

Our Ref: 20168 LPA5 GLA GC

Greater London Authority,
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F.A.O Valeria Cabrera, Principal Strategic Planner, Development Management, GLA

Via email to: Valeria.Cabrera@london.gov.uk
and uploaded via <https://planapps.london.gov.uk/planningapps/PP-23-00968>

6th November 2023

Dear Ms. Cabrera,

Comments in respect of pending Stage 2 Referral ref. 2023/0312/S1 on planning application to RBKC ref. PP/23/00968 Demolition of existing building and redevelopment for new building up to four storeys and basement (Use Class E - commercial, business and service); roof terraces, landscaping works; installation of plant; and associated works. (MAJOR APPLICATION) at 81-103 King's Road, LONDON, SW3 4NX

I write in respect of the above planning application, which will be referred to the GLA by the Royal Borough of Kensington and Chelsea (RBKC). I write to object to the application on behalf of the Directors of the Board of Charles II Place Management (1991) Limited ('the Board of CIIP'), that represent the residents of 51 houses in the immediately neighbouring development, Charles II Place ("CIIP").

The Board of CIIP raise strong objections over the proposal and its handling by RBKC for the reasons set out in this letter. The Board led the Objectors' presentation to the RBKC Planning Committee on 5th October 2023, noting there have been over 1,500 formal objections to this planning application and over 4,300 petitioners against it.

It is acknowledged that the GLA in its Planning Report on 1st June 2023 (ref. GLA/2023/0312/S1) also raised issues over the proposal, including the harm to four designated heritage assets, the assessments relating to transport, the level of car parking and short stay cycle parking, and issues on energy, whole life-cycle carbon assessment and circular economy.

The Board of CIIP do not consider that the planning application resolved to be approved by RBKC at its Planning Committee on 5th October 2023 overcomes these GLA issues and the other planning objections to the proposal. The Planning Committee's resolution to approve this application does not comply with prevailing planning policies, and there are no material

considerations to indicate otherwise. In fact, material considerations also indicate the proposal should be refused. The Board of CIIP also consider there were failures in the process followed by RBKC. The 5th October 2023 RBKC Planning Committee meeting can be viewed here -

<https://www.rbkc.gov.uk/Committees/ieListDocuments.aspx?CId=147&MId=3642&Ver=4>

Furthermore, the appearance and impact of the development will be fundamentally changed by the Planning Committee's requirement for a condition requiring solid balustrades to the external terraces. 1.5m high solid balustrades on the terraces will add to the scale, bulk and massing of the building, increasing the level of harm to designated heritage assets, adding to the out of character nature of the proposal in the townscape, and further adversely impacting upon the living conditions of the neighbouring residents. Amended plans should be requested, consulted upon, and be considered as part of a revised planning application reported to the RBKC Planning Committee for its reconsideration before the Stage 2 referral to the GLA.

There are sound planning reasons for the Mayor to intervene in this case. Accordingly, the Board of CIIP respectfully request that the Mayor uses his powers under Article 6 of the Town and Country Planning (Mayor of London) Order 2008 and directs the RBKC to refuse planning permission, or uses his powers under Article 7 to act as the local planning authority for the purpose of determining the application, for the following reasons: -

1. **Principle of the development** – the proposed reduction in retail floorspace (approx. 1/3) is contrary to policy that states that the Council will protect shops above or below ground level within town centres. The King's Road is one of the country's iconic shopping streets. The RBKC assessment produced as part of its Local Plan Review predicts the need for additional retail floorspace over the next 20 years.
2. **Environment** - no substantive evidence that the existing building (which is less than 40 years' old) cannot be retained and re-used has been provided. The redevelopment would result in a 37% greater loss of embodied carbon when compared to the refurbishment of the existing building. The Planning Committee report made no reference to the material consideration of the Secretary of State's July 2023 Oxford Street decision and the Planning Committee gave minimal and inadequate consideration to this increasingly relevant planning policy issue.
3. **Heritage** – the correct weighing up exercise has not been undertaken in respect of considering the potential impacts on designated heritage assets. RBKC consider the development would not cause any harm, whereas the GLA consider there is less than substantial harm arising from the proposal, and the Objectors' heritage advisor considers the level of harm falls on the boundary between substantial/less than substantial. The provision of solid balustrades to the external terraces will change the design, appearance, scale and bulk of the proposal and exacerbate the harm to heritage assets. Policy requires a level of less than substantial harm to be weighed against the public benefits of the proposal. This exercise has not been undertaken, and notwithstanding, there are considered to be no public benefits arising from the proposal and certainly none to outweigh this harm.
4. **Townscape** – King's Road is characterised by domestically scaled residential and

commercial properties of no more than 3 or 4 domestic storeys in height. The proposed development would be significantly taller than the surrounding townscape and it will not sit comfortably within its context and would not make a positive contribution to local character and distinctiveness contrary to the policy requirement. The provision of solid balustrades to the external terraces will change the design, appearance, scale and bulk of the proposal, exacerbating the discordancy with the surrounding townscape. If the height of the proposed building is measured from the ground level of the adjacent houses to the south at CIIP, it would be defined as a tall building under emerging RBKC policy. King's Road is not an area identified by RBKC as suitable for tall buildings.

