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"PPG17 does not explicitly recommend local planning authorities to prepare an open space deficiency map. I share the Council's concern that in this particular highly developed urban area, simplification for purposes of legibility might lead to challenges as to those areas which are

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Extract from Inspector's Report attached

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FAX FROM

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THE ROYAL
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COMMENTS AND/OR INSTRUCTIONS (if any)

Not much new here (sorry!)
but hope it's of some help

Derek

OUR FAX NUMBER IS: 071 361 3463

COMMENTS ON PROOF BY R. M. SELLWOOD

(By DT)

- 3.1.5 Water Tower House offices were described as “Water Rate Offices” when approved in 1969; today, such space would in all likelihood be included within Use Class B1, with freedom of movement within that Class (The Planning Permission for Water Tower House (04/03/68) carried only one Condition, restricting the office floorspace to not more than 6,094 sq.ft.)

There is no planning record relating to the offices/storage light industrial use of the pumping station and ancillary buildings. They have always been ancillary to the reservoirs.

- 3.2.1 (e)... The appellants have now agreed, in no.s 14 to 17 of the Statement of Agreed Matters, that (i) The size of the site, and number of units proposed, is sufficient to trigger a requirement for the provision of affordable housing, and that Government guidance (in particular Circular 6/98) and the Policies of the Royal Borough encourage the provision of affordable housing as part of the proposed development of this site; (ii) If affordable housing is not provided as part of the proposed development, such a failure could justify the refusal of planning permission (as advised in Circular 6/98); and (iii) The provision of seventeen units of affordable housing on this site will not call the viability of the redevelopment proposal as a whole into question. In Bob Sellwood’s Proof he agrees that the site is well placed for housing, and that would include affordable housing.

It is perfectly clear that affordable housing should be sought for this site, and provided on this site, if the site is to be redeveloped. Whatever the views offered in a letter of over two and a half years ago, they were ventured at that time without the benefit of much of the guidance, and information, available now, and are of virtually no importance to this Inquiry that must reflect the situation as we find it today. Circular 6/98, the Committee Report of January 1999, and PPG3 are relevant to this Inquiry, not a letter now two and a half years old.

- 3.2.23 The EH letter of 8th April (also referred to in letter of 28th April) was their last mention of the square. In their recent letter of 13th July, they clarify their earlier letter by pointing out that it is the relationship of both the landscaped space and the architecture of the development to Aubrey walk that is the primary concern relating to the “square”. All three are inter-connected. The appellants are not correct in thinking that David Stabb’s comments were related to the planted area only.

- 3.2.27 “Alternative drafts” of an Undertaking (not an agreement) under S.106 now exist, with probably 80% of the content consistent..... Both will be available for the Inspector.

- 3.2.29 Gates - See Condition 15 in agreed Conditions.

- 3.3.1 Through negotiation, Officers attempted to gain improvements to the submitted scheme. The result of those negotiations is a much improved proposal upon that originally submitted as a planning application, still greater an improvement upon the various pre-application submissions. Notwithstanding the progress made, it was concluded that the proposals still had unsatisfactory aspects to a degree that justified a refusal of planning permission. The Executive Director, Planning & Conservation produced the report for the Planning Services Committee, recommending that the application should be refused. The Committee considered the proposals and concurred with this recommendation.

It actually matters little to this Inquiry whether or not the appellants are surprised at how their application was eventually recommended to, and received by, the Committee. The result of this Inquiry will turn upon the merits of the scheme as it now stands, not upon what one Officer may in the past have thought in comparison to another.

- 4.1.15 From most ground level perspectives the reservoir site has “blended in” very successfully indeed. Are the appellants seriously suggesting that the tennis courts are somehow “out of place?”; from higher level views from surrounding property they look well established and provide an important visual (and recreational) amenity, and do not seem at all out of place.
- 4.1.16 There is an assumption here that (B) applies only to cleared sites, but this is clearly not the case and (B) must also apply to the appeal site. Moreover, the appeal site has been put to (and still functions as such) an important amenity use as a recreational, and visual, amenity.

Bob Sellwood also seems to miss the point that these are “stand alone” exceptions; only one has to be true, although in this case both are clearly applicable.

- 4.1.18 DETR return covered the whole 1.54 ha site
- 5.1.7 The last sentence of this quote from PPG17 is clearly wider in its application than the first part; it is a separate point. Relates to all open spaces whether public or private. Paragraph 4 of the PPG (quoted in BS’s proof in 5.1.2) is a crucial paragraph explaining the scope of the PPG (very broad) and linking the matter of open space as an amenity to the natural and built heritage of its surroundings.
- 5.3.4 PPG12 points out that the weight to be accorded to SPG should increase with consultation etc; it does not suggest that *without* consultation *no* weight should be accorded to it. Furthermore, the Open Space Survey was discussed in open session at the Unitary Development Plan Public Inquiry in 1993 and the Inspector made recommendations relating to it, clearly concluding that it was of sufficient weight to warrant references to it in the Plan (para.s 2.4 and 3.1) [does Phil have the Inspector’s comments?]

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**Redevelopment of
Water Tower House
&
The Former Campden Hill
Reservoir Site, Kensington**

Planning Policy Report

on behalf of

St James Homes Limited

March 1999

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1. INTRODUCTION

- 1.1 This planning policy statement is submitted on behalf of St James Homes Ltd. Its objective is to provide a planning policy context against which the current redevelopment proposals for the Thames Water land holdings at Campden Hill Road and Aubrey Walk can be assessed. Transportation issues are dealt with in the separate TIA prepared by TPK.
- 1.2 Although many of the people who submit representations in respect of the St James Homes applications will have an essentially local perspective on the scheme, it is also necessary to consider how the proposals reflect national policy issues such as promoting sustainable development and the desirability of maximising the housing potential of urban land.
- 1.3 In order to address these factors, this report is subdivided into five sections. Section 2 deals with national and regional guidance in the PPG's and RPG's which are of relevance to this site. This is followed in Section 3 by an analysis of the development plan context provided by the Kensington & Chelsea UDP. In recognition of the conservation importance of this local area, Section 4 evaluates the Conservation Area Statement for the Kensington Conservation Area. Finally, the conclusions of this policy analysis are drawn together in Section 5.

