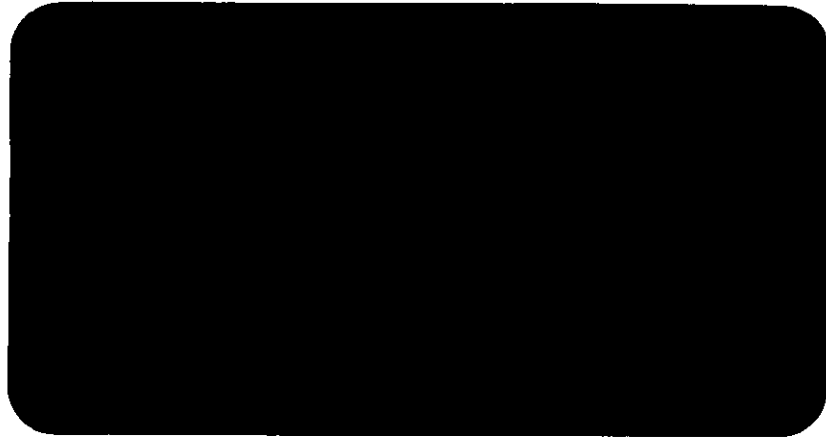


**Former Waterworks Site
Aubrey Walk, Kensington
London W8
(APP/K5600/A/01/1062761)**

**Proof of Evidence
of R M Sellwood
BA. Dip.TP. MRPTI. FRICS
on behalf of
St James Homes Ltd.**

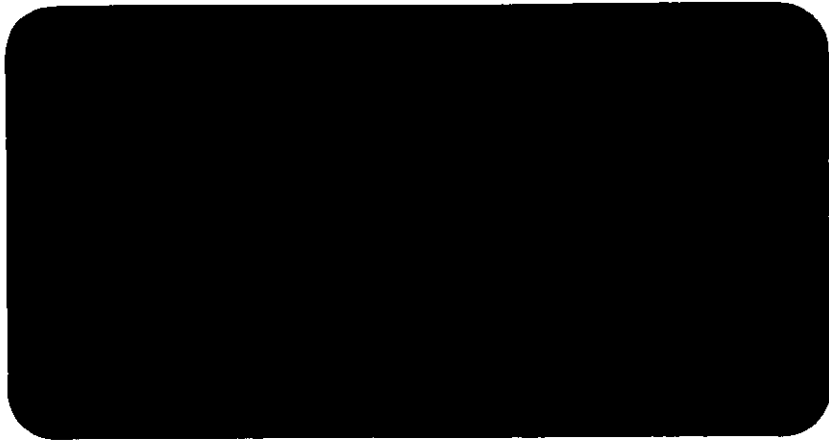
July 2001



Proof of Evidence

of

R.M. Sellwood BA. Dip. TP. MRTPI. FRICS



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EXHIBITS

- RMS 1 : Site Context Plan Scale 1 : 25,000
- RMS 2 : Appeal Site Plan (Not to Scale)
- RMS 3 : Approved Redevelopment Scheme (Not to Scale)

1.0.0 INTRODUCTION

1.1.0 Qualification & Experience

1.1.1 My name is Robert Mark Sellwood and I am the Principal of Sellwood Planning, Chartered Town Planners and Chartered Surveyors. I have an honours degree in Social Science and a Post Graduate Diploma in Town Planning. I am also a member of the Royal Town Planning Institute and a Fellow of the Royal Institution of Chartered Surveyors.

1.1.2 I have over twenty five years experience as a Town Planner in both public and private practice. This has included eight years with Essex County Council and sixteen years with G.L. Hearn and Partners. For the eleven years prior to the establishment of Sellwood Planning in 1998, I was a Partner with G.L. Hearn and Partners.

1.1.3 I have advised a wide range of public, private and institutional clients in respect of land use issues on a national basis. This has involved appearing and giving evidence at Structure Plan EIP's, Local Plan Inquiries, Appeals, Lands Tribunal and Crown Court proceedings. I was also a participant at the Core Strategy sessions of the Public Examination into the revised Regional Guidance for the South East.

1.1.4 I gave planning evidence on behalf of St James Homes at the appeal in July 1999 to redevelop the former water works site at Aubrey Walk.

1.1.5 I can confirm that this Statement has been prepared in accordance with the RICS Practice Statement "Surveyors Acting As Expert Witnesses". As a

consequence, it contains my professional opinion of all matters of relevance to this appeal.

1.2.0 Scope and Nature of Evidence

1.2.1 In order to clarify the scope and nature of my evidence it might be of assistance briefly to outline the structure of this proof. Section 2 provides an analysis of both the site and the wider area in which it is situated. This is followed in Section 3 by an evaluation of the recent planning history of the site. Particular attention will be given to the July 2000 appeal, which led to the imposition of the planning condition that is the subject of this appeal.

1.2.2 It is not disputed that St James Homes could accommodate seventeen affordable housing units on this site. In view of this, it is my opinion that the critical issue for determination is whether the benefits of achieving up to double the quantity of affordable housing off site outweighs the perceived disadvantages of not providing a mix of tenures on the former Campden Hill Waterworks site. This question raises issues of both planning policy and the practical achievement of affordable housing in the Borough of Kensington & Chelsea, these are addressed in Sections 4 and 5 of my proof.

1.2.3 Section 6 of my evidence draws together the main elements of my client's case and concludes that there is a compelling case in favour of permitting this appeal.

2.0.0 DESCRIPTION OF THE SITE AND THE SURROUNDING AREA

2.1.0 Analysis of the Locality

2.1.1 The appeal site is located at the top of Campden Hill and towards the centre of the Royal Borough of Kensington & Chelsea. This can be seen on plan RMS1. This discloses how the site is some 7.7 kilometres (4.8 miles) west of London Bridge and approximately 300 metres east of Holland Park.

2.1.2 Whilst there are no bus routes which run past the site on Campden Hill Road, several bus routes run along Notting Hill Gate to the north (200 metres) and Kensington Church Street to the east (350 metres). Holland Park and Notting Hill underground stations are between 500 and 600 metres to the north east and north west of the site.

