

PD12679/JE/ED

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17 March 2023

Planning Policy
Environment and Community Services
Town Hall
Wandsworth High Street
London
SW18 2PU*Sent via email to* planningpolicy@wandsworth.gov.uk

Dear Sir / Madam,

**DRAFT LOCAL PLAN (PROPOSED MAIN MODIFICATIONS) CONSULTATION
REPRESENTATIONS IN RESPECT OF SHOPSTOP AT CLAPHAM JUNCTION, 1-20 ST JOHN'S HILL, BATTERSEA,
LONDON, SW11 1RU**

Thank you for consulting us on the proposed Main Modifications to the draft Wandsworth Local Plan.

These representations are submitted by Montagu Evans LLP on behalf of our client, DTZ Investors, in respect of the site at ShopStop at Clapham Junction, 1-20 St John's Hill, Battersea, London, SW11 1RU ('the Site').

BACKGROUND

We made representations on behalf of the Client in response to the formal consultation exercise on the draft Regulation 18 Local Plan in March 2021 and Regulation 19 in February 2022 as well as attended the Hearing Sessions on 16 & 17 November 2022. In addition, a further submission was made following the LP4 hearing sessions jointly submitted with other developer and landowners representatives attending the hearing session. We attach a copy of these representations for reference.

This letter of representation is made following the Council's publication of their Local Plan Consultation - Proposed Main Modifications on 3rd February 2023. In particular, this representation is focused on the issue of how the plan provides for the consideration of tall building proposals with particular reference to the concern that it compromises our client's ability to bring forward deliverable proposals on a key allocated site within the borough. A site which is also at the heart of the Clapham Junction Opportunity Area. For this reason our client is of the view that the plan fails the NPPF requirement to be prepared positively.

DRAFT TALL BUILDINGS POLICY LP4

As you know we attended the hearing sessions relevant to the Council's proposed tall buildings Policy LP4 together with a number of developer representatives whose clients are the owners of substantial sites across the borough that are capable of delivering a significant quantum of new housing and workspace in line with the draft plans stated broader aspiration.

Many of these sites are identified as Site Allocations within the plan and are important elements in the Council's assumptions for the delivery of housing as well as jobs. However, it was clear from much of the evidence presented to the relevant hearing sessions that the tall buildings policy approach is very likely to prevent or limit the ability of these sites from coming forward for development in the plan period.

It was presented at the Hearing Session that many of the recently approved schemes across the borough include tall buildings that significantly exceed the height thresholds that the draft plan is seeking to apply to those areas and in all likelihood further proposals in these locations especially on allocated sites will exceed the height limits set out in the draft Local Plan. It is therefore evident that the Council is seeking to establish a policy regime that relies upon applicants demonstrating exceptional circumstances that allow for the thresholds to be exceeded as opposed to positively planning for appropriate and deliverable development.

Our Client considers that this is not positive planning as required by the NPPF and will not provide the certainty that the development plan system is intended to provide. This in turn will result in landowners and developers not being willing to progress schemes at considerable expense through the planning system with the level of risk imposed and with this a delay to the delivery of new homes and affordable housing within the borough.

HEARING AND INSPECTORS REQUEST

The evidence presented at the LP4 Hearing session led the Local Plan Inspectors to request that the Council give further consideration to the draft tall buildings policy and propose alternative wording which provides the necessary flexibility to ensure that landowners and developers are provided with sufficient confidence to pursue planning permission for development of their sites.

The developers took the Inspectors' suggestion seriously and collectively spent time liaising with each other to try to find a form of words which maintained the Council's cautious approach to the potential for townscape impacts from taller buildings whilst giving sufficient acknowledgement that these considerations are not the full extent of the Plan's proposed operation in relation to tall building consideration.

The group of developers that were present at the hearing session jointly submitted the proposed wording amendment (copy attached) with the hope that officers would give this careful consideration as an option that would address the Inspectors' concern and ensure that a positive approach to plan making could be demonstrated. It however appears this has been dismissed by the Council.

SITE SPECIFIC CONCERNS

The ShopStop site at Clapham Junction has been the subject of extensive discussion with the Council as well as Network Rail who our client has been working closely to find a solution to achieving improved platform access in conjunction with improved passenger access through our Client's site.

The current shopping centre trades well which means that any development will need to show a return on investment beyond the current asset value after the cost of development. In addition, for the development of the site to be successful a significant reduction in site coverage is required to deliver the benefits necessary to enhance the public realm in this location. The only option therefore to respond to these key dynamics of the site is to provide development of a height that will generate the value necessary to allow development to respond to these fundamental objectives.

Our Client has currently paused further consideration of the site's development on the basis of the initial work undertaken and the emerging lack of sufficiently supportive policy.

Our Client's concern is that the emerging policy will effectively sterilise the development option on the basis that a policy compliant scheme will simply not offer greater value than the retention of the existing uses on site.

PROPOSED SOLUTION

We therefore propose that the alternative wording for Policy LP4 presented by the developer group (copy attached) is adopted together with alterations to the Policy PM4: Clapham Junction and York Road/Winstanley Regeneration Area to ensure that the Plan makes clear that townscape assessment and the height thresholds are not the only consideration when considering tall buildings.

As outlined in our previous representations, the Plan should make clear that it seeks a planning balance that examines the potential for townscape harm set beside other significant benefits that a development might offer, and also take into account the visions for areas and key planning objectives and direct development where it will assist in delivering these objectives.

CLOSING

Our Client will be very interested to see the Inspectors conclusion on whether the Council's limited suggested change to the tall buildings policy can allow them to find the plan to be sound or whether this fails the fundamental tests.

We however wish to restate our client's objection to the proposed policy and maintain the position that the draft Plan is not sound.

We welcome the opportunity to discuss the content of these representations further with the London Borough of Wandsworth. In the meantime, should you wish to discuss any of the above please do not hesitate to contact either Jeremy Evershed (jeremy.evershed@montaguevans.co.uk / 07818 012 549) or Emily Disken (emily.disken@montaguevans.co.uk / 07818 012 424) in the first instance.

Yours sincerely,



MONTAGU EVANS LLP

Encl.

CC Local Plan Inspectors c/o Programme Officer

PD12679/JE/ED

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25 February 2022

Planning Policy
Environment and Community Services
Town Hall
Wandsworth High Street
London
SW18 2PU*Sent via email to* planningpolicy@wandsworth.gov.uk

Dear Sir / Madam,

**‘PUBLICATION’ DRAFT LOCAL PLAN (REGULATION 19) CONSULTATION
REPRESENTATIONS IN RESPECT OF SHOPSTOP AT CLAPHAM JUNCTION, 1-20 ST JOHN’S HILL, BATTERSEA,
LONDON, SW11 1RU**

These representations are submitted by Montagu Evans LLP on behalf of our client, DTZ Investment Management Limited in respect of the site at ShopStop at Clapham Junction, 1-20 St John’s Hill, Battersea, London, SW11 1RU (‘the Site’).

We refer to the client as ‘DTZIM’ / ‘the Client’ in the remainder of this letter. Representations were made on behalf of the Client in respect of the consultation exercise on the draft Regulation 18 Local Plan in March 2021. We attach a copy of these representations at **Appendix 1** for reference.

These representations are submitted on behalf of the Client in respect of the current consultation exercise on the Local Plan Publication (Regulation 19) Version as they wish to maintain their position as an interested stakeholder in the redevelopment of Clapham Junction.

BACKGROUND AND CONTEXT TO THESE REPRESENTATIONS

These representations relate to the Site which is located in Clapham Junction Town Centre but also consider more broadly the future of the wider Clapham Junction Town centre area.

The Client’s involvement in the Site dates back to November 2018, when the Client purchased the Site on behalf of Strathclyde Pension Fund. A red line site plan is enclosed at Appendix 1 illustrating the extent of the Client’s ownership. A five storey office building occupied by the PCS Union (‘the PCS Building’) is adjacent to the eastern boundary of the Site but sits outside of the Client’s ownership.

The Site as existing comprises of part two, part three, part four storey buildings, providing retail, leisure, and office accommodation. The retail accommodation is split into 19 units, a number of which front on to St John’s Hill. The remainder are accessed via the main shopping centre and retail entrances from St John’s Hill. A gym is provided at first floor level with a separate access from the junction of St John’s Hill and Prested Road. The office accommodation sits above the retail area, and is arranged over three floors. The Junction Public House is located within the western boundary of the Site.

The existing commercial accommodation on the Site benefits from high occupancy rates. The main shopping centre trades well, as a result of high pedestrian footfalls generated by those walking through the shopping centre to and from Clapham Junction Rail Station. However, the poor and outdated design of the commercial accommodation means that it no longer meets contemporary retail requirements or serves the community need expected of such a prominent site within the town centre.