5. **Privacy of neighbours** – there are no near windows, balconies or terraces currently overlooking the surrounding residential development. The separation distances (window to window) in the scheme are below the Council's standards in the Local Plan. In recognition of the overlooking of residential properties, the Planning Committee resolution requires solid balustrades to the external terraces, however, solid balustrades are likely to exacerbate the detrimental impacts upon the daylight, outlook and sense of enclosure of the adjacent houses.
6. **Impact of noise** – the submitted acoustics report is flawed as it measured noise in locations unrepresentative of the existing noise environment of Charles II Place. It also relies on a twice superseded British Standard so does not assess all sources of noise. The measured noise levels in an independent report were considerably less. The proposed much larger commercial building, the introduction of facing opening windows, external terraces, additional servicing, a servicing area closer to houses, a car park access proposed on the same level as the houses, and plant including basement extract fan on the boundary with those houses, has the potential to create a significant noise impact to nearby residents. The Agent of Change principle is not addressed or met and there is no evidence that the proposal will not lead to a harmful increase in noise and disturbance.
7. **Impact on outlook and increased sense of enclosure** - the bulk, scale and height of new building, its increased storey height and proximity to the CIIP houses, and the below standard separation distances will create an oppressive outlook for residents and materially increase their sense of enclosure, contrary to policy. The provision of solid balustrades to the external terraces will exacerbate this impact.
8. **Impact on daylight** – ten of the neighbouring houses at CIIP have the potential to experience a reduction in daylight beyond the BRE guidelines for either VSC or NSL, and diffuse daylighting in 4 of these rooms is likely to be significantly/ adversely affected. The proposal fails to comply with the policy requirement that good standards of daylight and sunlight are achieved in existing properties affected by new development; and where they are already substandard, that there should be no material worsening of the conditions. The impact on daylight of the Charles II Place houses will be exacerbated by the requirement for solid balustrades.
9. **Procedural concerns** – the potential of the Marks and Spencer's store remaining at the site was not relevant to the determination of the planning application, however it was referred to on a number of occasions at the Planning Committee, giving the impression that it was of some relevance. The Planning Committee were also advised that an

'important factor' in their decision making was that potential decision makers other than RBKC might not require conditions to benefit residents; this is not a reason to approve an unacceptable proposal, is supposition and is misleading. The fundamental change to the nature of the balustrades proposed to be dealt with via planning condition rather than at pre-determination stage is a huge concern due to their potential impact. Similarly the lack of agreed details of construction and/ or servicing and delivery pre-determination of the application is unacceptable due to the close interrelationship of the application site to CIIP, including its sole vehicular egress. Furthermore, there were repeated concerns throughout the processing of the planning application over inaccurate and misleading plans and documents as part of the planning application. Finally, the strength of the RBKC mandate to resolve to approve the application is also questionable, given that less Members voted to approve the planning application than voted to refuse it or abstained.

Detailed Objection

1. Principle of the development

Policy CF3 (c) of the RBKC Local Plan states that the Council will protect shop uses above or below ground floor level within town centres unless it is successfully demonstrated that their loss will not adversely affect the essential shopping character and function of the centre.

The proposed development will see a reduction in retail floorspace. The Council's own evidence base demonstrates that the existing Marks and Spencer's premises is the 6th best performing food store in the Borough, with a turnover of £20.4M, and the success of the store was confirmed at the Planning Committee by the Applicant's Agent. The loss of retail floorspace arising from the proposed development comprises approximately one third of the existing shopping area (749sqm) – although the Planning Officer's verbal presentation to the RBKC Planning Committee incorrectly stated, unchallenged and uncorrected, that there would be a "net increase of 749 sqm of retail floorspace".

The Council's Retail and Leisure Impact Assessment (January 2022) predicts the need for additional retail floorspace up to 2043. The proposed loss will further exacerbate the existing shortfall in supply. The loss of retail floorspace is directly contrary to Policy CF3, and its loss in this key shopping location is a substantial public disbenefit of the scheme.