2.1.3 The predominant character of the local area is residential although there are some offices along Campden Hill Road, as well as Holland Park School to the south. Prior to the commencement of the residential development on the appeal site it had been in use for Water Utility purposes for the previous one hundred and fifty years.

2.2.0 The Appeal Site

2.2.1 The appeal site occupies an area of just over 1.54 hectares (3.8 acres) and is bounded by Aubrey Walk to the north, Campden Hill Road and a large block of modern flats (Kensington Heights) to the east, Holland Park School to the south and the grounds of Aubrey House to the west. Aubrey House is a listed building (see plan RMS2).

2.2.2 The site itself has been in Water Utility use for many years prior to the commencement of the residential redevelopment in late 2000. The main structures previously on the site were;

- (a) covered reservoirs with a roof of 0.876 hectares (2.16 acres) and a capacity of 67,728 cubic metres of water. The covered surface of the reservoirs was used as hard surfaced tennis courts by the Campden Hill Lawn Tennis Club.
- (b) a Pump House to the east of the reservoir
- (c) to the east of the Pump House is Water Tower House, which may be demolished prior to the Inquiry. This was constructed in the early 1970s as offices and twelve flats for use by Thames Water.

2.2.3 The redevelopment of the whole site was permitted on appeal in October 1999. I will describe the redevelopment proposals in Section 3 of my evidence.

3.0.0 PLANNING HISTORY

3.1.0 Planning History : Pre 1999

3.1.1 Other than the decisions in the 1960s relating to the building that became Water Tower House, there is no pre 1999 planning history that is of relevance to the outcome of this appeal.

3.2.0 The 1999 Appeal

3.2.1 With the completion of the London Ring Main in the mid 1990s the whole of the appeal site became redundant for Water Utility purposes. At that time preliminary discussions took place between Thames Water and officers of the Council concerning the redevelopment of the site.

3.2.2 In 1998 the control of the project was passed to St James Homes, which is a company jointly owned by Thames Water and The Berkeley Group. In November 1998 planning and conservation area consent applications were submitted to the Council. These proposed the complete redevelopment of the site and the erection of 62 dwellings. These dwellings were proposed in the form of;

- (a) 21 town houses in a three sided square opening on to Aubrey Walk
- (b) 12 flats in a building to the east of the new square and fronting on to Aubrey Walk
- (c) 29 flats in a new building fronting on to Campden Hill Road
- (d) 92 car parking spaces at basement level.

3.2.3 In addition to the residential component, the scheme proposed the reinstatement of the twelve tennis courts on the western part of the site. These would be in the form of six open air courts and six covered courts at the lower level.

3.2.4 No on site affordable housing was proposed when the site concept and layout were formulated since officers of the Council had written to Thames Water in January 1998 stating that;

“Affordable housing should be sought for a site of this size under UDP policy, but in this case I accept that the constrictions upon development of the site would dictate that provision of this on site would be extremely difficult to achieve. Therefore, a contribution to development located off site is likely to be acceptable in this case.” (Appendix 1)

3.2.5 In view of this advice, St James proceeded to design the scheme as a comprehensive private development. This included inserting a basement level under the whole site to provide underground car parking and access. As a consequence, the town houses in the new square, the Aubrey Walk building and the building fronting on to Campden Hill Road are all to be constructed on top of a single interconnected basement.

3.2.6 Following the submission of the applications and meetings with planning officers I received a letter on the 20th January 1999 (Appendix 2), which advised that on the 11th January 1999 Members had considered a report on the provision of affordable housing. The letter advised that;

“Amongst its recommendations, the report advised that the sequential test of (a) on site provision of affordable housing, (b) provision on an alternative site supplied by the developer in the Borough, and (c) payment in lieu of affordable housing, should be followed. The preferred option is the provision of affordable housing on site, contiguous with the facilitating private development. Whilst there is clearly some flexibility allowed in terms of the exact amount and arrangement of affordable housing, I must advise that affordable housing should be provided on site as the first option for the reservoir site. Given the proposed site layout, the site of the present Water Tower House might be the most suitable for this. Before the ‘second option’ could be considered, you will need to demonstrate a very good case why the ‘first option’ cannot be met, at least in part.”

3.2.7 Whilst I will be dealing with the policy basis for this change of stance later in my evidence, it is worth noting what the letter of 20th January 1999 gave as the rationale for wanting on site provision;

“Increasing concern has been voiced in this authority, over the last year, as to the fact that relatively little affordable housing has actually been provided in the Royal Borough, and that where commuted payments for off site provision have been accepted they have been generally unsuccessful at enabling such provision to take place. With very few available sites in the Borough, where sites do come up, such as the reservoir site, the need to ensure that those sites are used to provide affordable housing is all the more important.”

- 3.2.8 My interpretation of the above is that the main reason for favouring on site provision is that it guarantees that units can be provided. I concur with the view that given the acute shortage of affordable housing in the Borough the priority should be for the achievement of built units. I will return to the relevance of this to the appeal proposal for 34 units off site later in my evidence.
- 3.2.9 Following the receipt of the letter of the 20th January 1999, further discussions took place with officers. However, since St James were not in the position of being able to deliver any off site affordable units elsewhere in the Borough, it was agreed that the seventeen affordable dwellings should be provided on-site in the building fronting Aubrey Walk.
- 3.2.10 In March 1999 a further planning application had been submitted to the Borough Council that contained all the amendments that had been agreed with officers over the previous five months. This application was used as the vehicle for a further amendment on the 21st April 1999. My letter of that date (Appendix 3) amended the internal design of the Aubrey Walk building so that rather than providing twelve large private flats (generally around 120m² each) the building would provide seventeen two and three bedroom affordable flats. Many of these flats were larger than Housing Corporation standards since the units were designed to fit within the same envelope as the previous twelve units. The additional five flats in the Aubrey Walk building increased the total number of dwellings in the development to 67.
- 3.2.11 The applications were reported to Committee on the 8th June 1999 and the report forms my Appendix 4. Pages 12 and 13 deal with affordable housing. This report confirmed (4.97) that the Aubrey Walk building was appropriate for affordable housing, it also confirmed (4.49) that 17 affordable units

represented 35% of the total net gain of units on the site (once the fifteen existing units are deducted), which was considered acceptable. The only issue of concern was the proposed S106 mechanism put forward by St James. Whilst St James felt that it accurately reflected the sequential approach described in the Council's letter of the 20th January 1999, the Council felt that it was too uncertain.