The Site also comprises the main entrance and ticket office of Clapham Junction Station, which is owned by Network Rail and is accessed through the shopping centre from St. John's Hill. This entrance gives direct access to the pedestrian tunnel which runs beneath the platforms. Clapham Junction Station constitutes a major transport hub on the Wessex Route of the national rail network and, with approximately 2,000 train movements a day, is the busiest interchange station in Europe.

Prior to the onset of the COVID-19 pandemic, the station suffered from congestion and overcrowding, exacerbated by the doubling of passenger numbers in the last 10 years. There is a clear incentive to redevelop the Site, to bring forward much needed improvements to the station to address pedestrian capacity issues alongside other key benefits including the provision of high-quality public realm, active retail frontages and a building of civic quality befitting of its location as gateway to the largest rail station in the Borough.

Since October 2019, a series of meetings have been held between the Client team (managed by the Development Manager, Sovereign Centros) and Network Rail to ensure that any future development on the Site does not prejudice Network Rail's long-term plans to deliver improvements to the station.

We have reviewed the relevant sections of the draft Regulation 19 Local Plan and set out our position on the sections below.

AREA STRATEGY FOR CLAPHAM JUNCTION AND YORK ROAD / WINSTANLEY REGENERATION AREA

The Publication Draft Local Plan defines the boundary of the Clapham Junction Opportunity Area ('OA') to identify the areas with the greatest potential of change over the plan period. Our Client supports the inclusion of the Site within the OA boundary, and the recognition of the potential to deliver new homes and jobs in the earlier phases.

EMERGING POLICY PM4: CLAPHAM JUNCTION AND YORK ROAD/WINSTANLEY REGENERATION AREA

Emerging Policy PM4 provides guidance on how sustainable development will be delivered within the Clapham Junction and York/Winstanley Regeneration Area with a focus on Place-making, Smart Growth and People First.

Part A. 3 of the emerging Policy PM4 explains that the Council will work in collaboration with Network Rail, TfL, the local community and other stakeholders to prepare the Urban Heart Masterplan for Clapham Junction, comprising Clapham Junction Station and adjoining Site Allocations to improve its role as a major rail and public transport interchange, and unlock capacity for new homes and jobs and to better integrate it with the wider Town Centre and the York Road/Winstanley Regeneration Area.

The Site acts as a gateway to the largest rail station in the Borough and occupies a prominent position within Clapham Junction Town Centre, and therefore on behalf of our Client we welcome the inclusion of the Site within the proposed Urban Heart masterplan boundary to help unlock capacity for growth. Our Client has already undertaken regular engagement with Network Rail and other key stakeholders since 2019 and is keen to continue to take a collaborative approach to help facilitate the preparation of the masterplan.

Part A, Point 9 of emerging Policy PM4 states that:

*“Development must be sensitive to local character by maintaining and respecting the proportions, scale and coherence of existing terraced streets, shop frontages and listed buildings and their settings.” **(our emphasis added).**”*

On behalf of our Client, we are of the view that this proposed policy wording has the potential to overly constrain new development which should instead be encouraged to seek to optimise the use of previously developed land and find sensitive ways to respond to existing character. We therefore suggest that this part of Policy PM4 is re-worded. Our additional wording is set out in red below:

*“Development must be sensitive to local character by ~~maintaining~~ **having regard to** and ~~respecting~~ **being respectful** of the proportions, scale and coherence of existing terraced streets, shop frontages and listed buildings and their settings.”*

Part B of Policy PM4 (Clapham Junction and York Road / Winstanley Regeneration Area) relates to inclusive growth and outlines that development within Clapham Junction and York Road/Winstanley Regeneration Area has capacity to provide 2,995 homes by 2032/2033, over the first 10 years of the Plan period. In line with the growth objective of the Clapham Junction OA, we are of the view that these figures should be stated as a minimum which the Council should seek to exceed in order to ensure that housing growth is accommodated in areas with the greatest public transport connectivity and capacity in the Borough. Our Client also seeks clarification to be provided within the policy wording as to whether the 2,995 figure will exclude the up to 2,550 homes to be delivered as part of the approved masterplan for the Winstanley and York Road regeneration (ref. 2019/0024).

SITE ALLOCATION CJ2 (CLAPHAM JUNCTION STATION APPROACH, SW11)

The Site is allocated within the ‘Publication’ Draft Local Plan under emerging site allocation CJ2 (Clapham Junction Station Approach, SW11). Our Client continues to support the allocation including our Client’s site and the PCS Building, which sits outside of the Client’s ownership, and welcomes the revision to the site allocation boundary to incorporate the Junction Public House.

EMERGING POLICY LP16: PUBLIC HOUSES AND BARS

Emerging Policy LP16 resists the loss of public houses and bars and seeks to protect public houses and bars of historic or architectural interest and/or community value from demolition and/or change of use.

It is stated at Part B of the Policy that:

B. Proposals involving the loss of public houses and bars must demonstrate that:

- 1. no historic or architectural interest would be lost; and*
- 2. the public house/bar has no community value and is not viable as a pub/bar or that it could not be used for another social or community use by requiring a full and proper marketing exercise for a period of at least 24 months in line with the requirements set out at Appendix 1 of this Plan.*

Though our Client concurs with the current thrust of emerging Policy LP16 in that the absolute loss of pubs across the Borough would be unacceptable, we would propose that the policy is amended to allow for re-provision of new high-quality

replacement public houses within major regeneration sites where wider regeneration benefits can be demonstrated. In light of this, we would suggest that additional Part C within Policy LP16 as follows:

“C. Where public houses fall within major regeneration sites allocated for comprehensive redevelopment within the Local Plan, the loss of public houses may be considered acceptable provided that the public house use is re-provided as part of any new scheme.”

EMERGING POLICY LP4: TALL BUILDINGS AND THE COUNCIL’S URBAN DESIGN STUDY

Approach to Tall Buildings

Part of the Site is identified within Appendix 2 of the draft Publication Local Plan as falling within Tall Building Zone TB-B5-01, where the existing prevailing height is defined as 2-8 storeys, and appropriate heights for development defined as 7-15 storeys (21-45m).

Part D of emerging Policy LP4 states that:

“Proposals for tall buildings should not exceed the appropriate height range identified for each of the tall building zones as set out at Appendix 2 to this Plan. The height of tall buildings will be required to step down towards the edges of the zone as indicated on the relevant tall building map unless it can be clearly demonstrated that this would not result in any adverse impacts including on the character and appearance of the local area.”

On behalf of our Client, we are of the view that this wording provides an overly prescriptive approach to the consideration of tall buildings. Applying such constraints in those areas of the borough identified for substantial growth over the plan period and beyond is likely to be harmful to meeting the Plan’s proposed objectives in particularly those of the opportunity area designations. This is because it fails to recognise that to achieve the desired growth envisaged by the Plan and meet housing targets, it will be necessary to permit buildings which are taller than their existing context. The location of the greatest density within the Borough should take into account both social and economic reasons alongside design considerations.

We note that over recent years permissions have been granted for substantially taller buildings in many parts of the borough including Battersea/Nine Elms, Wandsworth Town Centre and Lombard Road which exceed the maximum height permitted within any proposed tall building zone. It follows that further tall buildings in excess of 25 storeys in the borough are likely to be appropriate and this should be acknowledged and the potential growth directed to those locations where it will assist in achieving the Plan’s wider objectives.

In granting these consents, judgments were made as to the acceptability of tall buildings and high-density development based upon a range of factors, not just townscape considerations as suggested by the draft policy. Therefore, in our view, emerging Policy LP4 needs to provide positive guidance to landowners and developers on how other factors beyond just pre-existing townscape context will help to inform the acceptable massing of schemes in the areas where the greatest growth is expected and the role that masterplans can have in this consideration.

The plan includes some acknowledgment at supporting Para 14.26 of the Publication Local Plan where it states that *“height is not the only one consideration when assessing the acceptability of a planning application and whether it is of high-quality design and makes a positive contribution within its context”*. However, on behalf of our Client we suggest a revised policy wording which makes explicit reference to the relevant other factors to the consideration of tall buildings including ensuring that developments can viably deliver the identified public benefits that the draft plan seeks.

The revised policy wording should acknowledge the significant role of masterplans in establishing appropriate massing on relevant sites defined by the Council, particularly those in growth areas such as OAs. The limitations of relying solely on the Council's Urban Design Study to make a judgement on appropriate heights within the Borough should be stated within the Policy.