However, no weight was given to this disbenefit in the Officer's report to the Planning Committee on 5th October 2023, and it was not discussed in any detail by the Planning Committee.

2. Environment

Policy SI2 of the London Plan requires major development to be net zero-carbon.

The Planning Committee report confirms at paragraph 6.244 that the London Plan (and emerging Local Plan policy) does not prohibit demolition but requires priority consideration to be given to retention and retrofit. Similarly, London Plan Guidance requires the benefits of redevelopment to clearly outweigh the harm arising from demolition.

The July 2023 Oxford Street decision by the Secretary of State (ref. APP/X5990/V/3301508),

a material consideration in the determination of this planning application, confirms that there should generally be a strong presumption in favour of repurposing and reusing buildings, as reflected in paragraph 152 of the National Planning Policy Framework. That decision confirms that substantive evidence must be provided that an existing building cannot be retained and re-used. In that decision, there was no compelling justification for demolition and rebuilding (paragraph 32 of the decision), and it had also not been demonstrated that the products and materials in the affected buildings had been kept at their highest use for as long as possible (paragraph 42). The decision confirmed there would be policy conflict with the development plan and national policy.

The existing Marks and Spencer's building and upper floors proposed to be demolished under the current application were built in the 1980s. It is a relatively 'young' building. The submitted planning application does not contain any detailed structural survey, conditions survey or viability report.

A technical assessment by Quinn Ross Energy, commissioned by the objecting Residents Associations, confirmed that a refurbishment of the existing building will result in a saving of 18,452 tonnes (37%) of embodied carbon over a 60-year life cycle, when compared to the proposed redevelopment. It is therefore reasonable to assume that the embodied carbon lost because of the redevelopment is higher (potentially much higher) than stated in the Committee report, e.g. the Quinn Ross report identified a number of inconsistencies in the submitted assessments, including CO₂ figures not aligning across the application's various documents. The Whole Life Carbon Assessment submitted in support of the application also makes unrealistic and highly favourable assumptions concerning the re-use of existing materials; and the life of the proposed building (120 years rather than 60 years).

There has been no thorough assessment in the submission of the alternatives to demolition of the ground floor and above of the Marks and Spencer's building, or an assessment of the substantial amount of carbon that would go into the construction compared to retrofitting/ extending the existing building.

The Planning Committee report and discussion made no reference to the July 2023 Secretary of State's decision. The Planning Committee, Members did ask a question of the Applicant's Agent regarding embodied carbon (which had been raised in the Objectors' presentation) but the response was limited to the Agent's unsubstantiated comments about re-use, namely that the Applicant had looked at manipulating the existing building but that would expend more carbon than if the building were demolished and 'thoughtfully' replaced; these incorrect comments went unchallenged. At the meeting, subsequent discussion on the 'sustainability' of the scheme was restricted to a discussion about the potential for tree planting.

Notwithstanding the lack of evidence that the existing building cannot be retained and re-used, with regard to achieving new building standards, the proposed development fails to secure the requirement of London Plan Policy SI2 of achieving an on-site carbon reduction of at least 35 per cent beyond Part L 2021 of Building Regulations. This is a missed opportunity and confirms that the weight that can be afforded to the 'higher standards' achieved by the new building is limited.

3. Heritage

National policy (NPPF paragraph 202) confirms that less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of a proposed development, including, where appropriate, securing its optimum viable use.

The Planning Committee report at paragraph 6.88 concludes that “The proposed development would not result in harm to the setting of the nearby conservation areas or nearby listed buildings and would not harm their significance’. This is despite the opinions of the GLA and the Objectors’ Heritage Advisor.

The application site has a 62m long frontage onto King’s Road. The proposed building is much taller than the existing building on the site (over 6m taller in parts) and much bulkier. The site lies close to Conservation Areas and Listed Buildings. It is difficult to see how the view of ‘no harm’ can be substantiated; this view is contrary to GLA advice and the assessment of the proposed development by Paul Velluet RIBA, a specialist conservation architect. Mr Velluet found that the level of potential harm to heritage assets falls on the boundary between ‘substantial harm’ and ‘less than substantial harm’, and such harm is not only unjustified but is neither balanced nor outweighed by potential public benefits, contrary to the relevant provisions of the National Planning Policy Framework.

