

**ROYAL BOROUGH
OF
KENSINGTON & CHELSEA**

DOCUMENT SEPARATOR

DOCUMENT TYPE:

APPEAL



APPE

APPE



- City of London
- Glasgow
- Edinburgh



**MONTAGU
EVANS**

JWP/jb/PD5824

01 December 2003

The Government Office for London
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Caro



Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990

**TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANS AND CONSULTATION)
(DEPARTURES) DIRECTION 1999**

**LAND ADJACENT TO SOUTH SIDE OF CHELSEA CREEK, CHELSEA HARBOUR DRIVE,
CHELSEA HARBOUR, LONDON SW10**

You will recall that the London Borough of Hammersmith and Fulham referred this application to you as they considered it a departure from policies HO7 (density) and EN9 (high buildings) of their adopted development plan. Your office wrote to the London Borough of Hammersmith and Fulham on 18 July 2003 issuing an Article 14 Direction, instructing the Council not to grant planning permission without a specific authorisation from the Government Office. We subsequently wrote to your office on 7th November 2003 to make you aware of the current status of the two separate planning applications that fall within land in our client's ownership in the Chelsea Harbour/Lots Road area, namely the application to the London Borough of Hammersmith and Fulham (which is subject to the article 14 Direction) and the separate planning application to the Royal Borough of Kensington and Chelsea. We enclose a schedule detailing these applications. However, a summary of the position is that whilst Hammersmith and Fulham resolved to grant planning permission for their application on 25 June 2003, the Royal Borough of Kensington and Chelsea chose to overrule their Chief Planning Officer's recommendation to grant consent, and refused the application at a Committee meeting on 28 October 2003. I enclose a copy of both Committee Reports, the draft planning permission issued by the London Borough of Hammersmith and Fulham and the decision notice issued by the Royal Borough of Kensington and Chelsea.

In the light of these decisions we understand that you are now considering in more detail your position on the resolution to grant planning permission in the London Borough of Hammersmith and Fulham. You will note from the enclosed documentation that the planning application in Hammersmith and Fulham is not only supported by the Borough's officers and their Committee, but also by the Mayor of London, the Commission for Architecture and the Built Environment and English Heritage. We understand that you are, or will shortly be, in receipt of letters from these groups requesting that you lift the Article 14 Direction and allow the Council to proceed to grant planning permission for the proposed development.

PARTNERS

R G Thomas
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S R W Harris
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A C W Rowbottom

P T H Lowrie

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P B Grant
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C M M Whyte
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N P How
D A M Reid
R J Cohu

R P Woodman

S J Waugh
I J Michie
R D Harvey
G S Davey
A R McRitchie
R V Bower
D A McCrory
M A C Higgins
T J Raban

M Gudaitis

G H J McGonigal
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D W Graham
P E Henry
B J Collins
M R P Gibbs
H W Morgan
I W Pool
Louise Younger

W A Scott

R M Phillpotts
P J Mason
S E Knight
G Howes
N P Law
M J Knight
I S Clark
J G Anderson
T J Earl

R A Clarke

S J Fricker
A P Richardson
R Sewell
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SECRETARY
S M Wilson

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In support of these requests, we set out below detailed reasons why it is necessary for the Hammersmith and Fulham application to be called-in.

CRITERIA FOR CALL IN

The power for the First Secretary of State to call-in a planning application, conferred by section 77 of the Town and Country Planning Act 1990, is generally exercised in order to bring before the Secretary of State those applications which the Local Planning Authority do not propose to refuse, but which the Secretary of State believes should be more closely scrutinised before permission is granted. As you can see from the attached planning history of the Hammersmith and Fulham site, the content of the proposals for this site have already been very closely scrutinised over a number of years and three applications have been submitted, each taking into account the results of extensive consultation carried out in relation to our client's proposals. Based on that consultation and scrutiny, the Local Authority have ultimately taken the view that the current application has addressed their planning concerns raised on the two previous applications and should therefore be granted planning consent.

The Government policy statement on calling-in planning applications given in a Parliamentary Written Answer on 16 June 1999 states that the First Secretary of State will not interfere with the jurisdiction of local planning authorities unless it is necessary to do so. He will be very selective about calling-in planning applications and will, in general, only take this step if planning issues of more than local importance are involved. Such cases may include, for example, those which, in his opinion:

- may conflict with national policies on important matters;
- could have significant effects beyond their immediate locality;
- give rise to substantial regional or national controversy;
- raise significant architectural and urban design issues;
- or may involve the interests of national security or of foreign Governments.

The planning application submitted to the London Borough of Hammersmith and Fulham does not fall into any of these categories and accordingly there are no reasons why the London Borough of Hammersmith and Fulham should not be allowed to determine the application itself. We set out below detailed comments on each of the specified criteria, as well as additional reasons why the application should not be called-in.

• Conflict with National Policy on Important Matters

It is evident from the professional analysis carried out by the Borough's planning officers that the proposals accord not only with local policy but also with national planning policy and guidance. This is an urban regeneration project which will deliver high quality residential accommodation, a substantial amount of affordable housing, the urban renewal of an industrial site, and a state of the art approach to public transport investment and reduced car parking levels. As well as addressing these matters of national policy, the proposals are also of the highest architectural quality designed

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by a world renowned architect. This approach to urban regeneration is specifically encouraged within PPG1. Our thoughts on the proposal accord with Hammersmith and Fulham's in that the proposals accord with the provisions of national policy.

- **Significant Effects Beyond the Immediate Locality**

Despite being widely advertised, the objectors to the current planning application are almost without exception from the immediate locality. So far as we are aware, they have not suggested that the development would have significant effects beyond the immediate locality of the site. Nor do we think that any such effects would be caused.

As noted above, the introduction of a tall building at the mouth of the Creek has been closely scrutinised by the London wide groups best placed to assess the appropriateness of tall buildings and their locations (namely CABE, the GLA and English Heritage). Each of them has confirmed that this is an appropriate location for a tall building of high architectural quality.

The transport implications of the development have been carefully analysed by Transport for London and the London Borough of Hammersmith and Fulham's officers, neither of whom raise any objection to the proposals. This reflects the high level of consultation associated with this particular aspect of the development, which has involved an ongoing dialogue with these parties over the last three years. The contents of the TIA were also assessed by officers at the Royal Borough of Kensington and Chelsea. They supported the proposals. Kensington and Chelsea also instructed independent transport experts, Steer Davies Gleave, who also supported our transport proposals. Accordingly, in the decision notice issued by the Royal Borough of Kensington and Chelsea, no reference was made to density or transport as a reason for refusal. We are now in detailed discussions with the London Borough of Hammersmith and Fulham to secure the transport improvements identified in the Environmental Statement, which will deliver significant transport benefits to the local area.

- **Substantial Regional or National Controversy**

As stated above, whilst the proposal has generated some objections, these have almost without exception come from local residents. It is clear, therefore, that the application could not be considered as giving rise to any regional or national controversy.

- **Significant architectural and urban design issues**

As you are aware, the proposals have been designed by the internationally renowned architectural practice, Terry Farrell and Partners. The development is recognised by English Heritage, CABE and the GLA to be of the highest architectural quality. I enclose copies of the letters prepared by each of these bodies, but I would specifically bring to your attention the following quotes made during the planning process.

GLA: "The design of the scheme is considered to be of a high quality ... the accessibility ... is considered to be a significant urban design gain."

CABE: "The project constitutes a residential scheme of the highest quality, and is arguably the best such scheme along this part of the river for 20 years."

English Heritage: The buildings "will enhance river views and the skyline of this part of London without damaging the historic environment of the wider area".

It is clear from this level of strategic support that the architectural and urban design aspects of the proposed development have been considered in substantial detail and the relevant advisory bodies are in agreement that no significant architectural or urban design issues are raised by the application.

The proposed development includes a tall building at the mouth of Chelsea Creek, which has been the subject of some objections from local residents. However, both English Heritage and CABE assessed the proposed building against their published *Guidance on Tall Buildings* (which received the Government's endorsement following the Local Government and Regional Affairs Select Committee's Report on Tall Buildings (2002)). Both organisations supported the tall building proposal as being consistent with their guidance. In addition, Hammersmith and Fulham's planning officers assessed the architectural and urban design aspects of the scheme in substantial detail. Specific references were made to the quantum and quality of open space within the development, the impact of the tall building on the Sand's End Conservation Area and the River Thames, the impact of the tall building upon borough wide and London wide views and the specific fact that the proposals were in accordance with their UDP Policy.

- **May involve the interests of national security or of foreign Governments**

It is clear that our client's planning application does not involve any interests of national security or of foreign Governments.