Approach to Mid-rise Buildings

Part of the Site fronting St John's Road is located within 'Mid-rise Building Zone MB-B5-02', with appropriate heights for development defined as 6 storeys (18m). Part H. of Emerging Policy LP4 states that: *"Proposals for mid-rise buildings should not exceed the appropriate height identified within the relevant mid-rise building zones as identified at Appendix 2 of this Plan."*

On behalf of our Client, we re-iterate the comments made in relation to the approach to tall buildings above, in that the emerging policy should make explicit reference to the planning balance for a sounder approach to the acceptability of mid-rise buildings.

Emerging Policy LP4 goes on to state that:

"F. Proposals for mid-rise buildings will be supported in tall and mid-rise building zones identified at Appendix 2, where the development would:

- 1. be located and designed in order to create a step down between the proposed development and buildings within the surrounding area;*
- 2. respond appropriately in height, scale and massing to existing buildings in the surrounding area, and protect or enhance heritage assets, including their settings;*
- 3. respect the scale, width and proportion of adjacent buildings, streets and watercourses, and local character, and avoid adverse effects on key characteristics, valued features and sensitivities as identified in the relevant character area profile set out in the Council's Urban Design Study (2021); and*
- 4. provide a varied and interesting roofline, respond to surrounding architectural styles, avoid the creation of long homogeneous blocks of development and create active frontages at ground floor level.*

G. Proposals for mid-rise buildings will not be permitted outside the identified tall and mid-rise building zones."

On behalf of our Client, we note that emerging Policy LP4 has become more restrictive since the 'Pre-Publication' (Regulation 18) version of the Plan was published. Our client considers that this new addition to the tall building controls should again include recognition especially in relation to Part H that there will be some sites where a more flexible approach will be required to ensure that appropriate development that achieves the wider objectives of the plan can be supported.

SUMMARY

These representations are submitted on behalf of DTZIM in respect of ShopStop at Clapham Junction, 1-20 St John's Hill, Battersea, London, SW11 1RU which is located in Clapham Junction Town Centre ('the Site'). DTZIM are currently exploring options to redevelop the Site.

DTZIM have requested that we make representations on the 'Publication' Draft Local Plan to assist with assessing the development potential of the Site and to ensure its development is consistent with the vision and objectives of the Area Spatial Strategy for Clapham Junction and the growth envisaged by the Opportunity Area.

On behalf of our Client, we welcome the greater recognition of the OA designation within the Publication Draft Plan and support the Site's inclusion within the defined OA boundary. Our Client also welcomes the emphasis within the Plan of the master-planning exercise in setting out a clear strategy for accommodating the growth envisaged by the OA designation. DTZIM are keen to continue to work collaboratively with Network Rail and other key stakeholders to facilitate the master-planning process and support the inclusion of the Site within the Urban Heart Masterplan boundary.

However, the principle points in respect of these representations are in respect of the approach to tall buildings which our Client notes has become more restrictive following the Regulation 18 consultation. As outlined in our previous representations, the Plan should make clear that it seeks a planning balance that examines the potential for townscape harm set beside other significant benefits that a development might offer, and also take into account the visions for areas and key planning objectives and direct development where it will assist in delivering these objectives.

The Plan should provide sensible criteria to assess the acceptability of tall buildings, and acknowledge the significant role of masterplans in establishing appropriate massing on relevant sites defined by the Council if the growth envisaged by the Plan and OA designations is to be achieved.

We welcome the opportunity to discuss the content of these representations further with the London Borough of Wandsworth and are keen to be involved in the forthcoming examination process. In the meantime, should you wish to discuss any of the above please do not hesitate to contact either Jeremy Evershed (jeremy.evershed@montaguevans.co.uk / 07818 012 549) or Emily Disken (emily.disken@montagu-evans.co.uk / 07818 012 424) in the first instance.

Yours sincerely,



MONTAGU EVANS LLP

APPENDIX 1 –

REPRESENTATIONS TO REGULATION 18 CONSULTATION

PD12679/JE/ED

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1 March 2021

Planning Policy
Environment and Community Services
Town Hall
Wandsworth High Street
London
SW18 2PU*Sent via email to planningpolicy@wandsworth.gov.uk*

Dear Sir / Madam,

‘PRE-PUBLICATION’ DRAFT LOCAL PLAN (REGULATION 18) CONSULTATION**REPRESENTATIONS IN RESPECT OF SHOPSTOP AT CLAPHAM JUNCTION, 1-20 ST JOHN’S HILL, BATTERSEA, LONDON, SW11 1RU**

These representations are submitted by Montagu Evans LLP on behalf of our client, DTZ Investment Management Limited in respect of the site at ShopStop at Clapham Junction, 1-20 St John’s Hill, Battersea, London, SW11 1RU (‘the Site’).

We refer to the client as ‘DTZIM’ / ‘the Client’ in the remainder of this letter. The representations are submitted on behalf the Client in respect of the current consultation exercise on the ‘Pre-Publication’ Draft Local Plan as they wish to maintain their position as an interested stakeholder in the redevelopment of Clapham Junction.

BACKGROUND AND CONTEXT TO THESE REPRESENTATIONS

These representations relate to ShopStop at Clapham Junction, 1-20 St John’s Hill, Battersea, London, SW11 1RU which is located in Clapham Junction Town Centre but also consider more broadly the future of the wider Clapham Junction Town centre area.

The Client’s involvement in the Site dates back to November 2018, when the Client purchased the Site on behalf of Strathclyde Pension Fund. A red line site plan is enclosed at Appendix 1 illustrating the extent of the Client’s ownership. A five storey office building occupied by the PCS Union (‘the PCS Building’) is adjacent to the eastern boundary of the Site but sits outside of the Client’s ownership.

The Site comprises of part two, part three, part four storey buildings, providing retail, leisure, and office accommodation. The retail accommodation is split into 19 units, a number of which front on to St John’s Hill. The remainder are accessed via the main shopping centre and retail entrances from St John’s Hill. A gym is provided at first floor level with a separate access from the junction of St John’s Hill and Prested Road. The office accommodation sits above the retail area, and is arranged over three floors.

The existing commercial accommodation on the Site benefits from high occupancy rates. The main shopping centre trades well, as a result of high pedestrian footfalls generated by those walking through the shopping centre to and from Clapham

Junction Rail Station. However, the poor and outdated design of the commercial accommodation means that it no longer meets contemporary retail requirements or serves the community need expected of such a prominent site within the town centre.

The Site also comprises the main entrance and ticket office of Clapham Junction Station, which is owned by Network Rail and is accessed through the shopping centre from St. John's Hill. This entrance gives direct access to the pedestrian tunnel which runs beneath the platforms. Clapham Junction Station constitutes a major transport hub on the Wessex Route of the national rail network and, with approximately 2,000 train movements a day, is the busiest interchange station in Europe.

Prior to the onset of the COVID-19 pandemic, the station suffered from congestion and overcrowding, exacerbated by the doubling of passenger numbers in the last 10 years. There is a clear incentive to redevelop the Site, to bring forward much needed improvements to the station to address pedestrian capacity issues alongside other key benefits including the provision of high-quality public realm, active retail frontages and a building of civic quality befitting of its location as gateway to the largest rail station in the Borough.

Since October 2019, a series of meetings have been held between the Client team (managed by the Development Manager, Sovereign Centros) and Network Rail to ensure that any future development on the Site does not prejudice Network Rail's long-term plans to deliver improvements to the station. The Client team intends to continue working collaboratively with Network Rail, with the view of submitting a planning application for the redevelopment of the Site next summer.

On behalf of our Client we wish to fully understand the intentions of the Regulation 18 'Pre-Publication' Version Draft Local Plan and to ensure the Site is appropriately represented in LBW's Development Plan going forward. Accordingly we have reviewed the content of the 'Pre-Publication' Version Draft Local Plan and our assessment of the emerging policies applicable to the Site is set out in the sections below.

AREA SPATIAL STRATEGY FOR CLAPHAM JUNCTION

The 'Pre-Publication' Draft Local Plan contains spatial strategies for the areas of greatest change within the Borough, which provide a framework for how new development in these areas should be designed and planned for in order to meet the vision and objectives of the Local Plan.

Whilst our Client is generally supportive of the Vision for Clapham Junction, which includes the delivery of 21st century urban heart and providing inclusive and connected public realm, our Client considers that the Vision should be widened to include greater aspiration for the soon-to-be designated Opportunity Area ('OA') under the new London Plan. Table 2.1 of the Publication London Plan identifies an indicative capacity for 2,500 new homes and 2,500 new jobs the Clapham Junction OA over the plan period.