3.2.12 Discussions continued with officers between the June Committee meeting and the start of the public Inquiry in July 2000. During these discussions the Council suggested that rather than dealing with affordable housing via a S106 agreement, it could be dealt with as a planning condition. This was agreed by St James and the wording of a possible affordable housing condition was jointly put to the Inspector.

3.2.13 The Inspector's decision allowing the Appeal was issued in July 1999 and a full copy of the decision forms my Appendix 5. In paragraph 6 the Inspector outlined what he regarded to be the two main issues. These were;

- (a) **“the impact of the schemes on the character and appearance of the Kensington Conservation Area and whether the setting of the affected listed building would be preserved”**
- (b) **“the effect of the proposals on the provision of housing in the royal borough, particularly affordable housing”**

3.2.14 Since the current appeal only concerns the affordable housing element of the second issues, I shall solely concentrate on this part of the decision. The various references of the Inspector to affordable housing are as follows;

- (a) (para. 65) The contents of Circular 6/98 are recited and the Inspector noted

“where a requirement for an element of affordable housing is appropriate it should be provided as part of the proposed development.”

- (b) (para. 68) It is accepted that there is a ‘severe’ shortage of affordable housing in the Borough. The failure to provide such housing would be sufficient reason to withhold planning permission.
- (c) (para. 69) That there is a limited supply of development land in the Borough and few sites where affordable housing is likely to come forward. Seventeen units is agreed as the appropriate level of on site provision.
- (d) (para. 72) The aspiration of the development plan for on site affordable housing would be met by this proposal
- (e) (para. 102) In the course of discussing the conditions the Inspector concluded that an important advantage of these proposals, from a policy perspective, was the on site provision of affordable housing. The failure to provide such housing would be sufficient reason to withhold planning permission.

3.2.15 In granting planning permission, the Inspector imposed condition (xii), which prevented the occupation of not more than 29 units until the seventeen affordable units have been substantially completed and transferred to a Registered Social Landlord. It is this condition that is the subject of this appeal.

3.3.0 The Current Appeal Proposal

3.3.1 As noted above, St James Homes agreed to the provision of on site affordable housing since it was unable to offer any alternative sites in the Borough. However, there has been a significant change in circumstances over the last two years in that not only does St James now have two sites under its control in the Borough but these can deliver 34 affordable units rather than the 17 currently proposed. Since neither of the available sites would otherwise provide affordable housing, this is a net gain of 34 affordable units.

3.3.2 The two available sites are at Finborough House, Finborough Road (SW10) and 1 and 3 Marloes Road (W8). Dealing first with Finborough House, this site has planning permission and conservation area consent to demolish the existing 1950s block containing 16 flats and erect a new building containing 24 flats. Appendix 6 contains a copy of the planning permission and conservation area consent dated the 1st September 2000 and Appendix 7 contains a copy of the report to Committee of November 1999. This notes (para. 4.5) that since there is only a net gain of eight units, it would not be appropriate to require any affordable housing (whether on or off site).

3.3.3 1/3 Marloes Road is a pair of substantial late 19th century terraced five storey properties. Until 1998 they were in use as a residential hostel pursuant to personal planning permissions granted in 1959 and 1962. Two planning applications were submitted in 2000 to convert the two properties into ten self-contained flats. The only difference between the two applications was that one proposed small rear extensions. Both applications were placed on the Agenda for the Committee meeting on the 27th March 2001 with officer recommendations of approval (Appendix 8). However, at the request of St James Homes the items were withdrawn from the Agenda so that they could be considered as part of the S106 package to accompany the current S73

application at Campden Hill. A non-determination appeal in respect of one of the applications was lodged as a 'precautionary backstop' in April 2001

3.3.4 Since the 1/3 Marloes Road appeal is also being considered at the same Inquiry as this S73 appeal, I do not intend to repeat the evidence contained in my separate proof of evidence. However, for completeness, I will summarise the current position. This is that despite consistently advising since January 2000 that 1 and 3 Marloes Road now have a 'nil use' and a residential conversion was acceptable in principle, officers recommended refusal to Members of the Planning Services Committee on the 19th June 2001. This refusal was based on the view that despite the current 'nil use' the Council would like to see the former residential hostel use re-established.

3.3.5 This recommendation was not accepted by Members who deferred the application on the basis that whilst the Members were minded to approve the applications, further consultation should be undertaken locally. The applications were reported back to Committee on the 4th July 2001 with a continued recommendation of refusal. Notwithstanding the minded to approve resolution of the Members on June 19th, Members refused the application at the meeting on the 4th July 2001. The issue of whether this site is available as part of the off-site package of 34 affordable units will, therefore, be determined concurrently with this S73 appeal.

3.3.6 The proposal before this Inquiry is, therefore, to delete condition (xii) of the October 1999 decision and replace it with a S106 that requires the transfer of 1/3 Marloes Road and the replacement Finborough House to a Registered Housing Association before more than 29 units can be occupied on the Campden Hill site. All of the detailed requirements of condition (xii) are incorporated within the S106.