2. NATIONAL POLICY

2.1 PPG1 (General Policy and Principles) provides an overall statement of Government Policy towards development and the environment. At its heart is the concept of sustainable development. Paragraph 5 of PPG1 summarises the key elements of a sustainable planning framework which are,

- (a) to provide for the needs of development
- (b) use already developed areas in the most efficient way whilst making them more attractive places to live and work.
- (c) to protect and conserve cultural and natural resources
- (d) adopt development patterns which minimise the need to travel.

2.2 These objectives encapsulate the dilemma which is posed by all development proposals in seeking to meet legitimate development needs whilst minimising the impact on the environment. Given that the former Campden Hill reservoir site is a previously developed site within an urban area and well served by public transport, there can be no doubt that it fulfills the locational criteria for a sustainable pattern of land use. The second issue, which can only be resolved when looking at the policies of the UDP and Conservation Area Statement, is whether the local environmental impact of the scheme outweighs its sustainable credentials.

2.3 National policy guidance is elaborated and applied to the particular circumstances of London in RPG3. Paragraph 1.14 of RPG3 outlines ten objectives for planning in London. Of these, four are of especial relevance to the St James Homes applications:

- (a) To encourage a pattern of land use and transport which minimises harm to the environment and reduces the need to travel
- (b) To promote urban regeneration, particularly in areas requiring physical improvement
- (c) To maximise housing provision consistent with maintaining environmental quality
- (d) To maintain and improve the urban environment.

2.4 One of the few areas where the RPG gives quantitative guidance to individual Boroughs is in respect of housing. Table 4.1 (p51) of RPG3 distributes a total provision of 234,100 dwellings (1992-2006) between the Boroughs and allocates 7,750 to Kensington & Chelsea. However, the concern of the government to maximise the yield of sustainable urban housing in London is reflected in the following statement;

“In the light of the need to have regard to the principles of sustainable development, to ensure that as many as possible of London’s residents and workers are housed within the capital, and to respond to the continuing demand for housing as demonstrated in successive population and household projections, the figures in the table should be regarded as the minimum net additional completions over the period to be proposed in the UDP.” (para. 4.8).

2.5 Whatever higher figure is proposed in a UDP needs to be tested at the public Inquiry into the UDP. One of the policy tests which will be applied is the impact of the proposed level of housing on both the open and urban environment. Helpfully, paragraphs 7.2 and 7.18 of RPG3 state that it is the role of UDP’s to critically analyse the characteristics and use of open spaces within the area. Where

appropriate, these should be protected by the designation of Conservation Areas or other policies to control development on open areas. The next two sections of this report assess whether the contents of the UDP and the Conservation Area Statement further reinforce the case in favour of redevelopment.

3. THE KENSINGTON & CHELSEA UDP

- 3.1 The Kensington & Chelsea UDP was adopted in 1995. It is the critical document in terms of both articulating, at local level, the policy approaches in the PPG's and RPG's and in the determination of individual applications under Section 54A of the Town & Country Planning Act 1990.
- 3.2 The extent to which the Kensington & Chelsea UDP closely reflects national planning guidance can be seen from the four "Principal Strategic Policies" which underpin the document. In summary, these policies (STRAT 1 to 4) propose;
- (a) To give priority to the protection and enhancement of residential character and amenity (STRAT 1)
 - (b) To see an increase in residential accommodation and encourage residential development on appropriate sites (STRAT 2)
 - (c) To support economic growth and change (STRAT 3)
 - (d) To seek an efficient and environmentally acceptable transport system in the Borough (STRAT 4).
- 3.3 Whilst policies STRAT 3 and 4 are important, it is STRAT 1 and 2 which are of central relevance to the residential redevelopment of the Campden Hill Reservoir site. Since these policies seek to strike a balance between the need for further housing and the impact on the natural and built environment, it is these particular UDP policies which are the focus of this section of the report.
- 3.4 Dealing first with the encouragement of housing on appropriate sites, paragraph (v) of the Part 1 Reasoned Justification (p80) notes how the number of sites with

potential for residential development is declining. As a consequence “a high priority must be placed on allocating all available development land for residential use” (para. (v) p80). This is carried forward into Policy H2 which states that residential development will be sought on all sites unless,

- (a) a satisfactory residential environment cannot be reasonably achieved; or
- (b) the land is needed for social or community use or
- (c) the site is required to replace existing commercial floor space.

3.5 In the case of the current application site, there can be no doubt that a satisfactory residential environment can be achieved. This is considered in the design report prepared by Broadway Malyan. This satisfies criterion (a). Turning to criterion (b), there has been no suggestion that the site should be retained for a social or community use although the existing number of tennis courts will be retained.

3.6 Whilst the site has been used in part for both office and depot uses, these have been run down by Thames Water in recent years. Since these are historical uses which have grown up in conjunction with the reservoir, they are uses which are out of character with the pattern of land uses in the local area. Hence, their replacement with new commercial floorspace (Criterion C) would not be appropriate. Since the site fulfills none of the exception criteria in Policy H2, there is a strong policy presumption in the UDP that the application site should be redeveloped for residential purposes.

3.7 Whilst the housing figures for individual Boroughs are regarded as minimum levels of completions by the Secretary of State, recent figures from LPAC disclose that Kensington & Chelsea is falling short of the current UDP provision to 2001. During the period 1992 to the end of 1996 (the latest period for which figures are available), the Borough was already 700 units short (73%) of the provision on a pro

rata basis. This is in sharp contrast to the position in London as a whole where equivalent figures show a small pro rata over provision (109%). This further emphasises the importance of maximising the dwelling potential of available “brownfield” sites.