Our Client notes that Policy SD1 of the Publication London Plan requires that Boroughs clearly set out how they will encourage and deliver the growth potential of OAs, and support development which creates employment opportunities and housing choice for Londoners. Therefore, the Council must consider their plan making duties in the round and develop a clear vision for where growth is to be directed. The current wording of the 'Pre-publication' draft Local Plan fails to acknowledge this potential for growth which represents a missed opportunity to proactively plan to realise the Mayor's vision for an ambitious, imaginative and inclusive approach to development in OAs.

In light of this, our Client suggests that supporting paragraph 6.1 of the Area Spatial Strategy for Clapham Junction is re-worded, with additional wording set out in red below:

*“6.1 ...The Clapham Junction and York Road/Winstanley Regeneration Area is identified in the ~~emerging~~ **[adopted]** London Plan as a nascent Opportunity Area reflecting the significant growth opportunities offered by ~~the Crossrail 2 project and/or~~ the potential for upgrading the existing station at Clapham Junction. ~~Whilst at this time a master planning exercise for the area is considered premature, the~~ **The Area Strategy ~~would~~ will** be used to inform any future masterplan **which will set out a clear strategy for accommodating growth to deliver the new homes, jobs and infrastructure envisaged by the Opportunity Area designation.** ~~or development proposals that come forward in the near term.”~~ **This will be informed by a programme of engagement and collaboration with key stakeholders to unlock sites and drive the right sort of development to deliver housing choice, employment opportunities and the necessary social and other infrastructure.”***

The proposed amended wording to supporting paragraph 6.1 outlined above recognises the benefits of a master-planning exercise early in the plan-making process to set out a clear strategy for accommodating the growth envisaged by the OA designation. Although the Publication London Plan acknowledges that it may take some of the ‘nascent’ or ‘ready to grow’ Opportunity Areas 10-15 years to fully mature, the new Local Plan is set to guide development in the Borough over the plan period of 2023 – 2038 and therefore a master-planning exercise at this early stage will have clear benefits for guiding development throughout the plan period.

EMERGING ALLOCATION: CJ2 CLAPHAM JUNCTION STATION APPROACH, SW11

The Site is allocated within the ‘Pre-Publication’ Draft Local Plan under emerging site allocation CJ2 (Clapham Junction Station Approach, SW11). Our Client continues to support the allocation including our Client’s site and the PCS Building, which sits outside of the Client’s ownership.

Emerging site allocation CJ2 promotes a mixed use development including residential and offices, and also business, hotel, cultural, leisure and entertainment. DTZIM are supportive of the uses considered appropriate as set out within the site allocation. Our Client is producing a Vision document which will articulate the vision and key aims of any future redevelopment including the following:

- developing a 21st century urban heart which focuses on an improved transport interchange and delivers a high-quality mixed-use development;
- creating a generosity of public space that provides a sense of place and identity for those using the station;
- creating permeability and legibility between the site and the wider town centre and improved station access based on pedestrian desire lines;
- enhancing the retail offer allowing for the station to become a welcome location for meeting friends or holding business meetings;
- ensuring that any proposals form part of the vision for the ongoing regeneration of the wider area;
- enhancing the area’s cultural and creative character by ensuring that development makes provision for cultural, creative, visual and performing arts and other forms of community innovation; and
- providing both for additional housing but also increased workspace.

Our Client is keen to ensure that the vision for the redevelopment of the Site is consistent with the objectives of the Area Spatial Strategy for Clapham Junction and emerging site allocation CJ2 (Clapham Junction Station Approach, SW11).

Our Client supports the identification of the potential of the Site to deliver new jobs and homes in the early phases of the London Plan. It is considered that this would contribute to the delivery of much-needed homes and jobs and transform the experience of those who use Clapham Junction Rail Station in the short-to-medium term. Given the current issues with the configuration of the station access and lack of permeability through the Site from the rest of Clapham Junction Town Centre, it is considered that the delivery of a scheme within the early stages of the Plan should be incorporated into any master-planning exercise commissioned by the Council.

As outlined above, collaborative work has already been undertaken with Network Rail to ensure that this does not prejudice any future development of the main Clapham Junction site and it is our Client's intention to continue this engagement as the Client team work towards commencing the preparation and submission of a planning application for the redevelopment of the Site.

PUBLIC SPACE AND PERMEABILITY

Emerging site allocation CJ2 seeks the delivery of a new public space that acts as meeting space to be considered as part of any development proposal, preferably in conjunction with the main entrance to the station. The emerging site allocation also stipulates that any future proposals should include a considered, landscape-led public realm, and integrate with the town centre. This is reflected in the Clapham Junction and York Road/Winstanley Regeneration area diagrams provided at pg.199 and pg. 200 of the Pre-Publication Draft Local Plan which include suggested locations for new public open spaces and suggested/proposed new routes through the Site.

The provision of new public space on the Site should be well-considered, sufficient to be enjoyed by the public and those who use the station and should not comprise a series of token spaces purely to satisfy policy. Our Client would suggest that the public space to be provided is focused on the centre of the Site, as this would deliver the most benefits of those using the station. As a result of this, the smaller circle which currently shows the provision of new public open space within the western part of the Site could be omitted, and replaced with a suggested / proposed new route to indicate permeability between St John's Hill and the main public realm at the core of the Site. The constrained nature of the Site needs to be recognised when considering opportunities for the provision of public space which will need to be balanced against the other objectives of the emerging site allocation CJ2.

Any suggested / proposed new routes through the Site should have regard to pedestrian desire lines from the station to the rest of the town centre and Lavender Hill. Our Client supports the consideration of this through the development of a masterplan, which should be informed by an understanding of the urban grain of Clapham Junction Town Centre, and undertaken in consultation with Network Rail.

EMERGING POLICY LP4: TALL BUILDINGS AND THE COUNCIL'S URBAN DESIGN STUDY

The principle points within these representations are in respect of the approach to tall buildings which we note will be further informed by the outcomes of the Regulation 18 consultation, as set out at paragraph 14.47 of the 'Pre-Publication' Draft Local Plan.

Emerging Policy LP4 relates to Tall Buildings in the Borough. Part A of the Policy states that proposals will trigger assessment against the detailed criteria in this policy where they meet or exceed the local definitions of tall buildings as set out in Appendix 2 [Table 1] of the 'Pre-Publication' Draft Local Plan.

The Site is identified within Appendix 2 of the 'Pre-Publication' Draft Local Plan as being located within an area with 'opportunities for tall buildings within town centres and along strategic routes'. Whilst our Client supports the identification of the Site as being located within an area identified as having opportunities for tall buildings, it is proposed that Clapham Junction Town Centre is identified as an area with 'Opportunities for tall building clusters and/or landmarks' and that Appendix 2 is amended accordingly.

The Site is located at a historic junction and convergence of routes, where a landmark building would aid wayfinding and mark Clapham Junction Town Centre. Paragraph 14.48 of the 'Pre-Publication' Draft Local Plan defines what is considered to be a 'landmark' building as:

"...a building or structure that stands out from its background by virtue of height, size or some other aspect of design. Landmark buildings, in townscape terms effectively act as a pointer to guide people around the borough and makes a significant contribution to local distinctiveness."

The characteristics of the Site, as noted, are consistent with the qualities identified by the Council in relation to sites where landmark buildings may be appropriate; it marks the convergence of major routes within the designated Clapham Junction Town Centre, at the Clapham Junction Interchange, and at a point of prominence in the topographical and urban structure of the area. As Europe's busiest interchange station, the potential of Clapham Junction to evolve and grow should be recognised, a view which is shared by the Mayor given its Opportunity Area designation. Our Client also notes that Wandsworth Town Centre includes in part an area identified with 'Opportunities for tall building clusters and/or landmarks', and believes that Clapham Junction warrants this, particularly given its higher transport accessibility rating.

With regard to the criteria set out within the 'Pre-Publication' Draft Local Plan, the Site is located within Sub-Area B5, where the local definition of a tall building is considered as 6 storeys or above, which is based upon *prevailing* heights in the surrounding area (*our emphasis*). Paragraph 3.9.3 of the [adopted] London Plan states that "*in large areas of extensive change, such as Opportunity Areas, the threshold for what constitutes a tall building should relate to the evolving (not just the existing) context.*" In light of this, Appendix 2 and emerging Policy LP4 should have greater regard to locations within the Borough with the potential to accommodate significant growth in the plan period and tall building definitions revised as appropriate.

