design and construction. In these respects, the development follows relevant planning policies regarding sustainability and adapting to climate change.

Other environmental issues

Air quality and odour

324 London Plan Policy 7.14 seeks to ensure that new development minimises increased exposure to existing poor air quality and makes provision to address local problems of air quality (particularly within Air Quality Management Areas (AQMAs)) and be at least "air quality neutral". RBKC CLP Policy CE5 seeks to reduce the potential air quality impacts of development and promote air quality conditions across the borough. In addition, The RBKC Air Quality and Climate Change Action Plan sets out the ambitions and objectives of the local council with regards to tackling air quality and climate change issues between 2016-2021.

325 The entire Borough of Kensington and Chelsea is within an AQMA. However, the site is within the proposed expanded ULEZ zone and is likely to see substantial improvements in ambient Air Quality following expansion in 2021. An assessment of the proposed development's impact on air quality during the construction and operational phases is presented in Chapter 9 of the ES, with further information contained in the ES Addendum. The development is not due to be complete until 2026 and the changes in ambient conditions mentioned above have been assumed in the air quality assessment. This assessment examines demolition and construction, the on-site energy plant, traffic and the impact of traffic pollution on the health and comfort of future occupiers of the development. The assessment also identifies on-site and off-site receptors, namely located on Ashburn Gardens, Courtfield Road and Cromwell Road. An Air Quality Neutral Assessment has been submitted.

326 Construction Phase: Mitigation measures are proposed to address the risk to air quality from dust during demolition and construction, which is expected to be high in terms of dust soiling and to human health. These measures will be set out in an air quality dust management plan (AQDMP) and it is therefore recommended that a planning condition be imposed to secure a site-specific construction/demolition environmental management plan. Given that the vehicle trips during the construction phase would be less than what currently occurs in the operation of the hotel, the construction traffic would have a negligible impact on air quality. Additionally, a condition is recommended to be imposed to ensure compliance with the Non-Road Mobile Machinery Low Emission Zone as set out in London Plan Policy 7.14(b) and the associated Control of Dust and Emissions during Construction and Demolition SPG. Subject to these conditions, the likely temporary effects on air quality during the construction period are acceptable.

327 Operational Phase: The main polluting operations associated with the proposed development once built include emissions from traffic movements and the CHP unit and gas boilers. The assessment concluded that these operations would have negligible impacts. Notwithstanding, it is recommended that a mechanical ventilation system be secured by condition to ensure that the impact on air quality is minimised for future occupiers.

328 Having reviewed the applicant's air quality study, it is considered that construction and operational impacts can be suitably mitigated with the imposition of the conditions recommended. RBKC officers also reviewed the material and raised no concerns, subject to securing conditions.

Wind

329 London Plan Policy 7.7 and draft London Plan Policy D8 state that tall buildings should not adversely affect their surroundings in terms of (amongst other things) microclimate and wind turbulence. The Mayor's Sustainable Design and Construction SPG identifies the Lawson Comfort Criteria as a means for identifying suitability of wind conditions. Paragraph 34.3.99 of the RBKC CLP states that given the problems caused by tall buildings (including microclimate) on residential environments and amenity spaces, tall buildings should be carefully sited and designed. Moreover, RBKC CLP Policies CR3 and CR4 promote the maintenance of streets and the functionality of streetscapes, which include the impact of microclimate on the street environment.

330 Chapter 11 of the ES accompanying the application addresses the potential impact of the proposed development on wind and microclimate conditions, with details on the assessment methodology set out in ES Volume 3 Appendix: Wind Microclimate, Annex 2. An assessment of the wind conditions was undertaken during the windiest season (winter) and summer using the Lawson Comfort Criteria. Although only the results for summer and winter are presented, an analysis of the other seasons was also conducted.

331 The assessment includes results of wind tunnel testing for the proposed development and assesses thoroughfares, entrances and amenity spaces, at terrace levels and ground level, against a 'comfort criteria' consisting of four pedestrian activities where less active pursuits require more benign wind conditions. The assessment demonstrates that all the areas tested would achieve compliance with standards for their intended use i.e. sitting and standing or walking. As part of the amendments to the scheme, the design mitigation measures identified previously have been made to the design.

332 The development is not likely to have an adverse impact on wind conditions for people on the site or using surrounding areas and would comply with London Plan, draft London Plan and local policies.