- 3.8 Prior to considering the detail of the residential scheme in terms of UDP policies on density, the mix of units and the provision of affordable housing, it is necessary to assess the other issues of principle raised by these applications. This is the impact of the proposals on the natural and built environment.
- 3.9 Dealing first with the natural environment, there are four groups of policies which need to be covered;
- (a) nature conservation (CD77 and CD80)
 - (b) archaeology (CD81 to CD84)
 - (c) loss of formal open space used for sports and recreation (LR1)
 - (d) loss of open space (CD21)
- 3.10 The application site is not identified as having any nature conservation importance on the UDP proposals map. This followed an extensive survey of the Borough by the London Ecology Unit. Notwithstanding this, the scheme will retain the southern and western embankments of the reservoir. These have a significant cover of trees and shrubs which will be retained both as part of the local landscape and for any local nature conservation role. The scheme will also create new green space on part of the site currently occupied by the reservoir.
- 3.11 The site is not identified by the UDP as having any archaeological importance. However, St James Homes have sought advice on the issue from Thames Valley

Archaeological Services. They have advised that at the time of construction of the reservoir, foundations were dug to a depth of 6 metres. This would have destroyed any archaeological deposits. Similarly, the construction of Water Tower House in the late 1960's would have had the same result. The separate archaeological report addresses this issue in more detail.

- 3.12 Since the roof of the covered reservoir has for many years been used by the Campden Hill Lawn Tennis Club, the loss of this facility or a reduction in its size would be directly in conflict with Policy LR1 which seeks to resist the loss of playing fields and other recreational provision.
- 3.13 St James Homes recognise that the Campden Hill Lawn Tennis Club is an important and well used local facility. In view of this, extensive discussions have taken place between the Club and Thames Water about ways of retaining the club and upgrading its facilities whilst also achieving the redevelopment of part of the site. The result of these discussions is a scheme which retains the same number of courts (12). Six courts of club standard will be provided at the lower level in the western part of the former reservoir. These will be enclosed and will provide a facility which can be used throughout the year and in the evenings. On the upper level six new championship size courts will be provided. Of these, four will be floodlit and will replace the existing floodlit courts. In addition, a practice court will be constructed at the rear of the site. These arrangements are fully supported by the Club which has recently signed an agreement for a new lease, which is conditional on the grant of planning permission. This will secure the continued presence of the Tennis Club on this site well into the next century.
- 3.14 The conclusion to be drawn from the above is that the current proposal cannot be regarded as being in conflict with Policy LR1 since the overall quantity of on site recreational provision is maintained and its quality is enhanced. Furthermore, the new agreement for lease with the Tennis Club ensures the long term presence of the facility, which is greatly valued by the local community.

- 3.15 Policy CD21 is a wider policy than LR1 since it seeks to restrict the loss of private or public open space which is capable of making a contribution to an area's character. Whilst it cannot be doubted that much of the reservoir site appears to be an "open space" in the urban area, this ignores a number of particular characteristics which significantly reduce its value as open space. The first point is that the area is not an "open space" in any natural sense. What is seen is the roof of a partially submerged reservoir which is a massive brick structure. This is covered with an artificial surface and used as tennis courts.
- 3.16 As previously explained, the reservoir is also only partially below ground level, with the remainder forming a large embanked structure. This means that from surrounding public vantage points the view is not across an open space but of an embankment. This significantly reduces the perception of the site as an open space. For these reasons it would be more correct to regard this site as being almost wholly developed with the largest structure being an elevated reservoir with a large flat roof. The fact that it is used for tennis is little more than an accident of history.
- 3.17 In addition to retaining the western part of the site as six open tennis courts, the submitted scheme also creates areas of open space within the development.
- 3.18 Drawing together the aspects of this proposal which impact on the natural environment, it is clear that the massive form of the covered reservoir has led to the site having no recorded nature conservation importance or archaeological value. Similarly, it would be wrong to see the roof of a brick reservoir as an open space in any natural sense. The local importance of this site is largely limited to its use by the tennis club. This is recognised by St James Homes and the redevelopment proposals will succeed in maintaining the same number of courts whilst improving the quality of the facility. It is because of this that the proposals are supported by the Campden Hill Lawn Tennis Club.

- 3.19 Since the site falls within the Kensington Conservation Area but does not contain any Listed Buildings, a particular concern must be that the redevelopment proposals preserve or enhance the character of the Conservation Area. Policies CD48 to CD56 of the UDP deal with development in Conservation Areas in a general sense with more detailed guidance being provided in the Kensington Conservation Area Proposals Statement. In view of this, the impact of the scheme on the built environment is dealt with in Section 4 which considers the Conservation Area Statement.

Residential Design Standards

- 3.20 The earlier part of the statement established that, in principle, residential development should be sought on development sites in the Borough. In addition to balancing the presumption in favour against the impact on the natural and built environment, it is also necessary to consider the degree to which the scheme reflects the residential design standards in the UDP.
- 3.21 The UDP seeks to strike a balance between maximising the residential potential of urban land and protecting the character of the surrounding development. To this end Policy H9 seeks to resist very low densities (below 175hrh) whilst H10 suggests that family housing should be in the range of 175 to 250hrh. Higher densities (up to 350hrh) are regarded as only appropriate for small households, special needs accommodation or where it is necessary for townscape reasons (H12).
- 3.22 The submitted scheme will provide 366 habitable rooms and the replacement courts on a site area (including 6 metres of Aubrey Walk and Campden Hill Road) of 1.66 hectares. This produces an overall site density of 220hrh which is relatively low for family housing in Kensington & Chelsea. Even if the tennis court area is excluded the density is only 327hrh (136hra). However, there are significant variations between the flats which front on to Campden Hill Road and Aubrey Walk and the new square of town houses. Whilst overall density is in the higher range of the

UDP, it is entirely justified in townscape terms since the buildings need to be of a significant scale to successfully blend in with the surrounding Conservation Area. Within the scheme, the large family houses will have the benefit of a largely car free square and a density which is only marginally above that normally sought for family units. The density of the flats is entirely consistent for units which are unlikely to be predominantly occupied by families.