Paul Velluet’s analysis can be summarised as follows:

- The proposed development, by virtue of its height, bulk and external design will have seriously harmful impacts on the settings and significance of the Royal Hospital Chelsea and Chelsea Conservation Areas, on the settings and significance of nearby listed buildings and unlisted buildings of heritage significance as designated and non-designated heritage assets.
- The proposed development, by virtue of its height, bulk and external design will fail to preserve (or leave unchanged) the settings of nearby listed buildings contrary to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act, 1990.
- The proposed development, by virtue of its height, bulk and external design, and its potential seriously harmful impacts on the settings and significance of designated and non-designated heritage assets, is wholly inconsistent with:
 - o The relevant provisions of the National Planning Policy Framework in relation to potentially harmful impacts of the proposed development on local character and history, including the surrounding built environment, and on the settings and significance of adjacent conservation areas and of nearby listed building and unlisted buildings of heritage significance, as designated and non-listed heritage assets;
 - o Policy D3 D 1) and 11), Policy D9 B 3) and Policy HC1 C of the London Plan of March 2021; and Policies CL1, CL2, CL3, CL4, CL11 and CL12 of the Kensington and Chelsea Local Plan of September 2019; and
 - o The relevant guidance relating to Context, Identity and Built Form contained in in

the National Design Guide of January, 2021; the relevant guidance contained in Council's Building Heights in the Royal Borough – A Supplementary Planning Document of July, 2021; the relevant guidance contained in The Royal Hospital Chelsea Conservation Area Appraisal of March, 2016 and The Chelsea Conservation Area Appraisal of January, 2016 and the relevant emerging policies contained in the New Local Plan Review of February, 2023.

Clearly there is harm to designated heritage assets. However, the required exercise weighing the harm to designated heritage assets against the public benefits of the proposed development has not been undertaken by RBKC, as the Council did not consider it was required.

Were that exercise undertaken, the Board of CIIP considered the public benefits of the proposal are not easily identifiable and would not pass the policy test of outweighing the identified harm to the historic environment. The Planning Committee did spend some time discussing the benefit (in sustainability terms) of tree planting on King's Road and on the western access road, however the Planning Committee report at paragraph 6.200 states this is unlikely to be achievable:

“Street trees are proposed on the Kings Road in front of the site. These trees would be set back 3.4m from the edge of the kerb and 3.4m from the building elevation. This area is not considered appropriate for new street trees as such an intervention would unduly impact upon the free flow of pedestrians and pedestrian safety on this busy shopping frontage.

The provision of these trees kerb-side would address this issue, however it is possible that this could disturb high voltage (HV) and low voltage (LV) infrastructure cables below ground. There are also telecoms cables underground in this location.”

Furthermore, the RBKC Senior Arboricultural Officer objects to the proposed planting of trees on the access road –

“At the western section there are plans for a mews which contains street trees which appear to be planted directly into the ground despite this being above a basement. Clearly it is possible to plant trees here in planters but these will require watering, unlike trees planted directly into the ground...”

Similarly, 5 (4 on some drawings) new trees are shown growing in the pavement of King's Road. We have tried to plant here but underground services have prevented this and so I am very sceptical about whether this can actually be delivered.”

The Planning Committee also discussed new paving to King's Road and the cleaning of adjacent areas of pavement to match.

The Board of CIIP do not consider these extremely limited and potentially unrealisable proposals outweigh the identified harm to designated heritage assets as set out above. The level of harm will be exacerbated by the provision of solid balustrades to the external terraces. The proposal is clearly contrary to policy and should be refused.

4. Townscape

The Kings Road is characterised by early-to-mid-19th century residential and commercial properties of consistently modest scale, generally of no more than three or four, domestic storeys in overall height. The plan enclosed with this letter is 'Figure 1. Building Heights' from the RBKC New Local Plan Review 'Tall Building Threshold' (October 2022), part of the Local Plan's evidence base, and demonstrates that the King's Road is an area of low building heights – mostly up to 14m in height, and in parts up to 18m.

At paragraph 6.18 the Planning Committee report claims that that '...the proposed building would not be significantly taller than the surrounding townscape, and therefore the proposals do not engage part B of policy CL12 (of the Local Plan). Likewise, policy D9 (tall buildings) of the London Plan is not engaged as the building would not be 6 storeys or 18 metres measured from the ground to the upper floor level of the uppermost storey'. On both counts, the Planning Committee report is fundamentally wrong.

In relation to the relevant Local Plan policy, RBKC Local Plan Policy CL12 'Building Heights' requires new buildings to respect the setting of the Borough's valued townscapes and landscapes, through appropriate building heights. The London Plan 2021 Policy D9 ('Tall buildings') requires Boroughs to look at both the definition and specific locations where tall buildings may be an appropriate form of development at local plan making stage. The proposed development would not 'reflect the prevailing building heights within the context', and would not 'provide a roofscape that reflects that of the context of the site', but instead, would be 'significantly taller than the surrounding townscape' - by a complete office-storey plus a high roof in relation to the roof-parapet of the listed Pheasantry directly opposite on the north-western side of the King's Road, and to other nearby listed buildings and properties of heritage significance in Smith Street and the majority of the properties in the adjacent parts the conservation areas to the north-west and south-east of the King's Road, and to nearby properties fronting the King's Road to the north-east and south-west of the application site – i.e. nos. 69A, 71 and 73-79, King's Road and nos. 105, 107, 109 and 111-115, King's Road.