Waste

333 London Plan Policy 5.17 requires adequate provision for waste and recycling storage and collection; and Policy 5.18 requires applicants to produce site waste management plans to arrange for the efficient handling of construction, excavation and demolition waste and materials. Draft London Plan Policy SI7 seeks to reduce waste and increase material reuse and recycling and promotes a circular economy. The policy also sets several waste targets including a strategic target of zero biodegradable waste or recyclable waste to landfill by 2026.

334 RBKC CLP Policy CE3 encourages sustainable waste management in the borough by promoting waste reduction, re-use and recycling. Policy CE3 also requires the preparation and implementation of a site waste management plan for demolition and construction waste for major developments.

335 Construction waste: the applicant has committed to resource efficiency and material management during construction, directing construction waste away from landfill. A condition is recommended to be imposed to ensure that contractors adhere to this plan.

336 Operational waste: The applicant has prepared and submitted a waste management strategy for the site, with the following key themes:

- each residential unit would be provided with a segregated waste bin, within the kitchen unit;
- residents would carry their own waste from their flats directly to a dedicated waste storage area, provided at basement level close to the residential service core;
- the residential waste storage area would accommodate communal bins for each waste stream and would be managed by the on-site facilities management team, with responsibility for its monitoring and cleanliness as well as transporting bins to the collection point at ground floor level;
- the quantum of bin storage would accord with the relevant Building Regulations and RBKC standards set out in their Transport and Streets SPD document;
- interim waste storage areas that encourage recycling and refuse segregation would be provided in the hotel;
- hotel waste would be removed regularly from the interim waste storage areas by the on-site facilities management team and taken to the commercial waste stores at basement level 2;
- each serviced apartment would be fitted with waste storage containers to promote separation at source, and waste would be collected daily by the on-site facilities management team, taken to the commercial waste stores and segregated;
- all waste storage areas would be designed in accordance with BS5906:2005 standards;
- the applicant would ensure that adequate provision is made for a commercial waste contractor.

337 The proposed strategy is acceptable in line with London Plan Policies 5.17 and 5.18, draft London Plan Policy S17 and RBKC CLP Policy CE3. To ensure the proposed strategy is implemented, a condition is recommended to be imposed requiring the provision of the facilities prior to occupation. It is noted that the Council's waste officer raised no objections subject to conditions, and the Council officers proposed this approach in their assessment of the application at committee stage.

Contaminated land

338 London Plan Policy 5.21 supports the remediation of contaminated sites and bringing contaminated land back into beneficial use. RBKC CLP Policy CE7 requires adequate mitigation to be taken to ensure that development is safe regarding the re-use of land.

339 Given that the proposed uses would be particularly vulnerable to the presence of contamination, conditions to ensure a thorough investigation of the ground conditions and likely sources of contamination, appropriate remediation if necessary, and a validation report if necessary to confirm that all potential contamination has been removed from the site prior to its first use would have to be secured. The presence of contamination would also require further investigation to identify a suitable remediation strategy for the construction and operational phases.

340 It is therefore recommended that planning conditions are imposed requiring investigative work and assessment and, if necessary, validation and remediation. Subject to these, and a condition requiring the approval and implementation of an appropriate construction environmental management plan, the potential contaminated land will not cause a significant risk.

Transport

341 At paragraph 102, the NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- potential impacts of development or on transport networks can be addressed;
- opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
- opportunities to promote walking, cycling and public transport use are identified and pursued;
- the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
- patterns of movements, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

342 London Plan Policy 6.1 applies these principles within the strategic approach for transport in London. Other relevant strategic transport policies in this case include: Providing public transport capacity and safeguarding land for transport (Policy 6.2); Assessing effects of development on transport capacity (Policy 6.3); Enhancing London's transport connectivity (Policy 6.4); Better streets and surface transport (Policy 6.7); Cycling (Policy 6.9); Walking (Policy 6.10); Smoothing traffic flow and tackling congestion (Policy 6.11); Road network capacity (Policy 6.12); Parking (Policy 6.13); The Mayor's priorities for planning obligations (Policy 8.2); and, Mayoral Community Infrastructure Levy (Policy 8.3).