- 3.23 Policies H18 and H19 also strive to achieve a mix of unit sizes on larger developments. In the case of the submitted scheme, the development will range from small two bedroom flats (3hr) to substantial five bedroom houses (11 habitable rooms).
- 3.24 The Borough Council adopted an Interim Policy relating to affordable housing on the 11th January 1999. This lays out a sequential or cascade approach to the provision of affordable housing whereby the first preference of the Council is for on site provision. The second and third preferences are for (respectively) the provision of off site units and the payment of a commuted sum. Following discussions with officers, St James Homes are committed to entering into a S106 agreement which reflects this new approach in full.
- 3.25 The UDP design standards do not put forward rigid standards for sunlight and daylight, instead each case will be assessed on its merits. St James Homes have asked McBaines Cooper to consider the impact of the submitted scheme in terms of daylight, sunlight and rights of light. It is their advice that there are no actionable infringements of right of lights and the general impact on sunlight and daylight is within acceptable limits of amenity.
- 3.26 The scheme will utilise the base level of the covered reservoir to provide underground car parking. Spaces will be provided for all dwellings at the standard outlined in Table 5.1 of the UDP. The use of basement parking is both an efficient

use of the existing structure and will mean that the ground level and square will be a largely car free environment.

4 KENSINGTON CONSERVATION AREA PROPOSALS STATEMENT

- 4.1 The townscape importance of the area around Campden Hill Road was reflected in the designation of the Kensington Conservation Area in 1970. The more recent Kensington Conservation Area Proposals Statement (January 1995) provides a valuable analysis of the development of the area and defines its essential character. As such, the document represents critical guidance for prospective development schemes.
- 4.2 The overall character of the Conservation Area is defined in the Statement as follows;

“The history and development of Kensington Conservation Area is essentially that of a quality residential area, though fluctuating commercial fortunes and the influx of poorer citizens in the last century meant that conditions were not always so favourable. The result is that the Area today offers a wide range of housing sizes and styles, so that 32 houses and gardens between Campden Street and Peel Street, for example, can be fitted on the ground occupied by 7 in Phillimore Place. This variety produces welcome flexibility in the Borough’s housing stock as well as constituting an important characteristic of the area.”

- 4.3 In the context of a character of ‘a high quality and varied residential area’, it is self evident that the historical use of the application site for various purposes related to water supply is not part of the primary character of the area. However, the water utility use has a very long history on and around the application site and first became established around 1810 as part of the original West Middlesex Water Works. As such, the development of the site was inextricably linked to the original urbanisation of this part of Kensington and the surrounding residential areas functionally relied on the site for their water supply.

- 4.4 The relationship between the land holdings of the various water companies and the rest of the area has continued to evolve over the last one hundred and ninety years. For example, as early as 1878, Airlie Gardens was built on surplus Water Company land. The first reservoir was constructed in 1845 on land now occupied by Water Tower House and Kensington Heights. This was followed later in the 19th Century by the reservoirs which still exist on the site. The earlier reservoir became surplus some years ago, thus allowing the erection of Water Tower House and Kensington Heights in the late 1960's and 1970's. It is clear, therefore, that as the functional land requirements of the various Water Companies have shrunk over the last hundred years, the surplus land has been redeveloped for housing, in accordance with the primary land use character of the area.
- 4.5 Turning to the detailed issues arising from the Conservation Area Statement which apply to this site, the following points are of relevance;
- (a) **Water Tower House** is variously identified as 'a dreadful building in all townscape respects' (p31) and 'Water Tower House must regretfully be described as the Area's least appealing building' (p31). Given these unambiguous comments, it is hardly surprising that paragraph B3 (p46) encourages the redevelopment of the site 'with premises more responsive to the prominence of the site and better related to the character of the Area'.
 - (b) **Paragraph C7 (p50)** identified certain parts of Aubrey Walk as having 'never been properly considered in design terms'. In particular, the land owned by Thames Water next to 7 Aubrey Walk is highlighted as being 'featureless, but remains a prominent element in an otherwise attractive street'. It is noted that improvements to enhance the sense of enclosure along Aubrey Walk would be welcome.
 - (c) **Paragraph E3/E4 (p51)** highlight the problems with the Thames Water frontages on both Campden Hill Road and Aubrey Walk. It is recommended

that consideration should be given to the design, appearance and maintenance of these frontages. As a consequence 'the character and appearance of Aubrey Walk and Hillsleigh Road would be considerably improved as a result.' (p51).

- 4.6 The Conservation Area Statement makes no reference to the townscape role or importance of the other buildings and structures on the application site. However, English Heritage has examined the application site. In their letter to Jeffrey George Associates dated the 25th February 1998 (see Appendix 4 of Archaeological Report), English Heritage has confirmed that, following consideration, listing has been rejected as an option.
- 4.7 If all the above conservation points are brought together in the context of the submitted application, the following conclusions can be drawn;
- (a) The redevelopment of this Thames Water site for housing is the continuation of a process which began over 100 years ago whereby Water Company land holdings are limited to that necessary to meet functional needs.
 - (b) Water Tower House will be demolished and replaced by an appropriately designed building on this prominent site.
 - (c) The frontages to both Campden Hill and Aubrey Walk will be designed in a coordinated and comprehensive manner.
 - (d) The new buildings will create both an improved sense of enclosure plus a carefully designed new vista from Aubrey Walk southwards into the new square (see the Design Statement for a full description of the scheme).

- 4.8 The enclosed application is a carefully considered and comprehensive approach to the development of the whole Thames Water land holding at Aubrey Walk and Campden Hill Road. Given that the site contains so many acknowledged detractors from the character of the Conservation Area plus some neutral elements, the redevelopment of the site in accordance with these applications should result in a net enhancement to the character and appearance of the Kensington Conservation Area.

5 CONCLUSIONS

- 5.1 It is not often that such a large redevelopment opportunity arises in this part of Kensington. St James Homes perceive the redundant Thames Water site as a tremendous opportunity to create a design which enhances the Conservation Area whilst retaining the tennis club.
- 5.2 The scheme will make the best use of the site by a design which will create a new Kensington Square of 19 houses with 43 apartments on the Campden Hill Road and Aubrey Walk frontages. Not only will this contribute to the UDP housing provision, but it wholly accords with the philosophy of the present Government to move towards a more sustainable pattern of development by maximising redevelopment opportunities within urban areas.
- 5.3 As a consequence, the scheme submitted by St James Homes succeeds in promoting a more sustainable pattern of development whilst also leading to an overall enhancement of this part of the Kensington Conservation Area.