REASONS FOR REFERRAL

The Planning Committee report prepared by Hammersmith and Fulham's Planning Officers demonstrates their satisfaction that the development proposals accord with the large majority of the planning policies within the adopted and emerging plans at the time that the Committee report was drafted and the resolution was made. In the interim, the Unitary Development Plan Alterations have been adopted. As this has been the public inquiry process, it should be afforded reasonable weight.

The first policy that caused this application to be referred to you as a departure was policy HO7 of the adopted Plan of 1994. This policy stated that new residential developments should normally be between a density of 173 to 247 habitable rooms per hectare. In recognition that higher densities can be acceptable, Policy HO7 of the UDP Alterations (now adopted) introduced criteria against which schemes which exceeded UDP Standards should be judged. These criteria are:

- the design and layout of the scheme should be such that it can make more efficient use of land without compromising environmental quality; and
- the scheme would not be deficient in open space provision to meet the needs of residents and would not lead to deficiency in open space provision for the area as a whole; and
- existing services and facilities would have sufficient spare capacity to accommodate the increased demands that higher density development would place upon them; and
- there would be no increase in on street parking demand; and

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- e) in relation to the scale of the proposed development there would be convenient existing or proposed access to and from the site.

It was demonstrated to the satisfaction of the Council that our client's proposals met each of these criteria and as a result, the proposals were in accordance with Policy HO7 of the UDP Alterations (now adopted). However, the Council considered that the proposals did not accord with the HO7 policy within the adopted Plan of 1994 and therefore referred the application to your office. In the light of this policy being superseded, as well as the requirement of PPG3 to make the best use of land, and the Draft London Plan which mirrors this, we feel that this reason for referral is now obsolete and could not be considered as a reason for the application to be called-in.

The other policy under which this application was referred to you was Policy EN9 of the UDP adopted in 1994. This policy is replicated in the recently adopted Plan of August this year. Policy EN9 assesses a tall building proposal against the following criteria:

- the impact upon any conservation areas, the impact upon the River or the Riverside;
- the effect upon Strategic Views from Richmond Park, King Henry VIII Mound, any other important views, including that of Central London from Sawyers Hill or a local view or landmark or views from or towards the River Thames, the bridges or the Riverside;
- the setting of any listed building;
- whether it enhances the townscape;
- whether it would increase ground level wind speeds in the vicinity;
- whether it would accord with Policy EN8 of the adopted UDP.

We appended a document to the Environmental Statement which justified the introduction of a tall building in this location against the relevant policy criteria including the adopted Plan policies. We concluded that the proposals accorded with the adopted UDP policy on tall buildings in Hammersmith and Fulham. We also pay particular attention to the English Heritage/CABE Guidance on tall buildings. You will note that both EH and CABE concluded that the tower proposals are in accordance with their guidance and therefore should be granted planning permission.

In our view, the application should not have been referred to you under this policy as the proposals are in accordance with the specified criteria.

THE RELATIONSHIP OF THE HAMMERSMITH AND FULHAM APPLICATION TO THE RECENT DECISION IN THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

As you will be aware, and as stated above, the Royal Borough of Kensington and Chelsea refused planning permission for our client's application in their Borough. You will also be aware that both applications (one in Hammersmith and Fulham and one in the Royal Borough of Kensington and Chelsea) had their environmental impact assessed under one Environmental Statement. In the light of the Royal Borough of Kensington and Chelsea's decision to refuse planning permission, our client is considering how best to progress the development of the land to the north of Chelsea Creek. No decision has yet been taken by our client on whether to appeal Kensington and Chelsea's decision to refuse planning permission. Whilst the two applications were prepared so that they could be carried out as one development, they were also designed as stand alone schemes and were considered as such by the relevant consultees and the Boroughs.

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The principal areas where the two applications are inter-related are as follows:

- *Transport*

We are now in detailed discussions with the London Borough of Hammersmith and Fulham's legal team to finalise the Section 106 Agreement for their application. The Borough are keen to agree the final content of this agreement, and our client has agreed to ensure that all aspects of the transport improvements package outlined within the Environmental Statement (for both Boroughs) will be delivered as part of the Hammersmith and Fulham development. This will require us to obtain certain consents under the Highways Acts for the roadworks within the Royal Borough of Kensington and Chelsea. However, the requirement to achieve these will be written into the Section 106 Agreement for Hammersmith and Fulham.

- *Creek/Riverside Bridges proposed*

You will note that the proposals introduced one bridge along the bank of the River Thames to provide an extension to the Thameside path and two bridges over Chelsea Creek linked into the Power Station to enhance linkages through the site and access to the River. As with any other proposal along the River, the Hammersmith and Fulham development will continue to facilitate the introduction of the bridge along the Thameside, as well as safeguarding the landing points for any future bridges over Chelsea Creek.

- *The relationship between the towers in Hammersmith and Fulham and Kensington and Chelsea*

As you are aware, the relationship between the two towers at the mouth of the Creek was supported by Hammersmith and Fulham, Kensington and Chelsea's Officers, CABE, the GLA and English Heritage. We understand that each of these groups will be contacting you separately to confirm that they continue to support the Hammersmith and Fulham proposal even though the Kensington and Chelsea element may not proceed in its current form. This support reflects our own position that whilst the relationship between the H&F tower, the K&C tower and the power station building would be successful, the relationship between the H&F tower, its public realm and the existing power station building would also be successful. The proposals meet the requirements of Hammersmith and Fulham's Unitary Development Plan, as well as the English Heritage/CABE guidance on the subject.

SUMMARY

We have demonstrated in this letter that the proposed development in Hammersmith and Fulham accords with the adopted UDP for the Borough, Central Government Guidance, the London Plan, and the English Heritage/CABE guidance on tall buildings. The Borough and the key statutory authorities continue to support the Hammersmith and Fulham development whilst being cognisant of the Kensington and Chelsea decision. In addition, we have also demonstrated that these proposals do not fall within any of the Government's published criteria for assessing whether an application should be

called-in. This planning application enjoys a wide base of strong support and has already been heavily scrutinised prior to Hammersmith and Fulham resolving to grant planning permission. In the light of the above, we see no reason for the application to be called-in.

If you would like to discuss any of the above in more detail please contact Jim Pool of this office.

Yours faithfully


MONTAGU EVANS

Cc: Nigel Pallace – L B Hammersmith & Fulham
Michael French – Royal Borough of Kensington & Chelsea

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APPEAL

TO: John Thorne
DATE RECEIVED: 29/03/2004

FROM: Kavita Sedov
EXTN: 2081

8

APPEAL
CASE OFFICER: Mr. J. Thorne

APPEAL
ADMIN OFFICER: KS RT

OUR REF:
PP/02/01324
V/04/1148781

ODPM REF:
App/K5600/A/04/1146268 &

ADDRESS: Lots Road Power Station and Chelsea Creek, London, SW10

Description: Conversion of Power Station to provide a mix of residential, retail, office, business and restaurant uses, together with erection of a 25 storey residential tower with ground floor gym, a 3-8 storey building incorporating commercial and residential uses, a 9 storey residential building, associated parking, servicing and landscaping, and works to Chelsea Creek, including three pedestrian bridges.

REASON FOR APPEAL: REF

THE APPEAL WILL BE DETERMINED BY WAY OF:

WRITTEN
REPRESENTATIONS

INFORMAL
HEARING

PUBLIC
INQUIRY

START DATE OF APPEAL

23-Jul-04

3rd PARTY LETTERS DUE:

06-Aug-04

SENT: 05-Aug-04

QUESTIONNAIRE DUE:

06-Aug-04

SENT: 06-Aug-04

~~WRITTEN REPS STAT DUE:~~

~~SENT:~~

~~INFORMAL HEARING STAT DUE:~~

~~SENT:~~

PUBLIC INQUIRY RULE 6/8 DUE:

03-Sept-04

SENT:

PROOF EXCHANGE DUE: _____

SENT:

FINAL COMMENTS DUE 24-Sept-04

SENT:

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APPEALS TIMETABLE

ADMINISTRATION

Initials

Time
Hours

Cost
LAWJ

10

- (1) Notification of appeal to third parties
- (2) Pre Statement Inquiry/hearing
- (3) Preparation of Statement and Documentation
- (4) Notification of appeal decision

CASE OFFICER

- (1) Preparation
 - (2) Meeting
- Legal
Counsel
Transportation
Design
Policy
BEHO
Other Parties

- (3) Statement
- (4) Public Inquiry/Local Hearing

Policy

Preparation
Meetings
Statement if applicable

Design

Preparation
Meetings
Statement if applicable

Transportation

Preparation
Meetings
Statement if applicable

ADDLESHAW GODDARD

J.N.
MSK
Copy to Aff'com S

Our reference SECTG/TASCL/321385.1

28 May 2004

Mr Peter Rowstone
Planning Inspectorate
3/17 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

COPY

BY POST & EMAIL

Dear Mr Rowstone

EX DIR	HDC	TP	GAC	AD	CLU	AO AK
R.B. K.C.	- 1 JUN 2004				PLANNING	
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Town & Country Planning Act 1990

Appeal by Circadian Limited ("Appeal")

Royal Borough of Kensington and Chelsea Planning Application Ref: PP/02/01324 ("Application")

Site at Lots Road Power Station and Chelsea Creek, Lots Road, London SW10

Planning Inspectorate Reference: APP/K5600/A/04/1146268

We refer to the above and most recently your letter of 12 May 2004 in which you reiterated the position of the Planning Inspectorate with regard the validity of the Appeal against the refusal of the Application by the Royal Borough of Kensington and Chelsea on 13 November 2003.