- 3.3.7 Duplicate S73 applications were submitted to the Borough Council on the 12th February 2001 (Appendix 9). The covering letter only referred to the possibility of providing 24 units off site. The location of the 24 units at Finborough House was subsequently explained in my letter of the 28th February 2001 (Appendix 10). This letter emphasised how this would result in seven additional affordable units which could be guaranteed at an earlier date than on site provision.
- 3.3.8 A report was prepared for the Committee meeting on the 27th March 2001 (Appendix 11) which recommended refusal of a scheme providing 24 off site units. On the day prior to the Committee meeting, St James Homes wrote to the Borough Council additionally offering the ten units at 1/3 Marloes Road (Appendix 12).
- 3.3.9 At the Committee meeting Members discussed the applications and resolved to refuse one of the applications (the other being held in abeyance). From the debate it was unclear whether the Members were discussing an offer of 24 or 34 off site units. Following the refusal of the application the Chairman took the unusual step of commenting on the principle of off-site affordable housing. The official minute records this as follows (Appendix 13);

“The Chairman concurred with the recommendation but requested that, in future cases, consideration be given to whether the opportunity for more off-site affordable housing offset the benefits of on-site housing”.

3.3.10 The application was refused for the following single reason;

“The provision of affordable housing off site would result in the loss of 17 units in this part of the Royal Borough which already has a severe under provision of social housing and would therefore be contrary to Policy H22 of the Unitary Development Plan and Policy H22 of the Proposed Alterations of the Unitary Development Plan.”

3.3.11 Appendix 14 contains a copy of the decision notice dated the 30th March 2001. An appeal was lodged against this refusal on the 2nd April 2001. It was registered by the Planning Inspectorate on the 24th April 2001 and given the reference APP/K5600/A/01/1062761.

3.3.12 The duplicate application was reported to Committee on the 4th July 2001 with an officer recommendation of refusal. Members accepted this recommendation and refused the application for the same single reason as outlined in paragraph 3.3.10 above.

4.0.0 POLICY CONTEXT

4.1.0 National Policy

4.1.1 The two principal national policy documents relating to Affordable Housing are PPG3 (March 2001) and Circular 6/98 : “Affordable Housing” (April 1998). Each is dealt with below.

4.1.2 PPG3 “Housing” was published in March 2001 and represents an up to date statement of Government Policy. The preamble on page 4 states that it supersedes the 1992 version of PPG3 and Circular 6/98 “will continue to apply within the framework of policy set out in this guidance”. Paragraph 1 commences with the statement that “everyone should have the opportunity of a decent house” and the first two requirements placed on local Authorities in paragraph 2 are;

- **“plan to meet the housing requirements of the whole community, including those in need of affordable housing**
- **provide wider housing opportunity and choice and a better mix in the size, type and location of housing than is currently available, and seek to create mixed communities.”**

4.1.3 Paragraph 11 states that local authorities should take account of assessments of local housing need in determining the type and size of additional housing. This is followed in paragraph 14 by a statement that where there is a demonstrable lack of affordable housing UDPs should include a policy seeking affordable housing in suitable developments. Such policies should (para. 15);

- (a) define what is meant by affordable
- (b) indicate how many affordable houses need to be provided in the plan area
- (c) identify suitable sites for affordable housing and the amount of provision which will be sought

4.1.4 Paragraph 17 then reiterates the guidance in paragraph 10 of Circular 6/98 that;

“Where a local planning authority has decided, having regard to the criteria set out in paragraph 10 of Circular 6/98, that an element of affordable housing should be provided in (the) development of a site, there is a presumption that such housing should be provided as part of the proposed development of the site. Failure to apply this policy could justify refusal of planning permission.”

4.1.5 Given the ‘Plan, Monitor and Manage’ approach which underlies the new PPG3, paragraph 19 emphasises the importance of monitoring the delivery of affordable housing. This is reiterated in the ‘Monitoring and Review’ section of PPG3 where the number of affordable dwellings provided is listed as a relevant monitoring issue.

4.1.6 The advice in Circular 6/98 is now largely subsumed with the new PPG3, so it is unnecessary to review its contents in detail. Whilst the Circular contains the expectation that affordable housing will be provided on site, paragraph 22 does state that;

“...if the local planning authority and the developer both consider that, on particular sites where a requirement for an element of affordable housing would be appropriate, it is nonetheless preferable that a financial or other contribution should be made towards the provision of the element of affordable housing on another site in the local planning authority’s area, they should ensure that such arrangements would actually result in the provision of affordable housing (whether via new build or conversions), that would not otherwise be provided in the local planning authority’s area.”

4.1.7 Whilst it is accepted that in this case the Borough Council does not agree to off site provision, the acknowledgement that off site provision can be appropriate is important. Since the Inspector determining this appeal is now acting as a surrogate planning authority, it would be entirely in accordance with the advice in Circular 6/98 for this appeal to be permitted if the Inspector concludes that a greater affordable housing benefit would accrue from up to 34 off site units rather than 17 on site.

4.1.8 In summary, national policy guidance indicates that;

- (a) the provision of affordable housing is a material consideration
- (b) on appropriate sites the presumption is to provide the affordable housing on site
- (c) off site provision may be permissible if acceptable to the applicant and the planning authority

- (d) a key issue is the delivery of affordable housing and the performance of the local authority should be monitored against its targets and assessed levels of need.

4.2.0 **Regional Policy**

4.2.1 There are two regional policy documents which are of relevance to this appeal. These are;

- (a) RPG9 published in March 2001
- (b) RPG3 published in May 1996

(a) **RPG 9 : Regional Planning Guidance For The South East**

4.2.2 RPG9 (2001) provides regional planning guidance for the whole of the south east region including London. Paragraph 1.2 notes that the RPG will also guide the preparation of the London Mayor's Spatial Development Strategy. The Housing Chapter reiterates PPG3 in stating that everyone should have the opportunity for a decent house (para. 8.1) and that;

“a substantial element of the additional housing required in the South East needs to be affordable, particularly for the most vulnerable households in the region.”

4.2.3 The RPG notes (para. 8.7) that there is a strong demand for affordable housing throughout the region. This is posing significant problems for key workers and local employers and can often lead to unsustainable long distance commuting. The document reflects its close links to PPG3 and PPG1 by

giving great emphasis to the assessments of need and monitoring the success of policies. Criterion (b(x)) to Policy H4 states;

“Local authorities should alsomonitor the provision of affordable housing against their local target, and regularly review both the targets and the housing strategy to meet it. This may lead to revisions to the appropriate development plan policies.”