**Site at
Former Thames Reservoirs and
Water Tower House,
Campden Hill Road, W8**

RBKC Ref:

DPS/DCC/TP/99/0733

DPS/DCC/TP/98/2129

D.E.T.R. Ref:

APP/K5600/A/99/1022704

APP/K5600/E/99/1016054

**Rebuttal
Proof of Evidence**

Phil Hughes M Phil., MRTPI.

20th July 1999

Public Inquiry

THE ROYAL
BOROUGH OF



KENSINGTON
AND CHELSEA

COMMENTS ON R.M. SELLWOOD'S PROOF OF EVIDENCE

2.1.3 The exceptional public transport accessibility of the site and close proximity of local facilities makes the site particularly well suited to the provision of affordable housing (i.e. low income households benefit from short travel distances to the transport, shopping and community facilities on which they rely). Notting Hill Gate Underground Station is only 400 metres walking distance from Water Tower House (not 600 metres).

4.2.7 The study was commissioned by LPAC and DETR to investigate the contribution that large sites could make to meeting the requirements for housing in London to 2016 (Executive Summary, para. 1, p. 7). The study is effectively a trawl through large land holdings for potential housing sites and is unconstrained by certain policies (e.g. loss of industrial land):

“Potential new large housing sites have been identified by desk study and contacts with landowners and local authorities. The search excluded Green Belt, formal open space, town centres and existing residential areas. All existing industrial and warehousing sites in London were included as potential.” (para. 13, p. 9)

In an LPAC report (23 June 1998) - “Future Sources of Large Scale Housing Land in London: Consultation Response and Interim Advice”, the contentious nature of the Halcrow Fox study was acknowledged in paragraph 17:

“Of the four projects to help Boroughs meet the requirements of RPG3 and investigate additional housing capacity, that on future sources of large scale housing land has proved to be the most contentious. Boroughs expressed reservations over the consultant’s methodology, in particular its treatment of the release of employment land and the derivation of Borough figures. Boroughs were also unhappy about the consultant’s hierarchical approach to site identification, which classified varying degrees of certainty of development.”

With regard to uncertainty, the Halcrow Fox study itself also has misgivings.

Paragraph 9.1.2 states:

“This study has demonstrated that there are few ‘easy to identify’ housing sites left in London and that future approaches to evaluating capacity will need to take a different approach which identifies as many sites as possible, while accepting the inherent uncertainty in identifying which sites will become available.”

Ultimately, the Halcrow Fox study provides a broadbrush approach to housing site identification and does not allow for the local or site specific factors which should determine the appropriate balance of uses on individual sites.

4.2.13 It is agreed that is not possible to identify from Table 8.2 of the report how the appeal site was categorised. No sites likely to be developed were identified by landowners or this Council. 4 sites were otherwise identified by the Study of which only 1 was considered likely to be developed. This information does not appear relevant to the appeal site.

Achievement of the Housing Provision

- 4.4.2 The latest information on this issue is contained in the Council's Appendix 20 (Residential permissions and completions). These figures are based on the Council's Residential Implementation Monitoring Survey (RIMS) which is available to the public on request..
- 4.4.3 The shortfall in completions is not surprising given that the period 1987 - 1991 coincided with the end of a housing boom and the beginning of one of the deepest housing recessions this century.
- 4.4.4 In relation to the RPG3 target figure, the series of monitoring figures from 1992 to the present are of more relevance as they coincide with the housing provision period in Table 4.1 (of RPG3). The figures used to assess the achievement of the dwelling target are best expressed in the number of completions i.e. housing which has been built ~~or is in the process of being built.~~ On this basis, the Council's up to date completion figures (from 1992 to mid 1998) are the most useful and show a very small shortfall. It is easier to understand if one translates the RPG3 target of 7,750 (1992 - 2006) into a pro rata figure for the period 1992 - mid 1998. The RPG3 target annual rate is 517 dwellings (7750 divided by 15). The pro rata figure is therefore 3360 (517 x 6.5). The total number of completions in the Borough between 1992 - mid 1998 is 3319 (Council Appendix 20). The Borough figure represents a shortfall of only 1% over the period. Furthermore, the LPAC completion

figures are based on an **assumed** completion rate of 75% (see Annex 2/22 of LPAC report: Housing Provision 1987 - 1996) as opposed to the detailed survey work carried out by the Council.

- 4.4.5 Accordingly, the Borough is not "struggling to even approach the minimum figure set down by the Secretary of State." Paragraph 25 of the LPAC report paints a more optimistic picture generally for housing provision in London and refers to a level of approvals (which are an indication of future housing provision) approaching the level of the last housing boom.

Affordable Housing

- 6.2.5 The effect of the provision of affordable housing on the financial viability of the overall scheme has not been raised as an issue by the developer, notwithstanding the specific point about service charges which the RSL might be expected to pay. No detailed information on either matter has been provided by the developer.
- 6.2.8c Mr Sellwood poses the question of viability to justify off-site provision of affordable housing. However, he fails to address this point in the remainder of his proof.
- 6.4.8 The decision as to where the affordable housing should be located has been made by the Members of the Planning Services Committee based on advice

from officers. It is not clear why the developer is anxious "to be at arm's length" when he knows (and accepts) the policies of the Council. Indeed in a letter to the Council (Sellwood Planning dated 15 March 1999, Council Appendix 16), Mr Sellwood states in the second sentence:

"Whilst your interim policy on affordable housing does not yet have the weight of an adopted UDP policy, I explained at the meeting that my clients have no particular problem with the suggested sequential approach and its provision." (My underlining)

This letter has **not** been included in the Appellant's Appendices.

6.4.9 The service charge is a matter for negotiation with the RSL and is an improper element to be included in a S 106 agreement. It is clearly stated in Circulars 1/97 and 6/98 that instruments of transfer of land should not be included within planning agreements.