343 The Mayor's Transport Strategy (2018) (MTS) seeks to put people's health and quality of life at the very heart of planning the city's transport with an aim that by 2041, 80% of all Londoners' trips will be made on foot, by cycle or by public transport. The MTS seeks to impose high expectations on developers to deliver transport solutions that will promote sustainable mode shift, reduce road congestion, improve air quality and assist in the development of attractive, healthy and active places. It will also seek to restrict car parking provision within new developments, with those locations more accessible to public transport expected to be car free or car-light.

Provision for car parking should be minimised and designed for alternative uses in the future as car dependency decreases.

344 The aspirations of the Mayor's Transport Strategy are embedded in the policies of the draft London Plan particularly the policy approaches such as 'Healthy Streets', 'Good Growth' and the Mayoral mode share targets. Draft London Plan Policy T1 sets the Mayor's strategic target of 80 per cent of all trips to be made by foot, cycle or public transport by 2041. Draft London Plan Policies T3-T6 and T6.1 – 6.3 seek to enable the achievement of the Mayor's strategic target whilst T7 will deliver MTS objectives in respect of freight and T9 emphasises the funding of transport schemes through planning.

345 RBKC CLP Policy CT1 states that the Council will, as an alternative to car use, ensure that it is easier and more attractive to walk, cycle and use public transport and by managing traffic congestion and the supply of car parking. Policy CR7 of the RBKC CLP and the Transport and Streets SPD (2016) are also relevant.

346 Issues with respect to transport were considered by the Council as having been satisfactorily addressed, subject to agreement of appropriate planning conditions and Section 106 obligations to secure necessary mitigation measures. Transport does not feature in the Council's proposed reasons for refusal. The Mayor's Stage 1 comments concluded that some further work was required on trip generation, management of the pick-up/drop-off arrangements during large events, parking, car and cycle parking. Various detailed transport related plans, including a construction logistics plan and a travel plan, had to be secured through planning condition or legal obligation. The applicant has engaged with GLA and Transport for London (TfL) on these matters following the Mayor's decision to take over the application for his own determination and they have been satisfactorily resolved subject to planning conditions and Section 106 obligations being secured as set out below.

Site access

347 The overall access arrangements to the proposed development remain as per the 2018 submission. An arrivals taxi and car drop-off would be located on the north-western corner of the site on the junction of Cromwell Road and Ashburn Gardens, with access to the basement car park provided off Ashburn Place. This arrangement is not anticipated to have strategic highway impacts and the acceptability of these arrangements has been confirmed by the Council as highway authority. The applicant is required to engage with the Council on the detailed designs of the stopping up of the existing access and the proposed new site access.

Trip generation and mode split

348 The application is supported by a Transport Assessment (TA) dated April 2019. It estimates that the development would generate 70 two-way vehicle trips in the AM peak and 79 two-way vehicle trips in the PM peak. The TA also predicts that most personal trips would be made by public transport and walking, with 563 persons making two-way trips in the AM peak and 513 in the PM peak. This level of trips emphasises the need to ensure a high-quality pedestrian and cycle network within the immediate area. Given the provision of hotel facilities for evening functions, the TA further provides estimates to account for the expected changes in vehicle and person trips in this scenario. In the Peak Arriving Hour (19:00-20:00) 531 persons trips are estimated and 507 during the Peak Departing Hour (22:00-23:00); and for vehicle trips 218 in the Peak Arriving and 278 for the Peak Departing Hour.

349 The total net change in demand for vehicle trips generated by the development would be +9 in the AM peak hour and +29 in the PM peak hour, and for person trips 250 persons and 172 persons for the AM Peak and PM Peak respectively. Regarding the travel demand for evening functions, the net

change would be 128 vehicles and 554 persons in the Peak Arriving Hour, and 169 vehicles and 436 persons in the Peak Departing Hour.

350 To ensure the delivery of adequate pick-up/drop-off facilities for the development at peak times and during events and non-events, an event and non-event management plan has been prepared by both TfL and the developer and would be formalised through planning condition and enforced through RBKC's general planning enforcement procedures.

351 In view of the above, it is concluded that the proposals would not materially impact on traffic flow on the Transport for London Road Network (TLRN) or the wider highway network nor cause congestion in the local area, subject to suitable mitigation.

Car parking

352 The proposed development would provide 31 car parking spaces (6 residential Blue Badge spaces and 25 spaces for visitor accommodation use) notwithstanding the public transport accessibility level score of 6b. To prevent parking overspill and to encourage the use of sustainable modes, the development will be subject to an appropriate legal planning restriction whereby occupiers will be prevented from being able to obtain parking permits for the surrounding Controlled Parking Zones (CPZs).