(b) **RPG3 : Strategic Guidance For London**

4.2.4 Since RPG3 is now five years old, much of it's approach has been superseded by PPG3 and RPG9. Whilst the document emphasises the need to provide more affordable housing in London and gives advice on the preparation of Housing Need Assessments, one of the most notable differences compared with RPG9 and PPG3 is the lower priority given to the monitoring of the deliverability of affordable housing and the success of affordable housing policies.

4.3.0 **Initial Proposals For The Mayor's Spatial Development Strategy**

4.3.1 This document, “Towards the London Plan”, was published in May 2001 as the initial step in the production of the Spatial Development Strategy (SDS) for London. Since the document (Appendix 15) is at a very early stage and has not completed any formal stage of public consultation, it cannot be given great weight in the determination of this appeal. Notwithstanding this, the document is a material consideration in indicating the future direction of planning policy in London.

4.3.2 The document proposes a strategy which is to;

“accept these processes of economic growth, re-centralisation and population increase and create an adequate infrastructure for the city to achieve sustainable development. This growth will help pay for the many improvements in services and transport that London needs” (para. 1.3).

4.3.3 Housing is defined as the third of six “key challenges” facing the capital and “the single most pressing land use problem in London” (para. 2.58). Paragraph 2.63 summarises the need for affordable housing as follows:

“London’s need for affordable housing is particularly acute. Pressure in the housing market can be expected to intensify if the number of households rises over the next few years. The Mayor’s Housing Commission and the Assembly’s Affordable Housing Scrutiny Committee both concluded that the housing shortage and the resulting increases in prices were key factors in explaining the growing recruitment and retention difficulties being faced by both public and private organisations. These difficulties are threatening economic growth and the improvement of public services in London.”

4.3.4. The document then puts forward a policy recommendation to help alleviate the shortage of affordable housing in London;

“The target London-wide should be 50%, comprising 35 per cent for social renting aimed at households on low incomes and 15 per cent for new intermediate housing aimed at households on

moderate incomes. New affordable housing should be integrated into the new development to foster mixed and balanced communities.” (para. 2.66)

4.3.5 It is clear from the above that the emerging Spatial Development Strategy for London perceives the shortage of affordable housing in London as an acute problem. The solution is seen as a target of 50% affordable housing integrated with new development.

4.4.0 **The Kensington & Chelsea UDP**

4.4.1 The current Kensington & Chelsea UDP was adopted in August 1995 and has a ten year time horizon. The UDP notes in paragraph 5.9 (Appendix 16) that in 1991 the Borough had the highest house prices and private rental levels in the Country. It further states that;

“This Council estimates that at least 9,000 additional affordable residential units are required to satisfy the housing needs of households living in the Borough. In order to satisfy the need for affordable houses for rent in this Borough, the Council will seek the provision of an adequate supply of affordable housing on residential development sites throughout the Borough.” (para. 5.9)

4.4.2 This level of need is then converted in to a target of one third affordable housing in paragraph 5.10;

“The Council will expect residential development on sites of over 0.05 hectares to contribute a significant proportion of dwellings on

the site to the stock of affordable housing. Land available for development in the Borough is very scarce and for this reason sites over 0.05 hectares will be subject to the policy to provide affordable housing. The Council wishes to ensure that the present proportion of affordable housing in the Borough, about one third, is maintained (a figure of one third corresponds to the proportion of households living in affordable or lower cost housing at the time of the 1991 Population Census). It would be impracticable to require a third of all residential redevelopment on all sites to be in the form of affordable housing. However, if the affordable housing target is to be met, the large sites in the Schedule of Major Sites with Development Opportunities should provide a higher proportion (i.e. more than one third) of affordable housing in order to compensate for those smaller sites where affordable housing might not be practicable. In order to monitor the success of this policy, the Council will regularly assess the proportion of new affordable housing provided within the total new housing stock.”

- 4.4.3 The Borough Council is currently reviewing its UDP and the UDP Inquiry took place in early 2001. The Inspector’s report has been received by the Council but has not yet been published. The affordable housing section of the Review has been updated to reflect the contents of PPG3 (1992 version) and Circular 6/98. There were 62 objections to the affordable housing policies of the Alterations (H22 and H23). These objections included concerns about compliance with PPG3, the definition of affordable housing and the emphasis on on-site provision.

4.4.4 The proposed Alterations (Appendix 17, para. 5.8) note that the problem of affordability has worsened since the adoption of the UDP in 1995. This is reflected by the existence in July 1998 of 8,413 persons on the Common Housing Register, of this total 3,392 are assessed as having high priority. The shortfall between the number of high priority households and the supply of accommodation is expected to rise to 4,900 by April 2005.

4.4.5 Given the acknowledged shortage of suitable land, paragraph 5.10 of the deposit UDP Alteration accepts that it is impossible to provide all affordable housing within the boundaries of the Borough;

“The development of affordable housing in the Borough is extremely difficult and, therefore, the Council has continued to work with RSLs and other local authorities to develop housing out of Borough. However, success in out of Borough development is contingent upon the Council continuing to support affordable housing within its boundaries. Given the current and projected lack of available sites in the Borough, it is reasonable to assume that, based on experience to date, approximately 50% of all future new supply of affordable housing will continue to be development by RSLs outside the Borough. Accordingly approximately 2,400 houses needed to support high need are expected to be provided outside the Borough”. (para. 5.10)

4.4.6 As in the adopted plan, the aim of the Council in the UDP Alterations is to retain the present proportion of affordable housing in the Borough at around one third. Paragraph 5.10 (a) states;

“However, if the affordable housing target is to be met, the large sites in the Schedule of Major Development Sites should provide a higher proportion (i.e. more than one third) of affordable housing in order to compensate. In order to assess the success of this policy, the Council will regularly monitor the proportion of new affordable housing provided within the total housing stock.”