6.4.10 It is possible to isolate the Aubrey Walk block by design. Notting Hill Housing Trust has provided an alternative scheme to show how this could be done (Council Appendix 18). Recent discussions (8 July 1999) have been held between officers, the RSL and the developer to devise a suitable scheme using the proposed Aubrey Walk block.

6.4.11 The developer has made the issue of service charges central to the provision of affordable housing on this site. This site is entirely suitable for the provision of affordable housing in physical, financial and locational terms. The economics

of development must always be applied to the particular circumstances of a RSL. If this site with its many advantages cannot provide affordable housing it begs the question as to where affordable housing can be provided. Failure to provide affordable housing on this site would have very serious implications for the provision of affordable housing throughout the rest of the Borough.

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Proof of Evidence

Philip Hughes

20th July 1999

Public Inquiry

THE ROYAL
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KENSINGTON
AND CHELSEA

ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PROOF OF EVIDENCE OF PHILIP GEORGE HUGHES

Philip Hughes will say:

I am a Bachelor of Arts (Honours) in Philosophy, Politics and Economics, and a Master of Philosophy in Town Planning. I am a full Member of the Royal Town Planning Institute. I have been employed by the Royal Borough for over ten years and currently hold the position of Principal Planning Officer in the Policy Team.

My duties include managing the Unitary Development Plan (UDP), with a particular responsibility for housing issues and the Housing Chapter in the UDP.

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CAMPDEN HILL RESERVOIR, W8

1.0 INTRODUCTION

- 1.0 This proof of evidence amplifies and interprets the Council's affordable housing policies referred to in the Council's Pre-Inquiry Statement and committee report, and makes reference to relevant legislation and Government guidance.

2.0 GOVERNMENT LEGISLATION, POLICY AND GUIDANCE

- 2.1 Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). Section 54A states:

"Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise".

- 2.2 **Planning Policy Guidance 1 (PPG1), General Policy and Principles, February 1997**

Emphasis on the development plan is reiterated in paragraph 40 in which the Government states its commitment to a plan-led system of development control.

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2.3 **Planning Policy Guidance 3 (PPG3), Housing, March 1992**

Paragraph 38 states that a community's need for affordable housing is a material planning consideration which may properly be taken into account in formulating development plan policies. It also allows local planning authorities to negotiate with developers for the inclusion of an element of affordable housing on suitable sites.

2.4 **Revised PPG3 for consultation (March 1999)**

This guidance is the latest statement by the Government on national policy guidance for housing. It reiterates and consolidates the Government's approach to the provision of affordable housing. Paragraph 11 promotes the creation of mixed communities through different types of housing and tenures. Paragraph 13 restates that the need for affordable housing is a material planning consideration. Paragraph 15 re-affirms the Government's policy on planning and affordable housing as set out in Circular 6/98 and states a presumption that affordable housing should be provided as part of a proposed development on a suitable site. Failure to do so without exceptional circumstances could justify the refusal of planning permission.

2.5 **Circular 6/98: Planning and Affordable Housing**

2.5.1 Paragraph 3 states that this advice supplements PPG3 by amplifying the Government's preferred approach to planning and affordable housing. It aims to provide a clearer framework for preparing plan policies, and practical advice to local planning authorities on how they should encourage the supply

of affordable housing in appropriate circumstances through negotiation with developers and others. It is intended to:

- help local planning authorities to adopt a realistic and consistent approach to preparing plan policies and handling planning applications involving affordable housing;
- encourage a cooperative approach to preparing affordable housing policies, which ensures that the views of all those involved in delivering affordable housing are taken into account;
- clarify that affordable housing policies should be based on a clear and up-to-date assessment of local need for affordable housing;
- ensure that affordable housing delivered through the planning system is likely to be attractive to lenders of private finance.

2.5.2 Paragraph 10 (i)(b) states:

“In preparing plan policies for affordable housing, and in assessing the suitability of sites to be identified in the plan and any sites that may come forward not allocated in the plan, the following criteria should be taken into account:

(i) site size, suitability and the economics of provision:

- it will be inappropriate to seek any affordable housing on some sites. In practice the policy should only be applied to suitable sites, namely :

(a)

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(b) in Inner London, housing developments of 15 or more dwellings, or residential sites of 0.5 of a hectare or more, irrespective of the number of dwellings.

(c)

- the proximity of local services and facilities and access to public transport

- whether there will be particular costs associated with development of the site: and

- whether the provision of affordable housing would prejudice the realisation of other planning objectives that need to be given priority in development of the site.”

2.5.3 Paragraph 21 emphasises the need to provide affordable housing as part of a proposed development.

“... where a requirement for an element of affordable housing is appropriate, it should be provided as part of the proposed development. The release of a site, where a local planning authority has decided that an element of affordable housing should be pursued, without ensuring the provision of that housing on the land in question, may undermine the objectives of the policy.”

2.5.4 Paragraph 24 makes an explicit reference to its own content as a material consideration in the determination of development proposals:

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“..Where a local planning authority considers, having regard to the policy in this Circular, that certain sites are suitable for inclusion of an element of affordable housing and an applicant does not make such provision *as part of the proposed development*, such a failure could justify the refusal of planning permission.”

3.0 PLANNING POLICIES

The Site

- 3.1 The appeal site has been included in the Council's UDP Schedule of Major Sites with Development Opportunities (Alterations Version). The sites included in the Schedule are selected in response to the level of development interest expressed, as indicated by the submission of planning applications, pre-application meetings and enquiries. The Schedule lists those land uses considered to be appropriate for the site. In this instance “residential including affordable housing, tennis courts and open space” are identified in the UDP Alterations. This description reflects the existing uses on the site plus affordable housing.
- 3.2 The uses listed in the Schedule are considered acceptable in principle. These land uses as described would allow for the provision of new and additional residential accommodation on the site in conjunction with tennis courts and open space. The Schedule does not indicate the proportions of each land use and the mechanism to decide the acceptable proportions for each use must always be a planning application. The Council would accept the

redevelopment of Water Tower House plus part of Aubrey Walk. The requirement for affordable housing is subject to the Council's objections to the appropriateness of the appeal proposals and the scale of development. These issues are dealt with by Dennis McCoy. If an alternative proposal was considered acceptable and provided a minimum net increase of 15 dwellings on the site, the Council would negotiate for the provision of a proportion of affordable housing on the site in line with UDP policy.