353 Although the applicant has reduced the number of residential car parking spaces to 6 Blue Badge spaces, no general parking provision should be provided, and this would be enforced through a robust car park management plan (CPMP). It is therefore recommended that such a plan is secured by condition. The CPMP should also set out how the spaces will be allocated for hotel use and how the correct use of spaces will be enforced. The total number of Blue Badge spaces proposed for the visitor accommodation is between 10% to 100% of the 25 spaces. It is expected that at least 50% of these spaces would be prioritised for Blue Badge spaces and discussion with TfL through the car park management plan would determine the final allocation.

354 All the proposed parking spaces would be provided with active electrical vehicle charging points (EVCPs). This provision complies with draft London Plan Policy T6.1.

Cycle parking

355 A total of 188 cycle parking spaces, comprising 164 long-stay and 24 short-stay spaces are proposed; this quantum accords with London Plan and draft London Plan. The 109 long-stay spaces allocated to the residential element of the development would be provided at ground floor level of the block containing the housing units and the remaining 55 long-stay spaces would be located on the mezzanine floor. It is proposed to locate the 24 short-stay cycle parking spaces (12 Sheffield Stands) within the public realm. These spaces should be close to site access points including the publicly accessible restaurant, preferably off the public highway. It is therefore recommended that a condition be imposed to secure the submission of the final short-stay cycle parking placement and design prior to occupation.

356 Space for adaptable cycles and mobility scooters, as well as cyclist changing facilities would also be provided in line with London Plan Policy 6.9B. A condition is recommended to be imposed requiring the details of these facilities to be approved and should be discussed with TfL at detailed design stage.

357 In view of the site's proximity to Hyde Park, Cycle Superhighway 3 and Quietway 15, it is considered that hotel guests would likely make use of the Cycle Hire scheme in the area. With nearby docking stations currently at (or near to) capacity, a contribution of £50,000 will be secured by planning obligation towards improvement and expansion of the cycle hire scheme in the area.

Coach parking and taxi drop-off

358 Details of the coach parking layout, (lay-by or off-street coach bay), informed by an independent Stage 1 Road Safety Audit, will be discussed with TfL at the detailed design stage. Regarding the taxi drop-off on Ashburn Gardens, design changes to the taxi-drop off arrangement, as agreed with TfL, will be finalised at the detailed design stage after further discussion with TfL. It is recommended that planning conditions be imposed securing the submission of the final details of the coach parking layout and the redesigned taxi drop-off at the detailed design stage.

Pedestrian and cycle routes

359 The high-quality pedestrian and cycle environment proposed will contribute to the Mayor's "Healthy Streets" agenda for encouraging active travel and mode shift away from the private vehicle. The proposed development would see an increase in pedestrian and cycle trips to / from the site and the local area. Public realm improvements are proposed for the public garden square and along the entire site boundary on Ashburn Place, Courtfield Road, Ashburn Gardens and Cromwell Road. A pedestrian comfort level assessment has been provided, which states that a footway score between A and B will be provided on Cromwell Road with the reduced footway width in place, once the development is built. This is acceptable. Financial contributions toward improving signage and public realm improvements would be secured in the Section 106 legal obligation.

Public transport

360 The site is served by four bus routes, with bus stops adjacent to the site or close by. Bus routes N74 and N97 provide night service. The development is expected to generate 63 two-way person trips in the AM peak hour and 56 in the PM. It has been confirmed by TfL officers that this can be accommodated within the existing bus network capacity. Therefore, mitigation for bus service improvements has not been sought for this development. Gloucester Road London Underground station is less than 150 metres away and is served by the District, Circle and Piccadilly lines. During the peak hours there are a total of 16 services per hour. The development is expected to generate 222 two-way person trips on the Underground in the AM peak hour and 194 in the PM peak hour. It has been confirmed by TfL officers that this can be accommodated within the existing network capacity. Regarding rail, 93 person trips are projected for the AM peak and 82 during PM peak.

361 Given the range of public transport options in this area and having regard to the predicted demand from these proposals, the development would not have a site-specific effect on public transport capacity that will require mitigation.