You will recall that this firm has previously responded by letter dated 14 May 2004.

We can confirm that we have now taken the advice of Leading Counsel, who has confirmed the view expressed by this firm as to the legality of the Application, and hence, requirement of the Planning Inspectorate to register the Appeal.

The position is such:-

- 1 Section 65(1) of the Town and Country Planning Act 1990 refers to a development order making provision for certification of the interests in land to which an application for planning permission relates and Section 65(2) provides for a development order to set down prescribed notification requirements, "for owners of the land to which the application relates, or a tenant of any agricultural holding any part of which is comprised in that land";
- 2 Article 6(1) of the General Development Procedural Order 1995 ("GDPO") requires "An applicant for planning permission [to] give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant....";

4-208496-1,

150 Aldersgate Street, London EC1A 4EJ
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- 3 Pursuant to Article 6 of the GDPO, "tenant" means the tenant of an agricultural holding any part of which is comprised in the land to which an application relates;
- 4 Article 7 of the GDPO states that, "The Applicant shall certify, in the appropriate form prescribed in Part 2 of Schedule 2 of this Order, or any form substantially to the like effect, that the requirements of Article 6 have been satisfied";
- 5 In the circumstances pertaining to the Application site, there were no agricultural tenants, and therefore our client, could not certify that it had served notice on agricultural tenants because there were none. There was no breach of the requirements of Articles 6 and 7 GDPO;
- 6 When the Appeal was submitted an agricultural holdings certificate was given as part of the Appeal form of the Planning Inspectorate;
- 7 Insofar as the Planning Inspectorate considers that there was a substantive error in the submission of the Application under Article 6 and 7 of the GDPO (which is not conceded) then in any event this amounts to "no more than an irregularity that does not go to jurisdiction or anywhere like it", see judgment of Parker L.J in **Main v Swansea City Council** (1985) P and CR 26 at 33. Such mere irregularity has not resulted in any prejudice to any party;
- 8 The Appeal was validly submitted on 26 March 2004 and the Planning inspectorate ought to register it and proceed to deal with it in the normal manner. The Planning Inspectorate are required to both register and determine the Appeal (see **R v Bath and North Somerset District Council** [1999] JPL 984). The position of both our client and the Royal Borough of Kensington and Chelsea as local planning authority, is that the Application is valid. It follows that the refusal of the Application was valid, and hence the Appeal is valid.

The position is such that the Planning Inspectorate has before it a valid and determinable Appeal.

Without prejudice to the above, we have today sent to the Royal Borough of Kensington and Chelsea an Agricultural Holdings Certificate which certifies that 21 days prior to the date of the Application, there were no agricultural tenants of the Application site. We have similarly provided a like certificate to the London Borough of Hammersmith and Fulham in respect of the Called-In Application for the neighbouring land to the Appeal site, to which the position set out in this letter is equally applicable.

We have requested on behalf of our client a co-joined Inquiry at which both the Call-In of the London Borough of Hammersmith and Fulham Application, and the Appeal are heard together at Inquiry. We repeat our invitation to the Planning Inspectorate to set down the matter for hearing on 1 February 2005.

We look forward to hearing from you accordingly.

Yours faithfully

Addleshaw Goddard

Direct line 020 7880 5827
Email gary.sector@addleshawgoddard.com

Copy to Mike French, Royal Borough of Kensington and Chelsea (by post)
Ms Marcia Dean, Planning Inspectorate (by email)
Sian Evans - 3/17 Eagle Wing (by email)

ADDLESHAW GODDARD

13

Your reference HSCT/10031874

Our reference EVAND/LJK/321385.1

2 February 2005

Heidi Titcombe
Royal Borough of Kensington and Chelsea
The Town Hall
Hornton Street
London
W8 7NX

Dear Ms Titcombe

Town and Country Planning Act 1990
Appeal and Call-In Public Inquiry Re: Circadian Limited
Reference: APP/K5600/A/04/1146268 & APP/H53390/V/04/1148781

I refer to the above matter and in particular to one issue that was raised by the Inspector, yesterday.

You will recall that in relation to the minor amendments to both applications, submitted to all parties under cover of a letter of 10 January this year, the issue arose as to whether or not the Environmental Statement accompanying the applications requires further amendment and up-dating.

During the Inquiry the Inspector stated that he was of the view that the Environmental Statement would not require further up-dating or amendments, since he did not consider that the 10 January amendments to the applications were "significant".

It is our provisional view that the Inspector was correct in reaching this opinion. However, we would wish formally to establish the position of not only your Council but also the Greater London Authority and the Mayor, the London Borough of Hammersmith & Fulham and the Rule 6 parties on this point.

I would therefore be grateful if you and those parties or persons to whom I am copying this letter, would confirm by return if you disagree with the position duly indicated to the Inquiry by the Inspector.

I look forward to hearing from you

Yours sincerely

Douglas Evans
Partner

Direct line 020 7880 5789
Email douglas.evans@addleshawgoddard.com

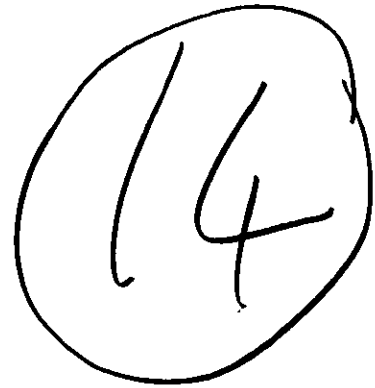
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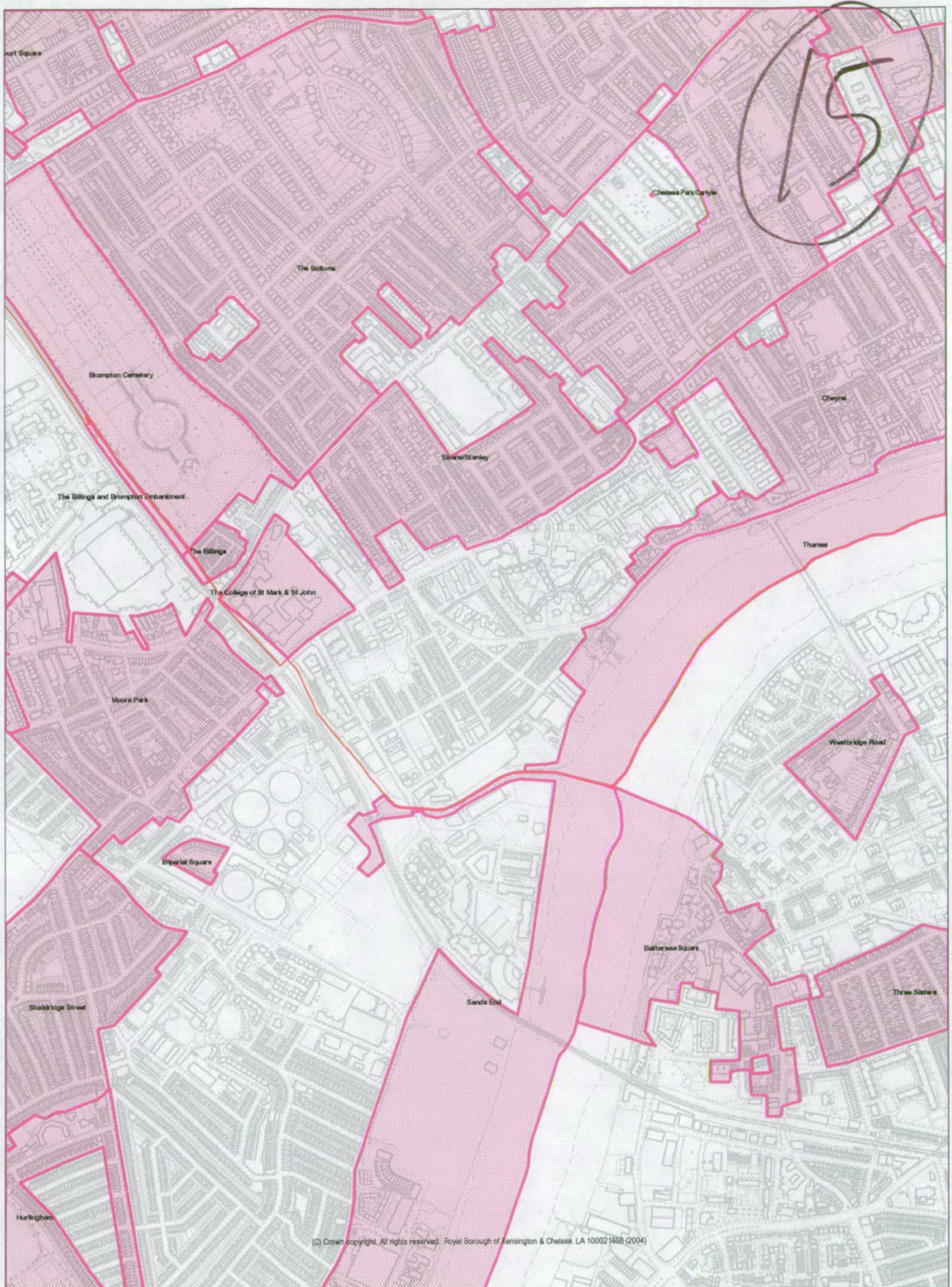
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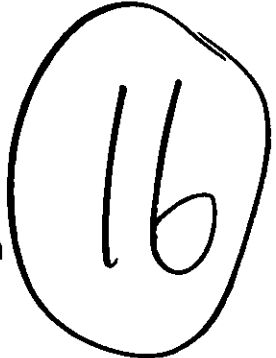
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Copy to