Part B of emerging Policy LP4 sets out that proposals for tall buildings may be considered appropriate where the development would not result in any adverse visual, functional, environmental and cumulative impacts, having regard to and complying with the criteria set out in Parts C and D of the [adopted] London Plan Policy D9. This part of the policy also provides a series of criteria which any proposals for tall buildings should address. We have reviewed the wording of this part of the policy and provide suggested amended wording in red below:

B. Proposals for tall buildings may be appropriate in locations identified in Appendix 2 [Figures 2-10] as being 'Opportunities for tall building clusters and/or landmarks' and 'Opportunities for tall buildings within town centres and along strategic routes', where the development would not result in ~~any adverse~~ unacceptable visual, functional, environmental and cumulative impacts, having regard to and complying with the criteria set out in Parts C and D of the emerging London Plan Policy D9. In addition, proposals for tall buildings should address the following criteria:

Visual Impacts

1. The design of tall buildings should respect the special qualities or characteristics of identified key view corridors towards strategic landmarks across the borough and in neighbouring boroughs, including distinctive roof line

features. *The siting of tall buildings should have regard to the location and visual setting of heritage assets, including any important views and Tall buildings should not obscure important views of nearby heritage assets, and should avoid altering the skyline by becoming features of the backdrop. Effects on heritage assets (including through development in their setting) will be assessed under policy LP3.*

~~2. The location of tall buildings should avoid substantial visual interruptions in areas with otherwise very consistent building and/or roof lines.~~

3. In case of landmark tall buildings, the development should successfully respond to the analysis of key view corridors towards the site to ensure the location, form and detailing accentuate its prominence within the wider context. In case of other tall buildings, the development should respect the surrounding context and preserve the hierarchy of existing prominent view corridors.

4. In case of landmark tall buildings, proposals should consider the design of the lower, middle and upper parts of the tall building and how they work together and with the surrounding area and mid-range and long-range views.

5. Proposals should be supported with graphic 3D modelling to assess the individual and cumulative impact of the proposal on both the existing and emerging skyline. The 3D modelling must also incorporate buildings with extant planning permission to ensure that the future nature of views is considered in a holistic way.

6. In case of tall buildings located near to or within existing tall building clusters, the proposal should follow the established principles of group composition including through the provision of noticeable stepping down in height around cluster edges.

Spatial Hierarchy

7. The massing of tall buildings should respect the proportions ~~to~~ *of* their local environment, including the consideration of the width of adjacent streets as well as public open spaces, parks and watercourses, and should be designed so as not overwhelm the street and adjacent context.

8. In case of landmark buildings, the design and location of development should consider their role in wayfinding, such as, acting as landmarks or gateway features marking town centres or local centres.

9. In case of tall buildings located close to the street edge, proposals should incorporate measures to soften their edges and provide positive public spaces at their base through the use of generous walkways and mature planting.”

It is suggested that Part B (2) of emerging Policy LP4 is struck out as the current wording makes no allowance for emerging character and is inherently in conflict with the identification of the Opportunity Area.

We also consider that Part E of emerging Policy LP4 should be amended. Our suggested text is provided in red below:

“E. Proposals for tall buildings should be guided by the height identified in the Council’s Urban Design Study. give consideration to the evolving townscape context, visual impact and the findings of the Urban Design Study alongside consideration of viability, regeneration potential of the area, capacity of the area to accommodate development and public transport accessibility, and any relevant planning policy designations (such as

Opportunity Areas) for future growth. With regard to each of these considerations, proposals for tall building will be considered on a case-by-case basis and a balanced planning judgement made in respect of proposals.”

The current wording of Part E of emerging Policy LP4 places too much reliance on the Urban Design Study (‘UDS’) prepared by Arup, a document which provides high level guidance with regards to the design and siting of tall buildings in the Borough, and forms part of the emerging Local Plan evidence base. To our knowledge, there has been no engagement with key stakeholders or potential tall building developers during the preparation of this study, and to give it such weight in the emerging policy without meaningful engagement goes against the approach advocated within both the National Planning Policy Framework and London Plan.

Our Client considers that the UDS is not sufficient in itself to guide heights and densities within the Borough as it is limited to a consideration of design and siting of tall buildings based upon a consideration of the existing character of the local character areas identified within the document. This is acknowledged to some extent at Appendix A (pg. 206) of the UDS where it is stated that *“the scenarios developed are prepared solely for the purpose of testing additional height and density at a site and are not intended to be viable site specific masterplan proposals.”* The deliverability of sites allocated within the plan is critical in order for the Council to meet their housing and employment targets. For policy to rely, to the extent that it does, on a study that does not reflect the deliverability of sites is not in our view a sound approach and we would therefore propose that the UDS is attributed considerably less weight in the wording of Policy LP4.

Appendix A (pg.206) of the UDS goes on to state that *“in all cases, further analysis will be required to determine actual proposals for individual sites on the basis of detailed review and analysis of the specific local context which is not part of the scope of this borough-wide study.”* It is appropriate that this statement of need for further analysis is reflected in the provisions of Part E of emerging Policy LP4.

The indicative massing model for Clapham Junction Station Approach presents a ‘medium density’ scenario with building heights ranging between 6 and 15 storeys as ‘appropriate in principle’ in the context of Clapham Junction Conservation Area and landmark buildings’ (p.221). By ‘landmark buildings’ we understand the UDS to refer to the listed Falcon Hotel Public House, the Arding and Hobbs store, and the Clapham Grand. However, the redevelopment of the Site, even at a lesser scale than that shown in the UDS, would occlude the *‘unfolding view of Clapham Junction from the railway from Waterloo, with the view of the towers in the Clapham Grand signalling arrival at the station’* - identified as an important view at p.82 of the UDS and which draft Policy PM4 seeks to protect.

In our Client’s view, therefore, Part E of emerging Policy LP4 places undue reliance on the UDS and in so doing inherently conflicts with the requirements of draft Policy PM4. We have commented particularly on the views in question in our specific commentary on draft Policy PM4 below.

The Plan needs to be clear that judgments as to the acceptability of tall buildings and high density development will depend on a range of factors, not just townscape considerations.

Our Client would also note that this massing model as shown does not take into account the practicalities of access to Clapham Junction Rail Station or permeability through the site and integration with the town centre, both of which are key considerations to which any future development must have regard under emerging site allocation CJ2 (Clapham Junction Station Approach). Emerging site allocation CJ2 also seeks the delivery of a high quality civic building, improvements to the tunnel under Falcon Road, development of a high-quality landscape led public realm and re-provision of existing office space including affordable workspace, amongst other requirements. The existing commercial accommodation current trades well, and the practicality is that if the emerging policy is not sufficiently supportive of a need for a viable, deliverable

scheme then the other significant planning benefits sought by site allocation CJ2 (Clapham Station Approach) will not be realised.

The policy must make clear that it seeks a planning balance that examines the potential for townscape harm set beside other significant benefits that a development might offer, and also take into account the visions for areas and key planning objectives and direct development where it will assist in delivering these objectives. The location of the greatest density within the Borough should take into account both social and economic reasons alongside design considerations.

On the above basis, Part E of Policy LP4 should be struck out and replaced with wording along the lines of that suggested above that recognises that an assessment of a range of site-specific factors (not simply townscape considerations) are needed to be considered as part of the planning balance in order to justify a tall building.

EMERGING POLICY PM4: CLAPHAM JUNCTION AND YORK ROAD/WINSTANLEY REGENERATION AREA

Emerging Policy PM4 provides guidance on how sustainable development will be delivered within the Clapham Junction and York/Winstanley Regeneration Area with a focus on Place-making, Smart Growth and People First.

We suggest that the relevant parts of Policy PM4 are re-worded. Our additional wording is set out in red below:

A. Clapham Junction, a nascent Opportunity Area, has the potential to promote and encourage sustainable development. Development, at identified growth locations, will be supported where:

- 1. mixed use is proposed with an emphasis on residential, commercial development and town centre uses;*
- 2. height and massing are appropriate and conform to the approach for tall buildings; [See suggested wording above in relation to tall building approach].*
- 3. active travel is promoted and challenges for broader connectivity are addressed that help improve safety and make routes direct and attractive to Clapham Junction;*
- 4. public transport interchange is facilitated and promoted;*
- 5. heritage and landmark buildings are incorporated into development proposals to enhance their contribution to place identity;*
- 6. views and vistas, established in the Urban Design Study (2020), are respected ~~and~~ or enhanced;*
- 7. public realm and open space provision, accessible to all, complements the hierarchy within the Area Strategy;*
- 8. high quality green features will be incorporated into new developments to help connected green and blue infrastructure throughout the borough; and*
- 9. infrastructure can take advantage of district heating, sustainable urban drainage and digital connectivity.*

K. New development will be expected to ~~protect~~ conserve or enhance the defining qualities / special characteristics of important views and vistas in the area as identified in the Urban Design Study, including comprising:

- 1. vistas across mature open green spaces;*

2. ~~including the unfolding~~ **the experience of arrival at Clapham Junction** ~~view of Clapham Junction from the railway from Waterloo,~~ with the view of the towers in the Clapham Grand signalling arrival **at the town centre from** ~~at the station;~~

2. north along Northcote Road to the Northcote Road Baptist Church;

3. from the railway bridge in St John's Hill to the buildings stepping up Lavender Hill indicating the valley of Falcon Brook;

4. to the landmark St Mark's Church (within Wandsworth Common character area) from Battersea Rise looking west, and from the railway; and

5. from the overbridge at Clapham Junction station towards central London landmarks including Battersea Power Station, the London Eye and the Palace of Westminster World Heritage Site.