Delivery, servicing, construction and travel planning

362 The delivery and servicing plan submitted in support of the application is sound. It is proposed to provide servicing, including refuse collection, from Ashburn Place as is the current arrangement; however, the proposal is an improvement on the existing situation as vehicles would be able to travel in a forward gear when both entering and egressing the site. Planning conditions or obligations are recommended requiring the submission of a full delivery and servicing plan (DSP) and waste management plan. Both the Council and TfL agree that the deliveries and servicing arrangement proposed are acceptable and accord with London Plan Policies 6.3, 6.13D and 6.14, and draft London Plan policy T.7. The proposals are also in accordance with RBKC CLP Policy CR7.

363 London Plan Policy 6.14B promotes the uptake of construction logistics plans (CLP) and the TfL Fleet Operators Recognition Scheme (FORS), to minimise the impact and safety risks of construction activities on people and the transport network. A draft construction traffic

management plan (CTMP) has been submitted with the application in accordance with the Council's methodology and the strategy set out therein is acceptable. The securing of a final CTMP via condition is recommended to be imposed to ensure these arrangements.

364 London Plan Policy 6.14B promotes the uptake of construction logistics plans (CLP) and the TfL Fleet Operators Recognition Scheme (FORS), to minimise the impact and safety risks of construction activities on people and the transport network. A draft construction traffic management plan (CTMP) has been submitted with the application in accordance with the Council's methodology and the strategy set out therein is acceptable. A condition or planning obligation will need to ensure that a final CTMP is secured.

365 A framework travel plan has been submitted as part of the application, which would be used as the basis for a full travel plan prepared for the development prior to occupation. A condition is recommended to be imposed requiring the submission a full travel plan. A framework travel plan has been submitted as part of the application, which would be used as the basis for a full travel plan prepared for the development prior to occupation. A condition or obligation is recommended requiring the submission of a full travel plan.

Conclusion on transport matters

366 The proposed development for a high-density hotel-led mixed-use scheme in a very accessible location accords with the London Plan and draft London Plan policy of encouraging such development in locations that give rise to patterns of development that minimise the need to travel, particularly by car. The development will make acceptable alterations to the public realm around the site to accommodate the expected pedestrian and cycle demand and will encourage sustainable travel.

367 Subject to a suitable framework of controls and mitigation as identified above being secured through the S106 agreement and use of appropriate planning conditions, the transport impacts of this development are in accordance with strategic and local transport policies in the London Plan (Policies 6.1, 6.3, 6.8, 6.9, 6.10, 6.12, 6.13, 6.14, 8.2 and 8.3); draft London Plan (T1, T2, T4, T5,T6, T6.1 – 3, T7, and DF1), RBK CLP Policies CT1, CR7 and the Transport and Streets SPD.

Mitigating the impact of development through planning obligations

368 The NPPF states that "*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*." At the regional level, London Plan Policy 8.2 sets out the Mayor's priorities for planning obligations, and states: "*Affordable housing; supporting the funding of Crossrail where this is appropriate (see Policy 6.5); and other public transport improvements should be given the highest importance*". Draft London Plan Policy DF1 recognises there the most critical areas for investment to achieve the step change in housing delivery that London needs are increased investment in transport infrastructure and fundamental changes to the housing market. At the local level, RBKC Planning Obligations SPD (2010) provides the basis for determining planning obligations when considering planning applications for development in this area of the borough.

369 Pursuant to the consideration within the previous sections of this report, and in line with the policy context set out above, GLA officers propose to secure several planning obligations required to appropriately mitigate the impact of this development. In doing so, the pooling restriction in regulation 123 of the CIL Regulations 2010 has been considered and GLA officers are confident that none of the obligations in the Section 106 agreement will be affected as they either will not be

spent on "infrastructure" as defined in the regulations or will be sufficiently narrowly described in the s106 agreement. A full list of the obligations is provided under paragraphs 10-13 above, and where appropriate there is detailed consideration given in the relevant topic section of the report. Where appropriate, GLA officers have provided an additional commentary below to support the consideration within this report and to inform the detailed drafting of a Section 106 legal agreement.

Affordable housing

370 As discussed in the housing section of this report, 62 affordable rent units would be secured at London Affordable Rent benchmark levels. Details of affordable housing definitions, fit out, accessible and adaptable units, transfer/lease to a Registered Provider, rent levels for the affordable rented units and the retention of the affordable units at the proposed rent levels, would be set out in the Section 106 agreement.