4.4.7 It should be noted that the former Water Works site at Campden Hill is identified in the Schedule of Major Development Sites.

4.4.8 Paragraph 5.10 and 5.11 of the deposit UDP Review explain how on sites where an element of affordable housing is appropriate **“there will be a presumption that it should be provided on-site as part of the development.”** In those cases where on-site provision is not possible, an alternative site in the Borough would be the second choice. The Review states that;

“If the alternative site route is followed, an amount equivalent to 33% of affordable housing on the “donor” site will be sought plus an equivalent amount which would have been provided on the “recipient” site, subject to further detailed assessment and compliance with planning policies.” (para. 5.10)

4.4.9 Whilst this is logical in cases where the recipient site would have provided an element of affordable housing, this is not the case with either Finborough House or 1/3 Marloes Road, where no affordable housing is currently proposed to be provided. Thus, the additional 17 units proposed by this appeal is a true net gain.

4.5.0 **Conclusion**

4.5.1 This section of my evidence has demonstrated that in recent years all levels of planning policy have become increasingly concerned at the magnitude of the need for affordable housing and the failure of the planning system to provide sufficient units. However, notwithstanding this quantitative imperative, the preference of the policy documents is for the affordable housing to be provided on-site wherever possible. The other strand of policy guidance which is being increasingly stressed is the issue of the actual deliverability of affordable units and the need to monitor output against policy targets.

4.5.2 The next section of my evidence considers the actual level of affordable housing completions in Kensington & Chelsea compared with the Council's own targets. It then considers whether the position is such that the Council can afford the 'luxury' of refusing 34 off-site affordable units in order to achieve the benefit of 17 on-site units.

5.0.0 AFFORDABLE HOUSING PROVISION IN KENSINGTON & CHELSEA

5.1.0 Assessments of Need

5.1.1 There is no disagreement between the parties concerning the acute need for affordable housing in Kensington & Chelsea and the difficulty in finding suitable sites. At the 1999 Public Inquiry, the Council called Stephen Rawlings (the Development Director of the Notting Hill Housing Trust) as a witness. He graphically illustrated the problems as follows (Appendix 18);

“RBKC is an area of housing need. There are currently 479 families in bed and breakfast of temporary accommodation. RBKC’s Housing Strategy document through the statutory register indicated that the affordable housing shortage for all types of social housing will rise from 7,100 in 1999 to 8,100 in 2001.

NHHT provides housing in 12 London Boroughs and the difficulties of finding residential sites in Kensington are considerably greater than anywhere else. This is because of the heavily developed nature of the Borough, extremely high land values and lack of brownfield sites suitable for change of use to housing. RBKC has the highest property prices in the country currently ranging from £180,000 to £4,100,00 per dwellings for housing projects currently under development in the borough (from London Residential Research statistics). As a means of comparison, the TCI figure used by the Housing Corporation for a 2 bed flat is £97,300.

In my experience at the Trust where much of my work is concerned with identifying and acquiring sites, Kensington has always been very difficult for the reasons stated. Those sites that have been available in the recent past have only been available because of the Council's affordable housing policies in the UDP. This year we anticipate acquiring 60 units as part of a planning agreement with an associated company of St James which will be provided on site. We are currently completing 72 dwellings above a supermarket in Earls Court – only possible because of a planning agreement. The most significant property brought forward for housing in the recent past for the formal (sic) Rootes Factory Site in 1992. This was only possible through the Council using its CPO powers.

In a recent borough-wide exercise conducted by my office we were able to uncover only two potential sites which might come forward for affordable housing. Both would require change of use from existing planning uses.

This paucity of opportunities is also reflected in the funding for RSLs in 1999/2000 by the Housing Corporation in the Royal Borough. Of the 58 dwellings to be funded in the borough 53 will be the result of planning agreements to provide the accommodation on site.

Given this paucity and the overwhelming housing need, we are anxious to pursue every opportunity that presents itself. Notting Hill Housing Trust considers it imperative that affordable housing is provided on sites that are available for development within the

Royal Borough. Because of the shortage of opportunities, forgoing opportunities for social housing on-site will obviously build a backlog of unmet need in the Borough.”

5.1.2 The important factors to arise from the above are;

- (a) in the experience of the Housing Trust, Kensington & Chelsea is the most difficult Borough to find affordable housing sites out of the twelve they deal with in London
- (b) in a borough-wide site finding exercise the Housing Trust could only find two potential affordable housing sites
- (c) in 1999/2000 only 58 affordable units were to be funded by the Housing Corporation in the Borough
- (d) the Trust is anxious to pursue every opportunity that presents itself. It is imperative that affordable housing is provided on sites which are available.

5.1.3 At the 1999 Inquiry the Borough Council also put forward a housing policy witness (Philip Hughes). Extracts from his evidence form my Appendix 19. His evidence also confirmed the magnitude of the affordable housing problem. In paragraph 4.2 he notes that;

“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.”

5.1.4 Turning to Housing Needs, Mr Hughes also explained how the level of high priority needs was likely to rise to 4,853 in 2001;

“The housing needs of the Borough are detailed in the Kensington & Chelsea Housing Strategy 1999/2002. 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. 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).”

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- 5.1.5 Although the last Housing Needs Survey was produced by the Borough Council in 1998, the Council has subsequently published its Housing Strategy 2001-2004 and Housing Needs Analysis (2001-2006). These allow the position described by the Borough Council's witnesses in 1999 to be updated.
- 5.1.6 Dealing first with the Housing Strategy (2001-2004) Table 1 of the document confirms that the number of households registered on the Common Housing Register is expected to rise from 8,585 persons in 2001 to 9,975 in 2005/6. (see Appendix 20). This Table also demonstrates how the greatest areas of demand are for smaller units with only 1,389 households (15.9%) requiring a property larger than two beds. Table 2 illustrates the position in terms of the shortfall in accommodation for households in high priority need. This is expected to rise from 4,359 in 2000/1 to 5,474 in 2005/6. Thus, the evidence of Mr Hughes in 1999 appears to have been well founded.
- 5.1.7 Appendix 20 also contains extracts from the 'Supplementary Information' submitted with the Housing Strategy 2001-2004, which is in the form of replies to a standard questionnaire circulated to all local Authorities by the DETR. Whilst not adding to the strategic picture of housing needs in Kensington & Chelsea, it does give some small illustrations which vividly illustrate the personal problems which underly the headline figures. For example, in 1999/2000 the average length of stay in bed & breakfast accommodation by a homeless household was 226 days. In response to the DETR question concerning a 2000/2001 target the Borough states it cannot provide a target because moves into permanent accommodation are dependent on a suitable property coming forward and the Council's void figure is only 1%. In another example, in 1999/2000 it took on average 63 weeks for a homeless household owed "the two year duty" to be re-housed in settled accommodation.