L. Development must be sensitive to local character, ~~by maintaining and respecting~~ **including** proportions, scale and coherence of terraced streets, shop frontages and their settings. Where possible, the Council will expect proposals to reinstate traditional shop fronts to achieve consistency in appearance with the setting of the town centre and the conservation area; particularly for St John's Road and Northcote Road.

Part K of the policy states that new development will be expected to protect important views and vistas in the area however we would expect the Plan to outline why these views are considered to be important. We note that the views are described as 'valued' at pg. 82 of the UDS but this document has not been consulted on, nor are photographs of the views provided. Our Client would request that further clarity is provided within the Plan to set out the defining characteristics of important views and vistas so that new development can have regard to these.

Part K of emerging policy PM4 should also acknowledge that visual amenity can be improved through development.

EMERGING POLICY LP3: THE HISTORIC ENVIRONMENT

The suggested amended wording for Part B (1) of emerging Policy LP4 outlined earlier in these representations relies upon an assessment of the effects of tall buildings on heritage assets under emerging Policy LP3 (The Historic Environment). This policy does not currently make reference to less than substantial harm in line with the National Planning Policy Framework.

Part E of emerging Policy LP3 currently refers to substantial harm but we would suggest that this is re-worded to state:

*"Development proposals involving **harm to** ~~substantial harm to (or total loss of significance of)~~ designated heritage assets **(including through development in their setting)** will be resisted unless it can be demonstrated that the ~~substantial~~ **harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss and has been clearly and convincingly demonstrated in accordance with national policy and guidance.**"*

SUMMARY

These representations are submitted on behalf of DTZIM in respect of ShopStop at Clapham Junction, 1-20 St John's Hill, Battersea, London, SW11 1RU which is located in Clapham Junction Town Centre ('the Site'). DTZIM are currently exploring options to redevelop the Site, with the intention of submitting a planning application next Summer.

DTZIM have requested that we make representations on the 'Pre-publication' Draft Local Plan to assist with assessing the development potential of the Site and to ensure its development is consistent with the vision and objectives of the Area Spatial Strategy for Clapham Junction and emerging site allocation CJ2 (Clapham Junction Station Approach).

The existing commercial accommodation on the Site currently trades well, however, there are clear benefits to be delivered as part of any redevelopment of the Site including the provision of vastly improved public realm, active retail frontages and a delivery of buildings of a high architectural quality befitting of the location as gateway to the largest rail station in the Borough, alongside much needed improvements to the station to address pedestrian capacity issues.

On behalf of DTZIM we are generally supportive of the vision and objectives of the Area Spatial Strategy for Clapham Junction and uses considered acceptable under emerging site allocation CJ2 (Clapham Junction Station Approach). However, it is felt that the 'Pre-publication' draft Local Plan fails to clearly set out how the growth potential of the soon to be designated Clapham Junction Opportunity Area will be encouraged and accommodated and that the Council must consider their plan making duties in the round and develop a clear vision for where growth is to be directed. A master-planning exercise for Clapham Junction Station area would be beneficial in this regard.

The principle points within these representations are in respect of the approach to tall buildings which we note will be further informed by the outcomes of the Regulation 18 consultation. The Plan needs to be clear that judgments as to the acceptability of tall buildings and high density development will depend on a range of factors, not just townscape considerations set out within the UDS. Whilst our Client supports the identification of the Site as being located within an area identified as having opportunities for tall buildings, it is proposed that Clapham Junction Town Centre is identified as an area with 'Opportunities for tall building clusters and/or landmarks'.

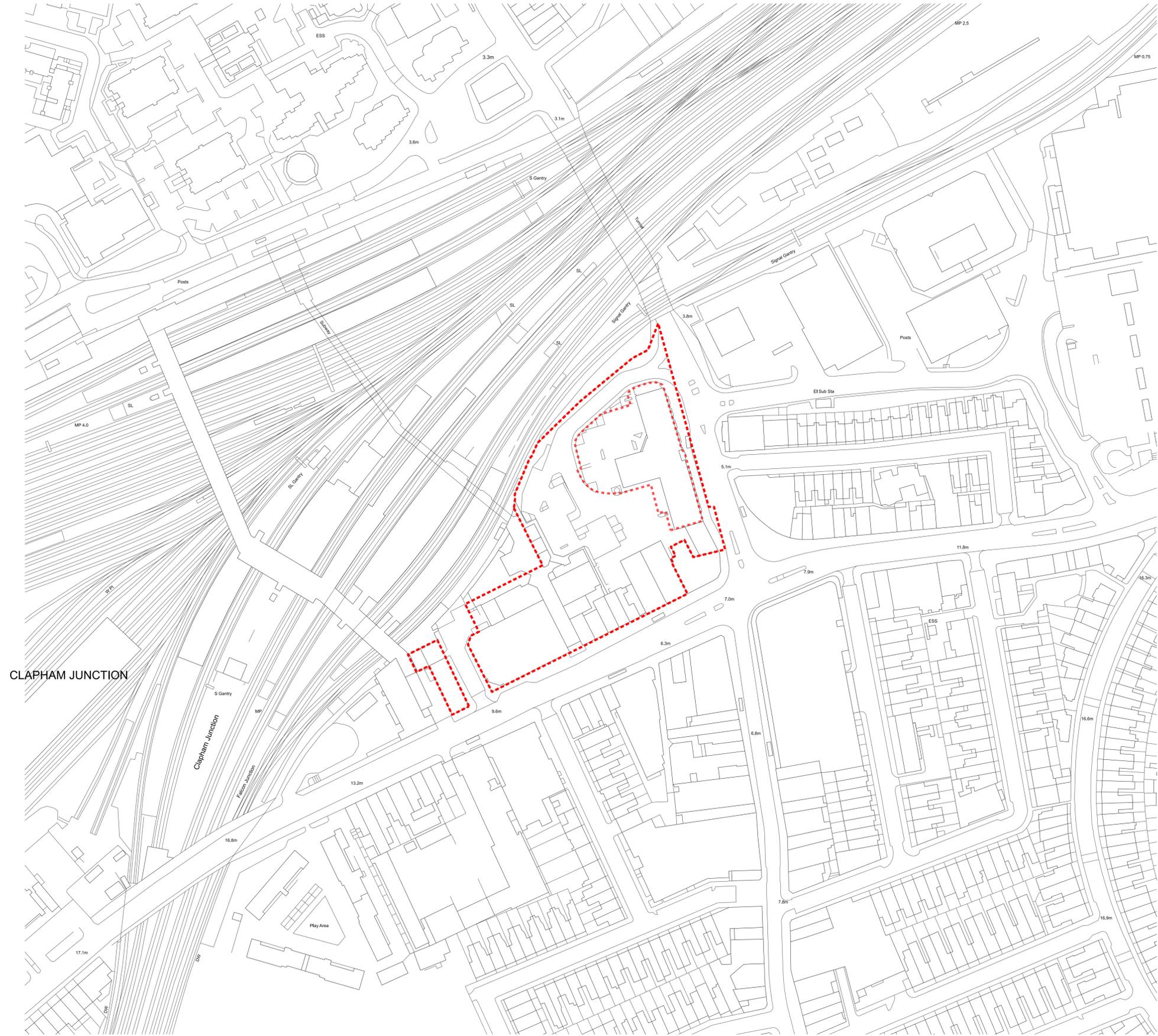
DTZIM intend to continue engaging with Network Rail and other key stakeholders to inform proposals for the redevelopment of the Site.

We welcome the opportunity to discuss the content of these representations further with the London Borough of Wandsworth and are keen to be involved in the forthcoming examination process. In the meantime, should you wish to discuss any of the above please do not hesitate to contact either Jeremy Evershed (jeremy.evershed@montagu-evans.co.uk / 07818 012 549) or Emily Disken (emily.disken@montagu-evans.co.uk / 07818 012 424) in the first instance.