Mr A Storey – Circadian
 Sian Evans – Planning Inspectorate
 Elizabeth Loughran – Greater London Authority
 Andy Beresford – Hammersmith & Fulham
 Paul Entwistle – Hammersmith & Fulham
 Mike French – RBKC
 John Thorne – RBKC
 Mr J Gray – Inspector
 Greg Lee - Colin Buchanan and Partners
 Melyssa Stokes – Lots Road Action Group
 John Pringle, Secretary, Lots Road Action Group
 Elizabeth Loughran, Greater London Authority
 James Wilson, 23 Stadium Street, Chelsea
 Terrence Bendixson, Honorary Secretary Planning, The Chelsea Society
 Peter Makower, Honorary Planning Advisor, West London River Group
 Honorary Secretary - The Cheyne Walk Trust
 Angela Dixon, Chairman, Hammersmith & Fulham Historic Buildings Group







**In the matter of the Public Inquiry to address a
Call in Application and Appeal regarding
Land at south side of Chelsea Creek, Chelsea Harbour Drive,
Chelsea Harbour**

**PINS ref: APP/H5390/V/04/1148781
APP/K5600/A/04/1146268**

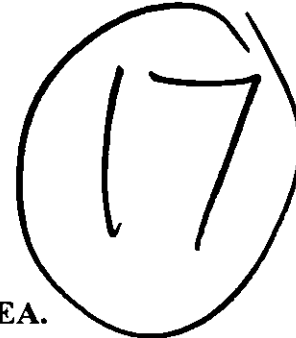
February 2005

Schedule of Appearances

Morag Ellis of Counsel is instructed by Howard Carter, Head of Law to appear and present the case for the Mayor of London. She will call the following witnesses to give evidence:-

- 1. Colin Wilson, Senior Strategic Planner for the Greater London Authority**
- 2. William Steadman, Senior Planning Officer, Transport for London (TfL)**
- 3. Nick Bond, Principal Transport Consultant of Savell, Bird & Axon (SBA) on behalf of TfL**

**LOTS ROAD POWER STATION.
BRIEF OPENING SUBMISSIONS ON BEHALF OF
THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA.**




1. The Thames constitutes one of London's most important open spaces. It is particularly impressive, powerful and important as it passes through the Royal Borough.
2. The application/appeal site sits at a pivotal position in the River, close to the apex of a bend and adjoining two long reaches.
3. The site is presently home to an iconic building of significant architectural strength: Lots Road Power Station.
4. The building presently provides an impressive landmark. Its existing position allows it appropriately to command nearside Thames viewpoints and to act as satisfying punctuation to the longer river views.
5. As an iconic building, even though not listed, it is appropriately spoken of by the Appellants as being a landmark building of the same functional importance to the Thames as Battersea and Bankside Power Stations.
6. There is no spatial requirement for a further and additional landmark building or structure at this location. There is no policy identification of the Lot's Road Power Station as in any way inadequate as a landmark nor is there any policy identifying the site as appropriate for exceptionally tall towers of Metropolitan significance.
7. The proposed double towers cause harm to this important part of the Royal Borough. In particular, in seeking to **supplement** an existing and adequate landmark:
 - a. They shift and diffuse the landmark focus of the site in an inappropriate and unnecessary way.

- b. They compete with, dwarf and belittle the existing Power Station.
- c. In many important views, the towers obliterate and hide the essential structure of the Power Station.

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8. If the power station were to be demolished, then clearly, the potential for a suitable replacement landmark, (not necessarily a tower) might exist. But it is not being demolished - and the layering of landmark upon landmark creates competition, harming both existing and proposed.
9. The argument that the impact of the towers is rendered acceptable by reason of their place within an overall cluster or ribbon cluster of tall buildings is not accepted.
10. There is not now a composition of towers which could be identified as a cluster.
11. Neither will there be in the future with the towers in place. The scheme does not fall to be considered as part of a cluster (though it is instructive to note that the Applicant feels driven to argue it). Rather, it stands or falls upon its own merits as a landmark development, supplemental to and sitting alongside the landmark which already exists.
12. The harms occasioned by these aspects of the proposal are significant and important. They certainly cannot be overcome by an argument based on the alleged harms associated with an already consented scheme which may or may not be adopted as a fall-back position on the smaller part of the site in the event that consent is refused.
13. Neither do the benefits of the scheme as a whole save the proposal from its harms. The imaginative re-use of the power station itself is to be welcomed as is the opening up of the site and the permeability to the River that flows with it.

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14. But, no case is advanced or is capable of being advanced to the effect that these types of advantages can **only** be achieved in association with a development including these double towers or this density of development.
15. Inevitably, and away from the River, the scheme's towers will have a very significant impact on the residential areas behind the power station. Particularly where the towers overlap or are seen in close proximity to each other, their effect will be overpowering, oppressive and unacceptable.
16. Further, the proposal will have an impact upon the Brompton Cemetery an area of quiet contemplation ordinarily away from the bustle of the City and its distractions. Unlike the City of London, it is possible to gain an impression of peace and otherness there at present. The tallness of the towers and their modern composition and materials will undoubtedly intrude into this important space in a harmful and unacceptable way.
17. The potential for tall towers on this part of the riverside to affect the harms identified in this opening has long been well understood by those responsible for the proper planning of the area.
18. To this end, the statutorily adopted UDP contains a policy which is of specific, direct and determinative relevance to a proper decision making process in this case. It is of particular importance because:
- a. it is consistent with the London Plan policies on tall buildings and the identification of areas unsuited to tall buildings,
 - b. it is specific to the area within which the application site sits,
 - c. it contains clear, objective, non-judgmental guidance to decision makers as to the acceptability of tall buildings along this part of the Chelsea Embankment.
 - d. it followed a careful urban design consideration, full public consultation and was consistent with a site specific Planning Brief.
19. CD6 of the RBKC UDP **requires** any development on the riverside to preserve and to enhance the waterfront character, protect or improve

physical and visual links between the River and the rest of the Borough
“and be of a height no greater than the general level of existing
building heights to the east of Blantyre Street.”