5.2.0 Implementation

5.2.1 Having established the magnitude of housing needs in the Borough, PPG3, RPG9 and the draft SDS for London all emphasise the need to monitor the delivery of affordable housing in order to assess the success of existing policies. My Appendix 21 contains a copy of the most recent data prepared by the Borough Council in respect of residential permissions and completions between 1992 and 1999. This shows that over these eight years permission was granted for a net gain of 1,058 affordable units. This equates to an average of 132 per year.

5.2.2 Turning to actual affordable housing completions during the period 1992 to 1998, the table shows that 699 affordable units were completed. This equates to an average of 100 units per year. This is only 40% of the UDP Review target of 250 affordable units per year (para. 5.10). Whilst it is accepted that the emerging UDP Review is adopting more onerous affordable housing policies, the Council clearly has a formidable task if it is to increase affordable housing completions by 250% from the average since 1992. This will be made even more difficult by the acknowledged shortage of sites.

5.3.0 Planning Issues

5.3.1 The single reason for refusal states;

“The provision of affordable housing off-site would result in the loss of 17 units in this part of the Royal Borough which already has a severe under provision of social housing and would therefore be contrary to Policy H22 of the UDP and Policy H22 of the Proposed Alterations of the UDP.”

5.3.2 Whilst it is correct that the provision of 34 affordable units at Finborough House and 1/3 Marloes Road would mean that no affordable units are provided on the former Water Works site, I do not agree that it would lead to “the loss of 17 units in the part of the Borough”. Reference to the Council’s housing needs survey (Appendix 22) discloses that the Borough Council does not seek to assess housing needs for individual wards in the Borough. The nearest to this is Table 3 which shows tenure and household type by geographical area. This table breaks the Borough into three broad areas (North, Central and South). The former Water Works Site, Finborough House and 1/3 Marloes Road all fall within the Central Area. Given the Borough Council’s own categorisation, the 34 off-site affordable units will still be provided in the same Central Area of the Borough. Thus, 17 affordable units will not be “lost” in “this part” of the Borough.

5.3.3 The interesting fact to emerge from Table 3 of the ¹⁹⁸⁷~~1998~~ Housing Needs Survey is that the Northern Area has the highest percentage of local authority and housing association properties at 59%. This is followed by the Southern Area at ²⁹~~39~~%. The Central Area is in sharp contrast with both of these areas since only 11% of the stock is local authority or housing association. Thus in terms of PPG3, RPG9, draft SDS and UDP policies (which seek to encourage “tenure balance” and “mixed communities”), it is clear that any affordable housing in the ‘Central Area’ will assist in redressing the tenure imbalance compared with the Northern and Southern areas of Kensington & Chelsea.

5.3.4 I could understand the rationale for the Council’s reason for refusal if Finborough House and 1/3 Marloes Road were in area of high local authority and Housing Association property where further affordable housing would be unwelcome. However, the reality is that the Council appears to be saying that

it would prefer 17 on-site affordable units on the former waterworks site rather than 34 units elsewhere in the same Central Area in locations which have a similar level of need.

- 5.3.5 Since the quantitative benefit of the Appeal proposal for the homeless of Kensington & Chelsea cannot be disputed, it must be assumed that the Council's case must be based around the locational advantages of the former Water Works site. Indeed, the Council's Statement of Case states;

"The site is ideal for the inclusion of affordable housing. It is conveniently placed with access to local facilities, such as public transport, shops, schools etc., there are no particular planning difficulties associated with the site, for example the renovation of listed buildings, which can sometimes cause problems for developers seeking to provide affordable housing on-site. It was intended to provide the affordable housing in a separate block of flats, which will allow for separate management, and difficulties regarding service charges were resolved at the public Inquiry in agreement with the Appellant to the satisfaction of the Planning Inspector." (para. 6.3)

- 5.3.6 Since this paragraph contains a number of points it may be helpful to compare the three sites (the former Water Works Site, Finborough House, 1/3 Marloes Road;

- (a) Public Transport : My Appendix 23 contains a copy of the Borough Council's PTAL (public transport accessibility level) map which shows zones of relative public transport accessibility in the Borough.

From this it can be seen that each of the sites has the same PTAL rating. Thus there is nothing to choose between the three sites.

- (b) Shops : My Appendix 16 reproduces Maps 10 and 11 from the adopted UDP showing the location of local and principal shopping areas in the Borough with the three sites highlighted. The position of each is as follows;
- (i) former Water Works : This is 500 metres from the Holland Park Avenue Local Centre and 200 metres from the western edge of the Notting Hill Gate Principal centre. In both cases, shoppers would have to return from the shops up the hill which forms Campden Hill
 - (ii) Marloes Road : this is 150 metres from the Stratford Road Local Centre and 350 metres from the Cromwell Road Local Centre (Sainsburys). It is also 550 metres from the Kensington High Street Principal Centre. These centres are a level walk from Marloes Road
 - (iii) Finborough House : This is 350 metres from both The Billings Local Centre and the Ifield Road Local Centre and 150 metres from the Fulham Road (west) Principal Centre. These centres are a level walk from Finborough House.