Yours sincerely,

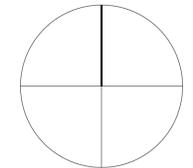
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CLAPHAM JUNCTION

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Clapham Junction London	CLJU-FCBS-XX-00-DR-A-00005 Site Boundary	01 10.02.2021
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Response to the London Borough of Wandsworth's proposed amendments to Draft Local Plan Policy LP4 – Tall Buildings.

December 2022

1. Introduction

- 1.1. On Wednesday 16th November, Matter 13 - Achieving High Quality Places (Policy LP1 - LP9) was discussed at the London Borough of Wandsworth (LBW) Draft Local Plan Examination.
- 1.2. Given the significance of Draft Policy LP4, LBW confirmed that the policy would be classified as strategic and would therefore be subject to the full weight of paragraph 35 of the NPPF which sets out the tests of soundness.
- 1.3. There was a very strong consensus amongst participants at the Hearing Session that Draft Policy LP4 (Tall and Mid-rise Buildings) is overly restrictive and curtails the development potential of available and deliverable sites, rendering many sites, including allocated sites relied upon to deliver the Draft Plan's housing target, unviable. This is particularly relevant as paragraph 11 of the NPPF requires strategic polices 'as a minimum' to provide for objectively assessed needs for housing and other uses. The Council's recent Statement of Common Ground with the Home Builders Federation (HBF) acknowledges a shortfall¹ in housing delivery against London Plan targets where actual completion data is available; and relies upon forecast completions nearly double historic rates to offset this deficit in the coming years. This existing housing deficit will increase if Draft Policy LP4 stymies the delivery of the Boroughs strategic sites.
- 1.4. The policy approach taken is also in conflict with pre-application advice provided by the Council in respect to specific planning application proposals where a range of planning judgements are required to bring sites forward for development.
- 1.5. There are two principal issues with Draft Policy LP4: (i) in seeking to prohibit tall buildings outside the tall building zone; and (ii) in setting absolute limits, or caps, for the heights of buildings in both tall building zones and mid-rise building zones.
- 1.6. In acknowledgement of the collective concern amongst participants at the Hearing Session, LBW agreed to consider how the wording of Draft Policy LP4 could be revised to embed a greater degree of flexibility.
- 1.7. LBW have now proposed the following amendments to parts C and G of Draft Policy LP4:
 - C. **The Council will seek to restrict** P proposals for tall buildings **will not be permitted** outside the identified tall building zones.

¹ 2019/20; 2020/21

G. **The Council will seek to restrict** P proposals for mid-rise buildings **will not be permitted** outside the identified tall and mid-rise building zones.

- 1.8. LBW has also proposed that throughout the ‘building heights’ paragraphs within the Draft Site Allocations, that it replaces the word ~~‘must’~~ with **‘should’**.
- 1.9. LBW has not proposed amendments to part D and G of the policy which seek to control building heights.
- 1.10. LBW has invited those present at the Matter 13 Hearing Session to provide comments on the proposed amendments to Draft Policy LP4. Given the shared concern amongst participants, the comments in this note are submitted to LBW and the Inspectors as a collective representation, on behalf of the following parties:
 - Savills obo PBL;
 - Savills obo Safestore LTD;
 - Savills obo Charities Property Fund;
 - Montagu Evans obo DTZ Investment Management Ltd;
 - Montagu Evans obo South West London & St Georges Mental Health NHS Trust;
 - Quod obo SGN Mitheridge Ltd; and
 - Rolfe Judd obo Downing.

2. National Planning Policy Framework

- 2.1. As currently drafted, the Draft Local Plan is not consistent with the NPPF and therefore **unsound** for the following reasons;
 - The Draft Local Plan does not align with paragraph 8 of the NPPF in planning to deliver economically, socially and environmentally sustainable development;
 - The Draft Local Plan does not align with paragraph 16 of the NPPF which states that plans should be positively prepared in a way that is aspirational but deliverable and should be shaped by early, proportionate and effective engagement;
 - The Draft Local Plan is underpinned by a contradictory policy framework that fails to support the delivery of the strategic objectives of the Draft Local Plan and the NPPF.
 - The Draft Local Plan is neither justified nor effective and does not align with paragraph 35 of the NPPF.
 - The Draft Local Plan does not support development that makes efficient use of land contrary to paragraph 124 of the NPPF.
- 2.2. Specifically, the overly prescriptive approach proposed by Draft Policy LP4 is not supported by an appropriate and proportionately robust evidence base and is not consistent with Policy D9 of the London Plan.

3. MM13 Hearing Session Discussion

3.1. For context, we set out below the key concerns with Draft Policy LP4 which were raised by participants at the Matter 13 Hearing Session:

- **LBW have attributed too much weight to the Urban Design Study (UDS, 2021)**
 - Whilst the methodology which underpins the UDS reflects a logical starting point for undertaking a borough-wide townscape character assessment, the level of detail within the UDS does not support the drafting of such a prescriptive, onerous and strict tall buildings policy which, as currently drafted, places a blanket prohibition on the delivery of tall buildings outside tall building zones and sets fixed building height limits for buildings delivered within tall and mid-rise zones. Appendix A of the UDS - ‘tall building scenarios’, paragraph 2 - acknowledges that the limited scope of the UDS, stating that, *“In all cases, further analysis will be required to determine actual proposals for individual sites on the basis of detailed review and analysis of the specific local context which is not part of the scope of this borough-wide study.”* The limitations of the UDS have been further explored in the Representation on behalf of Promontoria Battersea Limited by the Tavernor Consultancy: Townscape and Built Heritage 28 February 2022 (see Appendix 2 to Promontoria’s Matter 13 Hearing Statement; and (ii) Dr Chris Miele at the Matter 13 Hearing Session.
- **Draft Policy LP4 is not consistent with London Plan Policy D9** - London Plan Policy D9 does not direct Local Plans to restrict development up to a pre-set maximum tall building height. Rather, it allows for a Local Plan to cite heights which may be ‘appropriate’, leaving a degree of flexibility for a judgement to be made by the decision maker with regards to what an ‘appropriate’ height may be, having due regard to the criteria set out in Part C of London Plan Policy D9:
 - **Policy D9 (B) (1)** – “Boroughs should determine if there are locations where tall buildings may be an appropriate form of development, subject to meeting the other requirements of the Plan.”
 - **Supporting text paragraph 3.9.2** – “Boroughs should determine and identify locations where tall buildings may be an appropriate form of development...”

Draft Policy LP4 conflicts with this by setting strict building height limits for tall and mid-rise zones which proposals ‘should not exceed’. As cited by James Maurici KC at the Matter 13 Hearing Session, the recent Master Brewer Judgement in the High Court (*Master Brewer Judgement 15 December 2021: [2021] EWHC 3387 (Admin); Case No: CO/1683/2021*) concluded that, read straightforwardly and objectively and as a whole, London Plan Policy D9:

1. requires London Boroughs to define tall buildings within their Local Plans, subject to certain specified guidance (Part A);
2. requires London Boroughs to identify suitable locations for tall buildings within their Local Plans (Part B);
3. identifies criteria against which the impacts of tall buildings should be assessed against (Part C); and

4. makes provision for public access (Part D).
- 3.2. In considering whether to grant planning permission for a tall building not identified in the Development Plan, the High Court concluded that the proposal should be assessed against the potential impacts listed in Part C, in accordance with the objectives of Policy D9. Crucially, there is no wording which indicates that Part A and/or Part B of Policy D9 are gateways, or pre-conditions, to Part C. As such, LBW's interpretation of London Plan Policy D9 is considered to be incorrect, which in turn, renders Draft Policy LP4 overly restrictive, not effective and not in general conformity with the London Plan.
 - 3.3. Given the above, there was significant concern amongst participants at the Matter 13 Hearing Session regarding the soundness of Draft Policy LP4.