3.3 **The Council's Unitary Development Plan (UDP)**

This was adopted with effect from 28 August 1995. The UDP is now the development plan for the Royal Borough, for the purposes of section 54A of the Town and Country Planning Act 1990.

3.4 The Overall Aim of the Council's Unitary Development Plan (UDP) set out in Chapter 2 is:

**“TO MAINTAIN AND ENHANCE THE CHARACTER AND
FUNCTION OF THE ROYAL BOROUGH AS A RESIDENTIAL
AREA AND TO ENSURE ITS CONTINUING ROLE WITHIN
THE METROPOLITAN AREA AS AN ATTRACTIVE PLACE
IN WHICH TO LIVE AND WORK.”**

3.5 Housing policies are set out in Chapter 3 of the UDP. Policy H22 states:

“TO SEEK WHERE APPROPRIATE THE INCLUSION AND RETENTION OF A SIGNIFICANT PROPORTION OF AFFORDABLE RESIDENTIAL UNITS ON RESIDENTIAL DEVELOPMENT SITES OF OVER 0.05 HECTARES (0.12 ACRES) IN SIZE.”

3.6 **UDP Alterations**

The Council has reviewed its development plan and proposed a set of Alterations to the UDP to keep it up to date and relevant in line with Government policy. The UDP Alterations were approved for consultation by the Council's Planning and Conservation Committee on 19 April 1999. The UDP Alterations have been the subject of consultation with statutory bodies in line with Government guidance (PPG12, Development Plans and Regional Guidance [Annex E], February 1992). This consultation took place between 30 April and 11 June 1999. The UDP Alterations will be deposited for public consultation over the summer of 1999. The alterations to the UDP may be used for development control purposes and they will increasingly acquire weight as a material consideration further into the consultation process.

3.7 The weight attached to the altered policies in the UDP will depend on the circumstances of each individual policy. In the case of the Council's affordable housing policies, they reflect the provisions of recent government

advice (Circular 6/98) and are suitable for development control purposes. In the recent statutory consultation exercise, no adverse comments on the Council's affordable housing policies were received from any of the consultees, including the Government Office for London.

3.8 The Council's new approach to the provision of affordable housing using the planning system was discussed at the Planning and Conservation Committee on 11 January 1999 (Appendix 9). The report outlined the emerging policy of the Council and the importance of Circular 6/98 in the assessment and determination of residential development proposals. This new approach was subsequently reflected in the UDP Alterations which were approved by the Planning and Conservation Committee on 19 April 1999.

3.9 The Council's proposed affordable housing policies now reflect the advice contained in Circular 6/98: Planning and Affordable Housing. Altered Policy H22 states:

**"TO NEGOTIATE THE PROVISION AND RETENTION
OF A SIGNIFICANT PROPORTION OF AFFORDABLE
HOUSING ON SITES SUITABLE FOR RESIDENTIAL
USE WITH A CAPACITY OF 15 DWELLINGS OR
MORE."**

3.6 The relevant paragraphs which explain the Council's new approach to the provision of affordable housing in the Borough in the form of a sequential test are 5.10 b, c, d and e as follows:

“5.10b It is likely that the use of planning powers will continue to be a key mechanism for providing the majority of all identified affordable housing programmes in Kensington and Chelsea, especially if RSLs, such as housing associations, can no longer compete effectively in the local housing market for sites and properties. The supply of adequate finance is necessary but not sufficient for development to proceed. The main resource issue is an inadequate supply of land for development. Therefore, where a requirement for an element of affordable housing is appropriate, it should be provided on-site as part of the proposed development.

5.10c When a residential proposal (which is acceptable in principle) is affected by the Council's affordable housing policy (i.e. the site is considered to have a suitable dwelling capacity) a minimum proportion of one third of the housing should be affordable. There are three ways that this requirement can be fulfilled:

(a) provision of affordable housing on site (this is the strongly preferred option); or

(b) provision of affordable housing on an alternative site supplied by the developer within the Borough; or

(c) payment to provide affordable housing elsewhere in the Borough.

5.10d Where provision on-site or on an alternative site is proposed, this can be achieved by the developer, RSL or both. The preferred approach is the provision of affordable housing on-site, included within the facilitating private development. Where it can be demonstrated by the developer that this is not possible (for example, because the proposal is a conversion of an existing building and joint management cannot be arranged), an alternative site will be sought for the provision of affordable housing. If the alternative site route is followed, an amount equivalent to 33% of affordable housing on the “donor” site will be sought plus the equivalent amount which would have been provided on the “recipient” site, subject to further detailed assessment and compliance with planning policies. Finally, it is only where this is also considered unachievable that an in-lieu payment to secure affordable housing elsewhere in the Borough will be negotiated.

The payment should reflect the high land values in the Borough and the cost of providing a significant amount of affordable housing.

5.10e The Council will expect residential development on sites with a capacity of 15 dwellings or more to contribute a significant proportion of dwellings (see Glossary for definition) on the site to the stock of affordable housing. The capacity of a site will be assessed against its size, a dwelling mix which reflects the demographic profile of the Borough and UDP residential density policies. Larger sites which involve phased or piecemeal development will also be expected to contribute to the provision of affordable housing in line with UDP policies. Land available for development in the Borough is very scarce and suitable sites will be subject to the policy to provide affordable housing in line with Government Guidance. Proposals for such suitable sites which do not provide a satisfactory amount of affordable housing will be resisted by the Council."

4.0 PLANNING CONSIDERATIONS

Land Availability

- 4.1 Housing Supply: Kensington & Chelsea is a densely built-up inner-city borough. There are constraints placed on the ability to develop housing due to the Borough's historic character and limited supply of low value redundant uses and properties. However, the Borough has made progress in meeting the minimum housing dwelling provision identified in Strategic Guidance for London Planning Authorities (RPG3, Table 4.1). The figure of 7,750 included in this guidance is for the period 1992 - 2006 and amounts to 517 dwellings per annum. Appendix 20 provides information on residential completions since 1992. The average annual completion rate for Kensington and Chelsea from 1992 to 1998 is 474 dwellings. This is not a large shortfall and there is still 7 years left in which to meet the housing target. It is dangerous to ascribe too much importance to completion rates over a relatively short period of time.