Employment, skills and training

371 The following employment and training measures would be secured:

- an employment and skills contribution of £377,790.00 (index-linked) towards employment, skills and training within the Borough would be secured in accordance with the Council's Planning Obligations SPD;
- financial contribution of £969,000.00 (index-linked) to be paid to the Council towards construction training and the submission of a construction training plan to comply with the requirements of RBKC Planning Obligations SPD; and,
- the submission of an employment and recruitment strategy detailing the process for employment and training, as well as apprenticeships, during the operational phase to comply with the requirements of RBKC Planning Obligations SPD.

Transport

372 The following transport mitigation and improvement measures would be secured:

- cycle hire scheme contribution of £50,000 to TfL to mitigate against the likely impact from the increase in trips associated with the development;
- Legible London contribution up to £20,000.00 to mitigate against the uplift in pedestrian trips and assist wayfinding;
- permit-free obligation to ensure that residents of the development do not disenfranchise existing residents by parking in the surrounding roads;
- event traffic management monitoring and enforcement to be secured in agreement with the Council, to minimise the impact on the neighbouring highway network;
- delivery and servicing plan fee of £2,800.00 per assessment to be paid to the Council in accordance with RBKC Planning Obligations SPD;
- construction traffic management plan assessment fee of £2,800 per plan to the Council in accordance with RBKC Planning Obligations SPD;
- demolition traffic management plan assessment fee of £2,800 per plan to RBKC to mitigate impact on highways network; and

- travel plan monitoring fee of £1,000 to RBKC to encourage sustainable travel in accordance with RBKC Planning Obligations SPD.

Other obligations

373 Other obligations would be secured as follows:

- compliance with Local Procurement Code, including submission of a Local Procurement Schedule and the provision of opportunities for local businesses to bid/tender for the provision of goods and services required during and after construction in compliance with the requirements of RBKC Planning Obligations SPD;
- local procurement financial contribution of £9,762.00 (index-linked) to be paid to the Council to comply with the requirements of RBKC Planning Obligations SPD;
- completion of public realm and Ashburn Garden Square, and submission of a final Ashburn Garden Square management plan, to ensure that the Square is delivered and made accessible to the public as a benefit of the scheme;
- a financial contribution of £2,450, 000.00 (index-linked) to be paid to the Council towards public realm improvements to enhance the appearance of the development and the pedestrian experience in accordance with RBKC Planning Obligations SPD;
- protected tree contribution of £77,000.00 (index-linked) to be paid to the Council to mitigate against the loss of amenity from tree pruning;
- public art strategy and provision of public art to the value of £387,600 in accordance with RBKC Planning Obligations SPD:
- carbon off-set contribution of £52,200 to ensure compliance with London Plan energy policy; and,
- financial contribution of £58,574.00 (index-linked) to be paid to the Council towards the costs of the Council for monitoring.

Legal considerations

374 Under the arrangements set out in Article 7 of the Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Mayor is the Local Planning Authority (LPA) for the purposes of determining this planning application ref: PP/18/03461.

375 Section 35 of the Greater London Authority Act 2007 inserts section 2F into the Town and Country Planning Act 1990 a requirement that for applications the Mayor takes over, the Mayor must give the applicants and the LPA the opportunity to make oral representations at a hearing. He is also required to publish a document setting out:

- who else may make oral representations;
- the procedures to be followed at the hearing; and,
- arrangements for identifying information, which must be agreed by persons making representations.

376 The details of the above are set out in the Mayor's Procedure for Representation Hearings which reflects, as far as is practicable, current best practice for speaking at planning committee amongst borough councils.

377 In carrying out his duties in relation to the determination of this application, the Mayor must have regard to a number of statutory provisions. Listed below are some of the most important provisions for this application.

378 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that in dealing with such an application the authority shall have regard to:

a) The provisions of the development plan, so far as material to the application;
b) Any local finance considerations, so far as material to the application; and
c) Any other material consideration.

379 Section 70(4) defines "local finance consideration" as:

a) A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or

b) Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

380 In this context "grants" might include the Government's "New Homes Bonus" - a grant paid by Central Government to local councils for increasing the number of homes and their use.

381 These issues are material planning considerations when determining planning applications or planning appeals.

382 Furthermore, in determining any planning application and connected application, the Mayor is required by section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the application in accordance with the Development Plan (i.e. the London Plan and the adopted Local Plan) unless material considerations indicate otherwise.