4. LBW's Proposed Amendments

- 4.1. Whilst we welcome LBW's acknowledgment that Draft Policy LP4 is over-prescriptive and requires revision, we do not consider that the proposed amendments are remotely sufficient to address the fundamental concerns with the soundness of the policy outlined above.
- 4.2. LBW have proposed to amend the wording of parts C and G of Draft Policy LP4 as follows:
 - C. *The Council will seek to restrict* P proposals for tall buildings ~~will not be permitted~~ outside the identified tall building zones.
 - G. *The Council will seek to restrict* P proposals for mid-rise buildings ~~will not be permitted~~ outside the identified tall and mid-rise building zones.
- 4.3. This amendment adds very little flexibility and does not reflect the level of change that is required if Draft Policy LP4 is to be considered sound and compliant with London Plan Policy D9. It also fails to provide supporting text explaining the strategic nature of the evidence base and the requirement in all cases for further analysis to determine actual proposals for individual sites.
- 4.4. In seeking to 'restrict' the development of tall buildings outside of tall building zones, Draft Policy LP4 remains in conflict with London Plan Policy D9 which, as clearly demonstrated by the *Master Brewer* case, allows for a judgement to be made on tall building proposals outside of tall building zones where they result in public benefit and are in accordance with the Development Plan as a whole.
- 4.5. Further, and notwithstanding the inadequacy of the proposed amendments to parts C and G, LBW has not proposed an amendment to Part B of Draft Policy LP4 which states:

"B. Proposals for tall buildings will only be appropriate in tall building zones identified on tall building maps included at Appendix 2 to this Plan..."
- 4.6. The council has also not proposed revisions to Part D and G of Draft Policy LP4.
- 4.7. As such, not only are the proposed amendments to parts C and G of Draft Policy LP4 insufficient in adding the level of flexibility that is required if the policy is to be considered sound, but such amendments are also not reflected within part B of Draft Policy LP4 which continues to place a blanket prohibition of tall buildings outside of identified zones.

4.8. LBW has proposed to replace the word ‘must’ with ‘should’ in the wording of the Draft Site Allocations. This amendment provides no added flexibility to Draft Policy LP4. There is a general recognition that there is little, if any difference, between the two words, given that “Both of them indicate the fact that something is mandatory and should be carried out as a duty².” (Emphasis added). In simple terms, the online Oxford English Dictionary defines ‘must’ and ‘should’ interchangeably:

- **“must”** - “Had to, was obliged to, it was necessary that (I, etc.) should” (emphasis added) and “Expressing necessity: am (is, are) obliged or required to; have (has) to; it is necessary that (I, you, he, it, etc.) should” (emphasis added);
- **“should”** - “in stating a necessary condition: = ‘will have to’ , ‘must’ (if something else is to happen)” (emphasis added).

4.9. Further, it should be noted that:

- A Westlaw search identifies over 200 cases in which the Courts in England & Wales have, in many different contexts (including in relation to planning policy, e.g. *Sisson Cox Homes v Secretary of State for the Environment* [1997] J.P.L. 670), used the words ‘must’ and ‘should’ with the same meaning, e.g. where the Court has used the phrase ‘must or should’ or ‘should or must’ ; and
- In *Lamport & Holt Lines Limited v Coubro & Scrutton (11 & 1) Limited v Coubro & Scrutton (Riggers and Shipwrights) Limited* [1982] 2 Lloyd's Rep. 42, the word ‘must’ was read as meaning ‘should usually’ .

4.10. Given the above, we are of the view that, should Draft Policy LP4 be amended as LBW have proposed, then any buildings proposed in tall or mid-rise zones which exceed the building heights set out in Appendix 2 of the Draft Plan will be regarded as being in conflict with Draft Policy LP4, irrespective of whether the policy cites the word ‘must’ or ‘should’ . This policy conflict gives rise to a range of issues, many of which were discussed at the Matter 13 Hearing Session, including:

1. Disincentivising planning applications on many sites, including Site Allocations;
2. Sterilising the development potential of many sites, including Site Allocations, including where the Council through discussions at planning application stage are supportive of buildings taller than the heights now proposed ; and
3. The issues that arise from the fact that, under the new Levelling Up and Regeneration Bill, any conflict with the Development Plan will be required not just to be outweighed by other material considerations, but “strongly” outweighed. This will further disincentivise development and prevent the optimisation of available and deliverable sites.

4.11. In addition no changes are proposed in relation to criterion D (“Proposals for tall buildings should not exceed the appropriate height range identified for each of the tall building zones as set out at Appendix 2 to this Plan”) and criterion H (“Proposals for mid-rise buildings

² Source: <https://www.differencebetween.com/difference-between-must-and-vs-shall/>

should not exceed the appropriate height identified within the relevant mid-rise building zones as identified at Appendix 2 of this Plan”). Thus the position for any proposals on non-allocated sites in these zones remains wholly unchanged. This again includes sites where the Council through discussions at planning application stage are supportive of buildings of taller than the heights now proposed.

4.12. We therefore invite LBW to reconsider their proposed amendments to Draft Policy LP4, in line with our suggested wording set out in Appendix 1.

4.13. Notwithstanding the collective objection set out in this note, individual parties are also submitting individual representations to the proposed amendments to Draft Policy LP4 having regard to specific site allocations in the Draft Plan.

Signed by Savills on behalf of Promontoria Battersea Ltd and Safestore		
Name	Signature	Date
Iain Buzza		14 December 2022

Signed by Savills on behalf of Charities Property Fund		
Name	Signature	Date
Tim Price		13 December 2022

Signed by Montagu Evans on behalf of DTZ Investment Management Ltd		
Name	Signature	Date
Jeremy Evershed		13 December 2022

Signed by Montagu Evans on behalf of South West London & St Georges Mental Health NHS Trust		
Name	Signature	Date
Anna Russell-Smith		13 December 2022

Signed by Quod on behalf of SGN Mitheridge Ltd		
Name	Signature	Date
Ben Ford		14 December 2022

Signed by Rolfe Judd on behalf of Downing		
Name	Signature	Date
Jan Donovan		13 December 2022

Appendix 1

Draft Policy	Draft Wording	Proposed Wording
<p>LP4 (B)</p>	<p>Proposals for tall buildings will only be appropriate in tall building zones identified on tall building maps included at Appendix 2 to this Plan, where the development would not result in any adverse visual, functional, environmental and cumulative impacts. Planning applications for tall buildings will be assessed against the criteria set out in Parts C and D of the London Plan Policy D9 and those set out below as follows:</p>	<p>Proposals for tall buildings will only be appropriate in tall building zones Tall buildings should be developed in tall building zones identified on tall building maps included at Appendix 2 to this Plan, or where the development is otherwise adjudged to be acceptable having regard to any adverse visual, functional, environmental and cumulative impacts. Planning applications for tall buildings will be assessed against the criteria set out in Parts C and D of the London Plan Policy D9 and those set out below as follows:</p>
<p>LP4 (C)</p>	<p>Proposals for tall buildings will not be permitted outside the identified tall building zones.</p>	<p>Proposals for tall buildings will not be permitted outside the identified tall building zones, except where the development is adjudged to be acceptable having regard to any adverse visual, functional, environmental and cumulative impacts in accordance with London Plan policy D9(c).</p>
<p>LP4 (D)</p>	<p>Proposals for tall buildings should not exceed the appropriate height range identified for each of the tall building zones as set out at Appendix 2 to this Plan. The height of tall buildings will be required to step down towards the edges of the zone as indicated on the relevant tall building map unless it can be clearly demonstrated that this would not result in any adverse impacts including on the character and appearance of the local area.</p>	<p>Proposals for tall buildings should not exceed the appropriate height range identified for each of the tall building zones as set out at Appendix 2 to this Plan. Where proposals for tall buildings exceed the height of the relevant definition established in Appendix 2, they will only be permitted where the development is adjudged to be acceptable having regard to adverse visual, functional, environmental and cumulative impacts in accordance with London Plan policy D9(c). The height of tall buildings may be required to step down towards the edges of the zone as indicated on the relevant tall building map unless it can be clearly demonstrated that this would not result in any adverse impacts</p>

		including on the character and appearance of the local area.
LP4(G)	Proposals for mid-rise buildings will not be permitted outside the identified tall and mid-rise building zones.	Proposals for mid-rise buildings will not be permitted outside the identified tall and mid-rise building zones, except where they are otherwise adjudged to be acceptable having regard to any adverse visual, functional, environmental and cumulative impacts in accordance with London Plan policy D9(c).
LP4(H)	Proposals for mid-rise buildings should not exceed the appropriate height identified within the relevant mid-rise building zones as identified at Appendix 2 of this Plan.	Proposals for mid-rise buildings should not exceed the appropriate height identified within the relevant mid-rise building zones as identified at Appendix 2 of this Plan. Proposals within mid-rise building zones may exceed the height of the relevant definition established in Appendix 2 where they are adjudged to be acceptable having regard to any adverse visual, functional, environmental and cumulative impacts in accordance with London Plan policy D9(c).
Supporting Text		Appendix 2 refers to appropriate building heights based upon the strategic design analysis undertaken in the Urban Design Study 2021. In all cases, further analysis will be required to determine actual proposals for individual sites based on detailed review and analysis of the specific local context which is not part of the scope of this borough-wide study. Proposals will need to be assessed in the context of other policies of the plan to ensure that proposals are deliverable when the plan is read as a whole.