Housing supply tends to be intermittent and can be distorted by the figures for a single year.

- 4.2 Affordable Housing: There are relatively few residential development opportunities which are suitable for the inclusion of affordable housing using the Government's threshold of 15 dwellings in Circular 6/98 because of the typically small size of development sites which come forward in the Borough. Appendix 20 provides information on annual residential permissions and completions (including affordable housing). Since 1992 only 56 residential permissions involving 15 dwellings or more have been granted resulting in a net gain of 2,708 dwellings. Conversely 2,304 residential permissions involving fewer than 15 dwellings have been granted resulting in a net gain of 1,341 dwellings. Even more compelling is the average annual completion rate for affordable dwellings in the Borough. Since 1992 an annual average of only 100 affordable homes has been built in the Borough. This represents only 21% of total residential completions and is well below the Council's target of 33%. This contrasts starkly with the projected numbers in housing need in the Borough (see para. 4.3 of this proof). This demonstrates conclusively the practical need to provide affordable housing wherever the opportunity arises. This land constraint is reflected in the difficulty of registered social landlords (RSLs) in finding suitable sites and will be amplified by Stephen Rawlings in his evidence.

Housing Needs

- 4.3 The housing needs of the Borough are detailed in the Kensington & Chelsea Housing Strategy 1999/2002 (pages 5 to 7, Appendix 10). When high priority needs (i.e. those who are a medical priority, overcrowded or in temporary/insecure accommodation) are projected and set against the projected supply of social housing vacancies (including projected newbuild at current rates), the shortfall needed to meet total high priority needs is projected to rise from 3,255 in April 1998 to 4,853 in April 2001 (see Table 2 of the Housing Strategy, Appendix 10). Thus there is an *increasing* annual projected shortfall of approximately 500 lettings per year. The sheer size of the housing need problem is highlighted by this growing gap which is thrown into even starker relief when balanced against the recent supply of affordable housing as indicated above in paragraph 4.2. In order to prevent this gap from widening, the Council would have to increase the annual available lettings in the Borough by c. 50% (from approximately 1,000 to 1,500). This, however, would not reduce the existing backlog of need. Updated housing needs information is included in the Council's UDP Alterations (paras 5.9 and 5.10 of the Housing Chapter).

Council's Approach

- 4.4 The Council's policy approach is straightforward and reflects the latest Government guidance in a clear and simple way. It also reflects the particular circumstances of this Borough. It is determined by:
- (a) the requirement to meet housing need in the Borough; and

(b) the shortage of suitable development land in the Borough.

This reality is incorporated into the Council's strong preference for the on-site provision of affordable housing as part of residential development proposals (as explained in the Council's UDP Alterations Housing Chapter, paras. 5.8 - 5.11). This approach is also supported by Government guidance. Indeed, the use of the planning system to deliver affordable housing will prove to be important in the future as RSLs find it increasingly difficult to compete in one of the most expensive residential land markets in the country. The use of cash in lieu payments as means of providing affordable housing is considered problematic by the Council because it defers the provision elsewhere and puts extra pressure on remaining sites.

4.5 **Developer's Proposals**

- (a) Aubrey Walk Block: St. James Ltd. has indicated in a letter to the Council (Sellwood Planning, dated 15 February 1999) that "rented social housing provision could, in principle, be made in the stand alone block fronting on to Aubrey Walk. This block would be the most appropriate location since it is self contained and of the necessary size to accommodate the level of social housing expected on the site".
- (b) Council's Response: The proposed block in Aubrey Walk would provide 17 dwellings and is considered suitable in terms of the amount of affordable housing and the size and mix of units.

(c) Viability: St James Ltd has confirmed in a letter to the Council (Sellwood Planning, dated 15 March 1999) that they accept the Council's sequential approach to the provision of affordable housing. The following points are confirmed:

"1. St James will not be seeking to argue that the provision of on site affordable housing will threaten the financial viability of the remainder of the project.

2. If there is a Housing Association which can afford to fund the inevitably high cost of service charges arising from on site affordable housing and this remains the preferred approach by your Council, St James will provide on site affordable housing. This would probably be located in the free standing building which fronts on to Aubrey Walk.

3. If a suitable Housing Association cannot be found who will bear the high service charges, or your Council ultimately concludes that on site provision is not appropriate, then St James will provide the requisite number of units off site.

4. The provision of an off site commuted sum would be an option which can only be triggered by the Council in the situation where it concludes that in this case it is the most appropriate option."

- (d) Council's Response: The Council endorses the view that affordable housing can be provided on site. However, the proposed service charge renders the scheme unaffordable to RSL tenants. A minimum figure of £4,000 per annum (approximately £80 per week) has been suggested by the developer in a letter to the Council (Sellwood Planning, dated 15 February 1999) and would greatly exceed the typical housing association rental cap imposed on housing association rents. The developer has not stated that the proposed scheme is unviable without a £4,000 service charge. The scheme could be redesigned to avoid this problem. Stephen Rawlings will expand on this in his evidence.
- (e) Implementation Arrangements: St. James proposes to incorporate the Council's sequential approach to the provision of affordable housing into a unilateral undertaking under S 106 as a means of securing the accommodation.
- (f) Council's Response: The absence of any adequate proposals for the provision of affordable housing which is physically and financially possible is a serious breach of policy and represents the waste of a valuable development opportunity. The developer has failed to provide a scheme on site which is certain and deliverable prior to the grant of planning permission. Under these circumstances, the developer has not shown that any housing provided as a result of the development would meet the housing needs of the Borough. Accordingly, the proposal fails the advice included in Circular 6/98 e.g. paragraphs 21 and 24 which support the provision of affordable housing as part of a residential development. The Council's approach to the provision of