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20. The proposal clearly and comprehensively breaches this most specific of requirements. This is of fundamental importance. The role of the development plan in identifying the appropriate (and inappropriate locations) for tall buildings is re-emphasised in central government advice and in the EH/CABE guidance.
21. Very tall buildings have significant impacts over a wide area but they are physically and functionally rooted in the communities where they hit the ground. Alone in all of the recent very tall building cases, (Swiss R; Heron Tower, Shards of Glass) this proposal is opposed by the planning authority within which a tower is located- an opposition which is clearly based upon a substantial breach of the most relevant policy in the adopted development plan.
22. If the proposal is granted consent, this community's faith in the value of the development plan process will be justifiably shaken.
23. There should be very substantial reasons for setting aside the provisions of this most important development plan policy. There are none.
24. Much will be made of the absence of objection to the proposal from English Heritage and CABE. Care should be taken. English Heritage and CABE are not always correct-(they both opposed the Shards of Glass). The Secretary of State should and we know the Inspector will form a fearless and independent judgment of the acceptability of the proposal having regard to the development plan and to all other material considerations. A conspiracy of consensus is often not the best climate for good planning.
25. RBKC is the local planning authority for a significant component of the site. It will be represented here throughout the inquiry to present its case

and otherwise to assist you as required. It will, so long as the heads of terms identified in the final report to committee are not resiled from, limit its objection to the proposal to the single townscape reason for refusal.

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26. Since that objection involves in significant part an exercise in expert architectural judgment, you will not have to endure extensive cross examination from me on these issues of personal opinion. That would not be of much help to you or the FSS. The absence of such forensic sparring does not betoken an absence of substance in the Council's case, and I know you will not treat it as such.
27. Unfortunately, this proposal has, at its heart, a flawed premise; the requirement for enhanced landmark structures on the application site in addition to that which is to be retained. In seeking to provide additional landmarks, the scheme inevitably and inappropriately detracts from the iconic building which exists. It does so in a way which wouldn't begin to be contemplated at either of the other iconic power stations on the Thames. It shouldn't be so contemplated here.

RUSSELL HARRIS Q.C.
LANDMARK CHAMBERS.
FEBRUARY 2005.

LAND AT
LOTS ROAD POWER STATION
AND
THAMES AVENUE, LONDON, SW10

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**OPENING STATEMENT ON BEHALF OF CHELSEA HARBOUR RESIDENTS
ASSOCIATION**

1. Chelsea Harbour Residents Association ("CHRA") is a community organisation which represents the interests of Chelsea Harbour residents. It is run by volunteers from the community and works not only on issues of estate management but also on matters affecting the living amenity of local residents. As such, it has followed closely the various applications for the development of the land at the Inquiry site since the first application for its redevelopment was made by Circadian in June 2001.

2. CHRA welcomes the principle of development of the Inquiry site. The residents of Chelsea Harbour have long been aware of the proposals for the development of the land on that part of the Inquiry site falling within the London Borough of Hammersmith and Fulham ("LBHF"), otherwise known as Chelsea Harbour Phase II. They acknowledge the existence of these development proposals and indeed the redevelopment of the site overall. The regeneration of derelict land bordering their own properties is obviously a proposal to be welcomed in the interests of all local residents and one which is keenly supported by CHRA.

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3. Such development, however, must be understood in context. The Inquiry site is defined by Lots Road power station, one of only three riverside power stations on the Thames in London. It is a landmark of enormous historical, cultural and social significance. Whilst it is in the interests of all that derelict land, inaccessible to the general public, should be brought back into useful occupation, this process must be carried out in a sustainable way which respects the characteristics of the local environment and ensures the future success of the development. Furthermore, the environs within which the Inquiry site is located are characterised by poor existing services and facilities, particularly in terms of public transport, and a distinct lack of publicly accessible open space. This type of location is unsuited to accommodate the scale or density of development which is proposed and the development plan does not envisage it occurring. It is the failure to recognise these particular characteristics and sensitivities which CHRA contends undermines the Circadian proposals in their current form.
4. CHRA's case at this Inquiry can be summarised as falling within four distinct areas. That is, the proposals represent development which is contrary to the relevant local, regional and national policies for planning, transportation, visual impact and conservation area reasons. It is also notable that they do not deal adequately with previous reasons for refusal. Accordingly, they should not be granted planning permission.

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5. In planning terms, the proposals seek excessive levels of residential development which will have a serious adverse impact on an already overstretched local infrastructure. The quantum and density of development are too high and represent levels of development which are contrary to local, regional and national policy guidance. The effect of these excessive levels is to place the local infrastructure – in particular, the transport and open space infrastructure – under unreasonable and unsustainable pressure. Despite the attention being focused by Circadian on the level of affordable housing provision, the proposals do not achieve targeted levels for such housing. As a result of the excessive levels of development proposed, there is also a lack of suitable provision of public open space, both for the population to be accommodated by the development and also for the wider public which may be expected to be drawn to the development site. Finally, in planning terms, levels of daylight and sunlight will be too low for some adjoining existing properties.
6. As regards transport, it is CHRA's case that the proposals will not be adequately accommodated by the existing transport infrastructure and that the proposed improvements will not provide sufficient capacity to cope with the extra strain. More fundamentally, the transport assessment carried out on behalf of Circadian is flawed in that it does not take into account the impact of committed and likely developments on the public transport infrastructure. The area is currently designated with a particularly low Public Transport Accessibility Level ("PTAL") rating of 2, which is only realistically anticipated to rise to a maximum of 3 with all the proposed investment in transport facilities. The modelling carried out for the King's Road /

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Lots Road junction is inaccurate and thus fails adequately to assess the true impact of the development on traffic flows in the area. Car parking provision is based on particularly conservative estimates, so that there will be overspill cars from the Inquiry site parking on neighbouring streets within the Royal Borough of Kensington and Chelsea ("RBKC"). In terms of car trips generated, those living in Uverdale Road, Ashburnham Road and Tadema Road will bear the brunt of short-cutting between Lots Road and King's Road. Furthermore, the much heralded improvements to bus provision in the area take no account of prior loading by the time the services reach the Inquiry site. Nor is there any discussion in the developer's proposals of the destination of the new embankment bus service. A service which terminates at the Houses of Parliament without venturing further inland away from the river can hardly be expected to serve adequately the wishes of local commuters who wish to travel to the facilities offered in central London. Onward transportation will be essential. Inadequate attention has also been given to the impact of the proposals on the tube network and how best to deal with this. Notably, there are no proposals for investment in the already considerably overstretched underground network in this area.

7. Visual impact is at the heart of the unacceptable problems caused by this development. The proposals centre around two towers, thirty-seven and twenty-five storeys high, on either side of Chelsea Creek. By any assessment, they will dominate the landscape and river frontage at this location, dwarfing all existing built form in the area. Most significantly, Lots Road power station, a landmark which by

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Circadian's own admission marks the site out as of not only local but also wider metropolitan significance, will lose all meaning and status if the current proposals are allowed to proceed in their existing form. The towers will dominate it and relegate it to nothing more than an unfortunate relic of the area's forgotten industrial heritage.

8. It is not only the power station that will suffer. The presence of both the towers and the other proposed buildings on the site will combine to loom over the neighbouring residential accommodation. Although the other buildings proposed are not of the same height as the two towers, they are significantly higher than the surrounding residential accommodation. As such they are in direct contravention of policy CD6 in the RBKC UDP. Any permeability which may be provided by the opening up of the power station will be more than outweighed by the overbearing effect of the massed development on the site. The development will not, however, produce any recognisable visual cluster which could justify the building of two such enormous towers. Instead, they will represent unwelcome and inappropriate intrusions on the skyline and river frontage at this sensitive point on the Thames.
9. Finally, the development will have an adverse impact on the neighbouring Sands End Conservation Area. Views out of the Sands End Conservation Area will be seriously harmed. They will lose their present attractive aspect, in which existing development is seen as being in harmony with the surroundings.

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10. In legal terms, there is one objection that will be developed by CHRA in legal submissions at the close of the Inquiry. Although Circadian has obtained conservation area consent to allow demolition of the old oil storage building on the LBHF site, it has not received appropriate consent to carry out the works of demolition to the side of the Creek.

11. For all these reasons, it is CHRA's case that the proposals are contrary to local, regional and national policy. CHRA refers to its evidence to demonstrate in more detail the precise policies which are infringed by the proposals. The appeal against refusal of planning permission by RBKC should be dismissed and the application for planning permission on the LBHF site called in by the First Secretary of State should be refused.