383 Other guidance, such as the NPPF and that which has been formally adopted by Kensington and Chelsea Council and the GLA (e.g. Supplementary Planning Documents and Supplementary Planning Guidance), will also be material considerations of some weight (where relevant). Those that are relevant to this application are detailed in this Representation Hearing report.

384 Officers are satisfied that the current report to the Mayor has had regard to the relevant provision of the Development Plan. The proposed Section 106 package has been set out and complies with the relevant statutory tests, adequately mitigates the impact of the development and provides necessary infrastructure improvements.

385 Regarding Community Infrastructure Levy (CIL) considerations, the Mayoral CIL payment associated with this development is estimated to be up to £6,211,175.

386 In accordance with his statutory duty in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Mayor shall have special regard to the desirability of preserving Listed Buildings, their settings and any features of special architectural or historic interest which they possess. The Mayor is also required to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas which may be affected by the proposed development (section 72 of the of the Planning [Listed Buildings and Conservation Areas] Act 1990).

387 Where the Mayor takes over an application, he becomes responsible for the section 106 legal agreement, although he is required to consult the relevant borough(s). In this instance, there have been a series of lawyer-led meetings to discuss the Section 106 content, and it has progressed

on a number of key issues, whilst others remain outstanding at this point in time. Both the Mayor and the borough are given powers to enforce planning obligations.

388 When determining these planning applications, the Mayor is under a duty to take account of the provisions of the Human Rights Act 1998 as they relate to the development proposal and the conflicting interests of the applicants and any third party affected by, or opposing, the application, in reaching his decision. Planning decisions on the use of land can only be taken in line with the Town and Country Planning Acts and decided in accordance with the development plan unless material considerations indicate otherwise.

389 The key Articles to be aware of include the following:

(a) Article 6 - Right to a fair trial: In the determination of his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(b) Article 8 - Right to respect for private and family life: Everyone has the right to respect for his private and family life, his home and his correspondence.

(c) Article 1 of the First Protocol - Protection of property: Every person is entitled to the peaceful enjoyment of his possessions.

390 It should be noted, however, that most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted i.e. necessary to do so to give effect to the Town and Country Planning Acts and in the interests of such matters as public safety, national economic well-being and protection of health, amenity of the community etc. In this case this Representation Hearing report sets out how this application accords with the Development Plan.

391 Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a Section 106 planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are now statutory tests.

392 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Mayor as Local Planning Authority), that the Mayor as a public authority shall amongst other duties have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

393 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

394 Officers are satisfied that the application material and officers' assessment have taken into account the equality and human rights issues referred to above. Matters of consideration have included the provision of accessible housing and parking bays, the provision of affordable and family housing and the protection of neighbouring residential amenity.

Conclusion

395 As detailed above Section 38(6) of the Planning and Compensation Act 2004 requires the decision to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

396 When assessing the planning application, the Mayor is required to give full consideration to the provisions of the Development Plan and all other material considerations. He is also required to consider the likely significant environmental effects of the development and be satisfied that the importance of the predicted effects and the scope for reducing them.

397 When considering the proposals, GLA officers have had special regard to the desirability of preserving the setting of listed buildings near the proposed development and they have given special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

398 This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, and has found that the proposed development is acceptable in terms of land use principles (mixed-use comprising residential and visitor accommodation, with ancillary uses); housing (including delivery of 100% genuinely affordable housing, mix, density, quality, play space); urban design and heritage (including urban design, views, the historic environment, listed buildings and archaeology); inclusive design; neighbouring amenity impacts (including privacy/overlooking, light pollution and noise/disturbance) ; sustainable development (including climate change mitigation and adaption, microclimate, ecology, trees and urban greening, flood risk and sustainable urban drainage); other environmental considerations (including air quality, contaminated land and waste management); transport, including parking provision; and, mitigating the impact of development through planning obligations.

399 It has been concluded that overall the proposed development accords with the development plan. No conflict with the NPPF has been identified. As a result, applying the NPPF Paragraph 11, the view is reached that the proposed development represents sustainable development. As set out in paragraph 123, the tilted balance is engaged the Council's inability to demonstrate a 5-year housing land supply adds further weight to approving the application. Apply section 38(6) of the 2004 Act, it is concluded that there are no material considerations, which indicate that planning permission should be refused that are of sufficient weight to outweigh the support of the development plan and the NPPF.

400 Accordingly, the recommendations set out at the beginning of this report are proposed.

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