As would be expected in a densely populated area such as Kensington & Chelsea, all the sites have good access to retail facilities although the balance between local and principal shops varies between the three sites. Again, I would not seek to argue that any one site is materially

better than the other two although the absence of a level access to shops from the former Waterworks site is a disincentive for shopping trips to be undertaken on foot.

- (c) Schools : As Appendix 24 I show a map produced by the Education Service of Kensington & Chelsea Council which identifies all the schools in the Borough. The respective situation of each of the three sites is as follows;
- (i) former Water Works Site : The nearest junior school is the Fox School which is 200 metres to the east of the site (5-11 years). However, due to over-subscription this school has special admission criteria based on a priority area which includes the site. The other nearest school is St Mary Abbots Church of England School which is 700 metres to the south east. The nearest secondary school is the Holland Park Secondary which is 200 metres south of the site
 - (ii) Marloes Road : The St Barnabas & St Philip Church of England School is 500 metres to the north west and Holland Park Secondary School is 1.4 km to the north
 - (iii) Finborough House : The Servite Roman Catholic primary school is 200 metres to the west and Park Walk primary school is 500 metres to the south west. The St Thomas Moore Roman Catholic secondary school is 2.0 km to the east.

- 5.3.7 In drawing together the relative merits of the three sites there is nothing to choose between them in terms of public transport accessibility (all PTAL grade 2). In terms of shops, Marloes Road and Finborough House are marginally closer to identified retail centres than the former Water Works site which is also on the top of a hill. The former Water Works site has the best accessibility to primary and secondary schools but in all cases the schools are within easy walking distance. With modern school admissions policies it also does not necessarily follow that parents will choose to send their children to the nearest school. Certainly, there are no disadvantages with Finborough House and Marloes Road which would justify rejecting 34 affordable dwellings in favour of 17 on site at the former Water Works site.
- 5.3.8 The final issue relates to what the Council's Statement of Case refers to as "planning difficulties" with an on-site provision. As a preface to this issue, it may assist the progress of this Inquiry to confirm that the debate concerning on-site or off-site is not linked to economic viability and St James has never sought to argue this point. Whilst the integrated design of the whole redevelopment of the former Water Works site makes the provision of a free standing affordable housing block complicated, St James also accept that the affordable housing is physically capable of being accommodated in either the whole of the new Aubrey Walk building or in part of the new Campden Hill building. It is also recognised that since my letter of the 12th February 2001 (Appendix 9), the demolition of Water Tower House has commenced. This commits St James to the completion of the whole development. The technical ability under condition (xii) to stop the development at 29 completions is, therefore, now academic.

5.3.9 The only “planning difficulty” that St James would wish to raise at this Inquiry is the timing of the delivery of on-site affordable housing. The redevelopment of the former reservoir is a very complex project entailing the following stages;

- (a) the demolition of the two former covered reservoirs, the pump room, Water Tower House and 3-7 Aubrey Walk
- (b) the construction of the replacement tennis courts
- (c) the construction of the new ‘square’ of town houses
- (d) the construction of the Aubrey Walk and Campden Hill apartment buildings.

5.3.10 Given the physical configuration of the site it is self-evident that the development sequence must be demolition following by construction commencing at the far western end of the site (with the tennis courts) and then progressing east to the Campden Hill Road frontage. The current programme indicates that the Aubrey Walk building will not be available to be transferred to a Housing Association until mid-2004.

5.3.11 In contrast, if this appeal and the 1/3 Marloes Road appeals are permitted the 10 Marloes Road flats could be converted and transferred to a Housing Association in early 2002. The Finborough House flats will require the demolition of the existing building and the construction of the replacement 24 flats in the new Finborough House. This could be available in 2003.

Thus the granting of these appeals will not only result in double the amount of affordable units but they can all be delivered at an earlier date than the 17 on-site units.

6.0.0 **CONCLUSIONS**

6.1.1 PPG3 and Circular 6/98 both confirm that the provision of affordable housing is a material consideration in the determination of planning applications. St James Homes accept this and should this appeal fail, seventeen affordable housing units will be provided at the former Water Works Site, Campden Hill.

6.1.2 From my assessment of the policy guidance relating to affordable housing it is apparent that there are two main themes. The first is achieving the delivery of the maximum level of affordable housing to meet identified needs and the second is the aim of achieving mixed communities and tenure balance.

6.1.3 Dealing first with the quantitative issues, it is clear that Kensington & Chelsea Borough has an acute and worsening need for affordable housing and both the Council and the Notting Hill Trust Housing Association accept that few sites will become available in the future to meet this need. The problem of actual delivery is illustrated by the average annual yield of 100 affordable dwellings over recent years compared with the target in the UDP Alterations of 250. In this context, I would have expected any proposal that offers double the agreed number of affordable units to have been welcomed by the Borough Council. Indeed, it is relevant that the Chairman of the Committee who determined the S73 application asked for it to be minuted that;

“...in future cases, consideration be given to whether the opportunity for more off-site affordable housing offset the benefit of on-site housing.”

- 6.1.4 Since the Council cannot be objecting in principle to an increase in the number of affordable units, I can only assume that their concerns relate to the loss of the proposal for a mix of tenures on the former Water Works site. Whilst I accept that this will occur, I find it difficult to believe that it should be such a primary concern that it leads to a proposal for an additional 17 units being turned away. I find this all the more surprising since the two alternative sites at Finborough House and 1/3 Marloes Road are both in the same "Central Area" (as defined by the Borough Council's Housing Needs Survey) which has the lowest proportion of local authority and housing association stock in the Borough. Whilst the provision of affordable housing at Finborough House and 1/3 Marloes Road will not achieve tenure balance at Campden Hill, it will widen the tenure balance in the areas around those two properties.
- 6.1.5 In summary, the appeal proposal offers a valuable opportunity to achieve an additional 17 affordable units which would not otherwise be available to people on the Council's waiting list. Given the acute shortage of affordable housing in the Borough it is felt that it is more important to house an additional seventeen families in the Central Area from the Council Waiting List than achieve mixed tenure on the former Water Works site.