DAVID BLUNDELL
1 February 2005

LANDMARK CHAMBERS
4 Breams Buildings
London
EC4A 1AQ

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APPLICATION BY CIRCADIANOPENING STATEMENT ON BEHALF OF
THE LONDON BOROUGH OF HAMMERSMITH AND FULHAM**1. Introduction**

- 1.1 The uncertainty surrounding the Council's position at the pre-Inquiry (because of Circadian's attitude to the heads of terms of the proposed s106 obligations) has to a large degree been removed. Circadian has indicated that it will enter into s106 obligations fully reflecting the heads of terms within the committee report of June 2003.
- 1.2 Meetings have taken place since the pre-Inquiry meeting. Draft obligations have been produced. the documents containing these appear to be progressing to a stage where it is likely that the Council will be able to indicate that the obligations are in a reasonably acceptable form at sometime during the Inquiry.
- 1.3 The planning obligations given by Circadian to this Council will be contained in two separate documents.
- 1.4 The obligations securing the provision of affordable housing will be in the form of a unilateral undertaking. This reflects the fact that the latest revisions made by Circadian have reduced the overall number of units and the mix. Block HF2 has changed from private market housing to key worker housing and blocks HF3A, HF3B and HF3C are now to be wholly RSL rented accommodation.
- 1.5 Although the number of the affordable housing units has reduced by one, the floor area of these units and the percentage of affordable housing units, as part of the whole, has risen. The majority of the terms of the unilateral undertaking have been agreed and, provided that the undertaking is further progressed and executed by Circadian in an appropriate form, the Council is satisfied that the housing mix secured would be satisfactory and would appropriately reflect policies within the Development Plan.
- 1.6 The second document is to contain all the other planning obligations. It has a little further to progress but, at this stage, there is nothing to suggest that agreement cannot be reached between Circadian and the Council prior to the conclusion of this Inquiry.
- 1.7 Subject to the acceptable progression of these documents to completion, the Council's position remains very much as resolved by Members at the committee meeting in June 2003 that, on balance, the development is an appropriate one in the interests of the proper planning of the area.
- 1.8 The Council's sole witness, Matt Butler, has analysed the various aspects of the development proposals in his proof, following the pattern and format of the report that went to committee. He has assessed the revisions to the scheme since

that date and taken account of the material changes in circumstances, including planning policy, since that date.

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- 1.9 The remainder of this opening statement will briefly summarise the Council's position in relation to the matters specifically mentioned in the "call in" letter as those about which the Secretary of State is particularly interested.

2. LBHF UDP

- 2.1 The Council's position is that, although the development may not accord with the letter of all policies within the UDP, on balance, there is a general accordance with its key policies and provisions.
- 2.2 The Council considers that, on balance, the development would be a sustainable development that would contribute to an appropriate regeneration of the area. It would provide significant benefits in terms of public and sustainable transport provision and in terms of its contribution to the stock of affordable housing available to those in the most acute need. The mix of housing between RSL rented, key worker and private is considered satisfactory.
- 2.3 It is not considered that any element of the scheme in itself, or in combination with any other element or elements, justifies the refusal of planning permission.

3. London Plan

- 3.1 The Council's position is that the development is in general accordance with the terms of the London Plan. Clearly, the GLA is party to the Inquiry and, in many ways, is the best authority to determine whether or not the development does accord with London Plan policies. Essentially, in relation to this development, the Council adopts the approach and evidence of the GLA at this Inquiry.

4. PPG3

- 4.1 It is considered that the development proposals respect the advice and guidance in PPG3. The proposals are for a high density development which reflects these policies. It is considered that the mix of housing is acceptable and that the quality of the environment for future occupiers of the development and for its neighbours would be satisfactory.

5. PPG13

- 5.1 A high density scheme brought forward on this site in accordance with PPG3 and the statutory development plan, will have an impact in terms of transportation and highways. In this context, it is considered that the impact of Circadian's proposals would be acceptable.
- 5.2 The planning obligations proposed by Circadian to ensure that occupiers of the development, both in LBHF and RBKC, do not enter or leave the site by the gates on the adjacent Chelsea Harbour would minimise the effect of the development upon the local roads within LBHF.

5.3 Access and egress to and from the site will be from the main highway network via roads in Kensington and Chelsea. In terms of the affect on the wider highway network, the Council adopts the approach of the GLA and considers the impact to be acceptable. In terms of the affect on any local roads in RBKC it produces no evidence and makes no comment.

5.4 The development would (necessarily so) secure benefits to enhance various elements of the public transportation network and would contribute to the promotion of better facilities within the area for pedestrians and cyclists. The Council considers that, with the planning obligations in place, the proposals are acceptable in these terms.

5.5 So far as car parking is concerned, the Council considers that the amount of spaces proposed is reasonable and acceptable. Occupiers of the development will not be entitled to permit to park within the streets of Hammersmith and Fulham.

6. PPG17

6.1 The Council considers that the proposal does adequately respect the advice contained in PPG17, and adequately accords with the policies relating to open space in the development plan.

6.2 Site policies 22 and 22A specifically relate to the appeal site. Site policy 22A indicates that that part of the site adjacent to Chelsea creek in Hammersmith and Fulham should be developed for residential use together with open space and riverside walk. Site 22 recognises the benefit of enhancement of Chelsea creek as an area of nature conservation and amenity, complementary to the river Thames.

6.3 The Council considers that the development proposals accord with the site policies. It considers that the creek would be enhanced. It considers that open space provision would be adequate, particularly in the light of the provision of the riverside walk, which is, clearly, a long standing and valued objective.

6.4 It recognises that standard 5A (private open space) would not be met. It also recognises that the area specified in the commentary to site policy 22A as the most appropriate location for open space – that of the oil storage tank – would be exceeded.

6.5 Having regard to all the policies of the development plan, it is considered that, on balance, the open space provision within the development proposals would be sufficient and of such nature as to enhance the natural features of the creek and riverside, to provide enhanced pedestrian links particularly with the creation of the new riverside walkway and to enhance the bio-diversity of the area.

6.6 As such the development is considered to be acceptable when judged against PPG17 and EN23.

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7. PPG1 – Particularly Design and Urban Design

- 7.1 As is clear from the planning history of this site, the Council has rejected a number of earlier proposals for this site. It considers that the reduced height of many of the buildings in the current proposal, particularly on the edge of the site adjoining Chelsea Harbour, is more sympathetic to the prevailing scale of the adjoining developments at Chelsea Harbour and Imperial Wharf.
- 7.2 Block HF1 would, of course, have a major impact in design terms. The Council's assessment that it is acceptable has regard to the support for the towers from Cabi, English Heritage and the GLA.
- 7.3 The Council considers that the orientation of the proposed tower blocks would permit the power station to continue to provide a landmark feature and central focus in long and mid distance views along the river. Equally it is considered that the towers themselves would represent elegant structures that would act as landmark features in their own right, giving identity to this area of urban regeneration.
- 7.4 The provision of open space and new links across the site would enable the proposals to be capable of successful integration with its surrounding. Accordingly, it is considered that, providing the development were built with appropriate and sensitive detailing, it would enhance the character and appearance of the riverside and the townscape.

8. PPG15 and the Sands End Conservation Area

- 8.1 The Sands End Conservation area was extended in July 2002 to include a strip of land on the application site which stretches along the riverfront and Chelsea Creek. The main purpose of the designation was to continue the protection which is accorded to the borough's riverside to provide and enhance public access and to seek to secure that appropriate development is secured within its setting.
- 8.2 The character profile acknowledges that the conservation area offers many opportunities for new development. For the reasons very briefly summarised earlier, it is considered that the proposals would respect the Sands End conservation area.

9. PPG9 – Nature Conservation

- 9.1 It is considered that the proposals are in line with the advice and guidance contained within PPG9, and other related policies within the development plan. Site policy 22 in the UDP recognises the importance of the enhancement of the creek as an area of nature conservation.
- 9.2 The creek is recognised as a valuable habitat, complementary to the river Thames and its foreshore. It forms part of a wild life corridor for flora and fauna and serves as a recreational amenity because of its value for fishing. It is

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for these reasons that the UDP identifies the creek as an area of metropolitan importance.

- 9.3 It is considered that the development would enhance the value of the creek providing a range of habitats for wildlife through the provision of the walkway and a succession of terraces to the low watermark.

10. Joint Development with Land in RBKC

- 10.1 The Council considers that it is important that if the development take place, it is carried out as a single scheme on the sites both in Kensington and Chelsea and Hammersmith and Fulham. Although the proposals do span the borough boundary, they are being dealt with on this basis. Providing that the s106 obligations are correctly drafted to respect this, it is not considered that any particular issues arise because of this fact.

11. Other Matters

- 11.1 Of the other issues not specifically mentioned so far, perhaps one of the most significant is the impact that the proposals would have upon the neighbouring residential properties at Chelsea Harbour, particularly in terms of daylight and sunlight. As indicated in the Council's evidence, the Council commissioned two consultants to analyse daylight and sunlight issues and to comment upon the analysis submitted by Circadian.
- 11.2 On the bases of all these reports and having regard to other representations, the Council recognises that there would be an adverse impact on some of the neighbouring residential properties. However it is considered that the levels of sunlight and daylight would remain satisfactory and that, on balance, the effects would not justify refusal of the application.

12. Conclusion

- 12.1 The present development proposals have emerged following the refusal of earlier applications by the Council.
- 12.2 The Council considers that in its present form, the scheme represents an improvement upon earlier proposals and is one that, on balance, and subject to the completion of appropriate planning obligations, is acceptable.

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CIRCADIANT LIMITED ("THE APPLICANT")

PROPOSED DEVELOPMENT AT THE FORMER LOTS ROAD
POWER STATION, LONDON SW10

PINS REFS : APP/H5390/V/04/1148781 & APP/K5600/A/04/1146268

GOL REF: LRP 219/H539/0/26

**OPENING STATEMENT FOR
THE APPLICANT**

1. In these short opening remarks we are not going to try to deal with all of the issues to which these two applications for planning permission seem to have given rise. It will be necessary in due course for us to set out the applicant's case fully, not only in answer to the relatively limited objections advanced on behalf of the Royal Borough of Kensington and Chelsea Council ("RBKC"), founded as they are on the decision notice issued on 13 November 2003, but also on the several issues raised by the First Secretary of State in his letter of 19 April 2004 calling in the applicant's proposal for development on the part of the site within the administrative area of the London Borough of Hammersmith and

Fulham Council ("LBHF"), and on the various other issues and concerns raised by third parties. At this stage, however, with the more modest aim of setting the scene for the evidence the inquiry is going to hear on behalf of the applicant, we want to set down five basic points, which we believe are likely to touch on at least some of the main themes for consideration at this inquiry.

2. Our first — and we hope uncontroversial — submission is this. The proposals before the First Secretary of State would achieve the comprehensive and lasting regeneration of a substantial area of land adjacent to the river Thames in Chelsea.
3. Large schemes of regenerative development, dominated by the provision of new housing, have already made progress in the area now known as Chelsea Harbour and, further to the south-west, at Imperial Wharf. But on the site comprising the now redundant Lots Road power station and land around it straddling Chelsea Creek — in total comprising some four and a half hectares — this has not yet happened. For the most part vacant and derelict and without active beneficial use, this land stands ready for regeneration.

4. In 1986 planning permission was granted for the Chelsea Harbour development on land within LBHF's area to the south and west of the creek. Phase 1 of that development has been completed. So the consent remains alive and the development could be proceeded with in the event that the present proposals failed to secure the approval of the First Secretary of State. In other words, the 1986 consent represents for the applicant its "fall-back" position.
5. The project approved in 1986 was very much of its own time and does not reflect the approach one expects to see in major urban development being promoted today. In particular it does not reflect the policy imperatives that now apply in relation to maximizing the delivery of new residential development and the provision of the largest reasonable amount of affordable housing in private residential and mixed-use schemes. Nor does that consent embrace any proposals for the re-use of the power station or for the development of the adjacent land to the north of the creek.
6. Therefore, if it turned out to be necessary for the 1986 permission to be taken up once more, the opportunity the present applications offer for the comprehensive regeneration of the site would be lost. In both its form and its timing the redevelopment of the land lying

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in RBKC's area would then be uncertain. That is not an outcome the First Secretary of State should contemplate lightly. It would scarcely be consistent with national policy and guidance demanding that full and effective use be made of urban land and recognizing the merit and potential of mixed-use development. And it would delay the progress of the urban renaissance in this part of the metropolis. Approval for the present proposals on the other hand would serve to give that endeavour fresh impetus.

7. Secondly, the proposals before the First Secretary of State would maximize the delivery of housing on previously developed urban land in a manner consistent with the support for such development so clearly and strongly expressed at national level (both in PPG3 and in the consultation papers the government has published in the course of preparing a revision to that guidance), at regional level (in the London Plan), and also at local level (in both of the unitary development plans with which this inquiry is going to be concerned).
8. The development would yield in excess of 800 new dwellings, more than 370 of them secured through planning obligations as affordable housing, on a site where there are none at present. This

would be a very significant gain, not only in the housing stock of each of the two boroughs concerned but also in the total supply of housing in this part of London. It would make a valuable contribution to the achievement of the relevant strategic targets (set out in Table 3A.1 of the London Plan), which Policy 3A.2 of the London Plan says UDP policies should seek to exceed. This has been acknowledged by the Greater London Authority ("the GLA") and is evidently accepted by both LBHF and RBKC as well.

9. Thirdly, the proposals are fully consistent with the principles of good design.
10. As to the quality of the architecture in this project there seems to be no dispute. It is the work of one of the nation's leading architects, Sir Terry Farrell. Nobody appears to question the excellence of Sir Terry's design. What is said by RBKC, however, is, in effect, that this would be good architecture in the wrong place.
11. In putting that argument forward, RBKC has gone against not only its own officers' advice but also the carefully considered and clearly expressed judgment of the Commission for Architecture and the Built Environment ("CABE"), which has recently been

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reaffirmed (in CABE's letter to the Planning Inspectorate dated 28 January 2005) and of English Heritage (see Appendices 7,8 and 9 to Mr Simmonds proof of evidence), who have also supported the scheme and have acknowledged the benefit of its retention of important elements of the power station's fabric (see English Heritage's letter to the Planning Inspectorate dated 26 January 2005).

12. The defence of RBKC's position has been left to a single witness, Mr Denis McCoy. His proof of evidence does not appear to offer any material criticism of Sir Terry's design beyond the contention that the two tall buildings either side of the mouth of the creek would, in certain views, be visually offensive and thus harmful to interests of acknowledged importance, namely the character of the Chelsea riverside, the setting of the Thames Conservation Area and views from Brompton Cemetery Conservation Area.
13. In evidence the inquiry will hear from the applicant's witnesses that allegation will be shown to be wrong. Far from harming the interests identified, the proposed development would do much to improve the local townscape, bringing to it well-conceived contemporary urban design: a coherent disposition of buildings and

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space, opening up the river frontage, the sides of the creek and the power station building itself to public access. Creating, as it would, a composition of landmark buildings in which the converted power station would retain a worthy presence of its own in juxtaposition to two elegant and well-proportioned residential towers, the development would provide a new focus in river views, add interest to the skyline and enhance the character of the Chelsea riverside. It would serve, not offend, the essential objectives of the policies referred to in RBKC's reason for refusal.

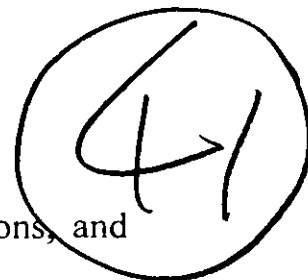
14. Fourthly, third party criticisms of the scheme intended to suggest it would be an overdevelopment of the site are also misconceived.
15. It has to be appreciated that the government's and the Mayor's policies for increasing the supply of housing through the redevelopment of previously used urban land necessarily mean that ways now have to be found of building at high densities without sacrificing a good living environment. None of the three planning authorities involved in this case has said that this would not be successfully achieved in the present case. It would be. No complaint of any conflict with policy, standards or guidance relating to the protection of residential amenity or to the provision

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of open space is pursued by those authorities. They are right not to do so.

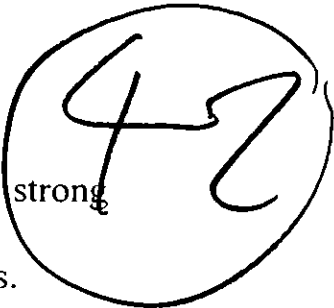
16. As the applicant's evidence will show, the density of development proposed is consistent with the principles germane to this in the London Plan. As has been acknowledged for the GLA by Mr Wilson (in his proof of evidence at paragraph 8.60), having had regard to the site's context, the quality of design proposed and the matrix in Table 4B.1 of the London Plan, the GLA consider the density of the development would be appropriate. The site has a sufficiently high rating of accessibility to justify — indeed to require — the kind of density proposed here. Mr Wilson concludes that a less dense development, of the kind for which some third parties seem to contend, would fail to realize the site's capacity, forgoing the chance to deliver as substantial a contribution to London's affordable and private housing stock as this site is able to make, and frustrating the intent of Policy 4B.1 and Policy 4B.3 of the London Plan.

17. Transport for London ("TfL") have confirmed (in section 5 of the proof of evidence of Mr. Steadman) that, taking into account the applicant's sustainable and integrated transport strategy ("SITS"),



which is to be secured through the section 106 obligations, and their assessment of the site's accessibility (including, but not limited to, its accessibility by public transport), they believe the density proposed would be right. As TfL have observed, the PTAL methodology offers a helpful guide to assessing a site's accessibility by public transport. However, a site's PTAL should not be seen as a constraint if it can be demonstrated — as it can be here — that the scheme under consideration provides an attainable and sustainable transport solution, and that other relevant policy and guidance are complied with.

18. There would be no adverse practical implications of development at this density on this site. The relationship between dwellings, both within the site itself and between the proposed development and its neighbours, would be, in every respect, satisfactory. Levels of sunlight and daylight, both within the development and in existing dwellings adjacent to it, would in all instances be acceptable. No undue overshadowing or sense of enclosure would arise, either for those living in the new development or for existing residents in the locality, or for those using the open spaces the development would introduce.

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19. Fifthly, we ask the First Secretary of State to note the strong consensus that has formed itself in support of these proposals.
20. For a development of this size and significance in a location such as this to have earned the approbation not only of the GLA but also — and this is particularly significant in a case in which the design of development is a principal issue — of CABE and English Heritage too is both significant and, in our experience, unusual.
21. Support for the scheme does not end there. LBHF has resolved in favour of the part of the development that lies within its area, and would have granted planning permission had it been able to do so. Nor has it any objection to the other part of the scheme. Even RBKC, though it has decided to oppose the development on the basis to which we have referred, does not now seek to engage with the applicant on any other ground.
22. A degree of local opposition has been expressed, which is perhaps no surprise in a case such as this. We shall be inviting the First Secretary of State to approach those local objections as government policy says they should be approached, paying due regard to the public interest and bearing in mind the government's advice in

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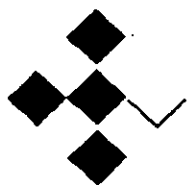
paragraph 60 of PPG1 that , whilst account must be taken of any relevant views on planning matters expressed by neighbouring occupiers, local residents and any other third parties, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons that can be substantiated.

23. On first impression at least, none of the written evidence that has been submitted on behalf of third party objectors could conceivably justify a rejection of the applicant's proposals and the benefits they hold in prospect for the public interest.

KEITH LINDBLOM Q.C.

MARY COOK

1 February 2005



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TECHNICAL NOTE

Project: Land at Lots Road Power Station and Thames Avenue SW10
Title: Existing public transport loadings
Date: 01 February 2005
Author: Adrian Cole/Jon Hale/Rob Shaw
Job number: 56664

1.1 Introduction

1.1.1 To assist with the baseline assessment of the Environmental Statement, CBP have carried out further work on existing public transport loadings. This note summarises our research.

1.2 Existing bus service loadings

1.2.1 Existing bus service loadings have been obtained from Transport for London's Bus Origin/Destination Data Survey (BODS) and are attached at Appendix A.

1.2.2 These surveys highlight that Route 14 is already operating at a high level of loading towards Central London, during the AM Peak hour.

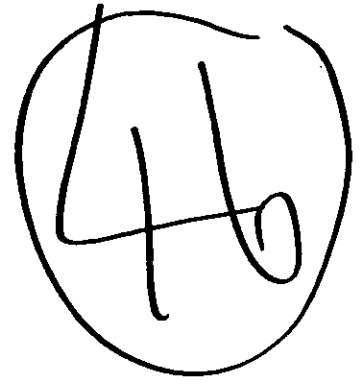
1.3 Existing West London Line loadings

1.3.1 Surveys were carried out by CBP staff on Thursday 27 January 2005 at West Brompton Station. These were undertaken to determine the occupancy of trains passing the site of the proposed Chelsea Harbour Station. The results are contained in Appendix B.

1.3.2 Northbound during the AM Peak, 4 of the 9 services were already overloaded as they arrived at West Brompton station and hence would have been overloaded as they passed the site of Chelsea Harbour Station. In a similar vein, during the PM Peak, 3 of the 9 services were already overloaded as they left West Brompton station and would have been overloaded as they passed the site of Chelsea Harbour Station.

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APPENDIX A: EXISTING BUS SERVICE LOADINGS



Existing bus service loadings in the vicinity of Lots Road - Weekday AM Peak

Route No.	Capacity per bus	Timetable AMP freq (bph)	Total Capacity (freq)	Southbound/Westbound			Northbound/Eastbound			Stop Name
				Loading (AM Peak Period)	Loading (AM Peak Hour)	% of Capacity (freq)	Loading (AM Peak Period)	Loading (AM Peak Hour)	% of Capacity (freq)	
11	90	7.0	630	119	60	9%	415	208	33%	Kings Rd/Lots Rd
14	77	9.0	693	265	133	19%	1,212	606	87%	Fulham Rd/Hortensia Rd
19	77	9.5	732	113	57	8%	509	255	35%	Beaufort St/Cheyne Wlk
22	77	10.0	770	278	139	18%	717	359	47%	Kings Rd/Lots Rd
49	90	8.5	765	280	140	18%	768	384	50%	Beaufort St/Cheyne Wlk
211	90	8.0	720	739	370	51%	398	199	28%	Fulham Rd/Hortensia Rd
239	55	7.0	385	140	70	18%	261	131	34%	Cheyne Walk/Battersea Br
319	90	8.0	720	211	106	15%	621	311	43%	Beaufort St/Cheyne Wlk
328	85	9.5	808	27	14	2%	181	91	11%	Chelsea Worlds End
345	55	9.0	495	180	90	18%	587	294	59%	Beaufort St/Cheyne Wlk
391										n/a
414	90	8.6	774	287	144	19%	690	345	45%	Fulham Rd/Hortensia Rd
C3	40	6.5	260	142	71	27%	166	83	32%	Kings Rd/Lots Rd

0.5 : AM peak period to peak hour conversion

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Existing bus service loadings in the vicinity of Lots Road - Weekday PM Peak

Route No.	Capacity per bus	Timetable PMP freq (bph)	Total Capacity (per hour)	Southbound/Westbound			Northbound/Eastbound			Stop Name
				Loading (PM Peak Period)	Loading (PM Peak Hour)	% of Capacity (freq)	Loading (PM Peak Period)	Loading (PM Peak Hour)	% of Capacity (freq)	
11	90	7.0	630	312	156	25%	284	142	23%	Kings Rd/Lots Rd
14	77	9.0	693	910	455	66%	612	306	44%	Fulham Rd/Hortensia Rd
19	77	9.5	732	286	143	20%	184	92	13%	Beaufort St/Cheyne Wlk
22	77	10.0	770	743	372	48%	425	213	28%	Kings Rd/Lots Rd
49	90	8.5	765	586	293	38%	383	192	25%	Beaufort St/Cheyne Wlk
211	90	8.0	720	543	272	38%	688	344	48%	Fulham Rd/Hortensia Rd
239	55	7.0	385	198	99	26%	146	73	19%	Cheyne Walk/Battersea Br
319	90	8.0	720	545	273	38%	182	91	13%	Beaufort St/Cheyne Wlk
328	85	9.5	808	49	25	3%	229	115	14%	Chelsea Worlds End
345	55	9.0	495	676	338	68%	272	136	27%	Beaufort St/Cheyne Wlk
391										n/a
414	90	8.6	774	666	333	43%	280	140	18%	Fulham Rd/Hortensia Rd
C3	40	6.5	260	143	72	28%	130	65	25%	Kings Rd/Lots Rd

0.5 :PM peak period to peak hour conversion

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APPENDIX B: EXISTING LOADINGS ON THE WEST LONDON LINE

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Northbound towards Olympia and Willesden

Time	Seated Capacity	Standing Capacity	Total Capacity	Arrival loading	Departing loading	Arrival occupancy	Departure occupancy
07:12	232	77	309	117	112	37.9	36.3
07:42	232	77	309	242	209	78.4	67.7
08:02	258	85	343	381	299	111.0	87.1
08:12	232	77	309	263	183	85.2	59.3
08:29	258	85	343	366	309	106.7	90.1
08:42	232	77	309	360	295	116.7	95.6
09:11	232	77	309	369	321	119.6	104.0
09:30	258	85	343	174	152	50.7	44.3
09:42	232	77	309	213	179	69.0	58.0
Average	241	79	320	276	229	86.1	71.4

Southbound towards Clapham Junction

16:19	232	77	309	126	188	40.8	60.9
16:49	232	77	309	126	176	40.8	57.0
16:56	258	85	343	223	240	65.0	69.9
17:19	232	77	309	262	309	84.9	100.1
17:49	232	77	309	278	330	90.1	106.9
17:56	258	85	343	301	322	87.7	93.8
18:19	232	77	309	313	342	101.4	110.8
18:38	258	85	343	211	222	61.5	64.7
18:49	232	77	309	132	147	42.8	47.6
Average	241	79	320	219	253	68.3	79.1