Following detailed analysis (see RBKC 'Tall Building Threshold' October 2022 paper) Policy CD7 of the new Local Plan refers to buildings over 21 metres in height as being tall buildings and confirms at (D) that "Tall buildings will only be acceptable within those locations that are identified as suitable for tall buildings as shown in Figure 4.4 and at the heights specified in the relevant site allocations." The justification to the policy acknowledges that there are relatively modest and consistent building heights within Kensington and Chelsea, reflecting the primarily residential character of the Borough (paragraph 4.51), and at paragraph 4.52, that whether a building can be considered tall depends on the average building heights around it, as well as the level of consistency in the character and built form.

King's Road is classed as being outside the suitable locations for tall buildings. It is noted that the height of the proposed new building measured from the site's highest ground level is 20.97 metres, but the site slopes backwards from King's Road towards CIIP, particularly to the south, where the CIIP houses are approx. 1.7m below the application site's ground level, which adds greatly to the impact of the new building. The height of the building next to CIIP will be 22.67m and the residents of CIIP will be looking out onto a new 4 and a half storey high building (above their ground level), a matter of metres away from their houses. The

impact of the scale of the new building will be exacerbated by the provision of solid balustrades to the external terraces. When measured from the ground level of the adjacent houses to the rear at CIIP, the new building would be regarded as a 'Tall Building' under emerging Policy CD7 – and is in a location which specifically precludes it. Emerging policy CD7 is a material consideration in the determination of the current planning application; the Council clearly do not consider the King's Road to be a suitable location for tall buildings.

5. Privacy of neighbours

Policy CL5 of the RBKC Local Plan requires new development to maintain reasonable visual privacy and Policy D3(7) of the London Plan states that development proposals should deliver appropriate privacy and amenity.

Charles II Place enjoys a harmonious relationship with the existing development on the application site. There are no rear windows, balconies or terraces – CIIP is not currently overlooked.

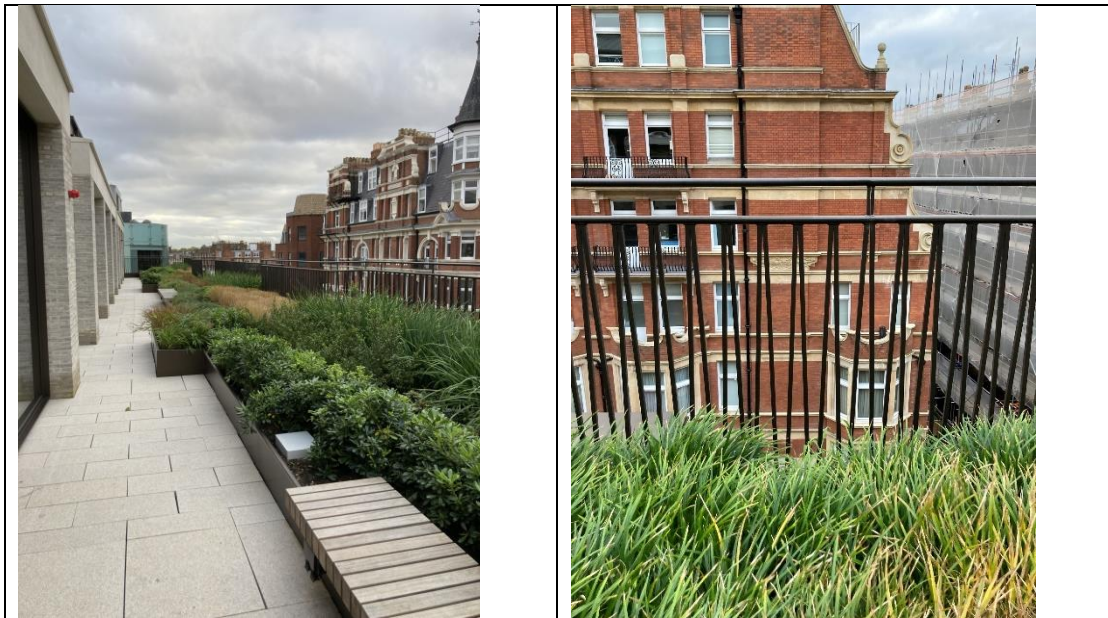
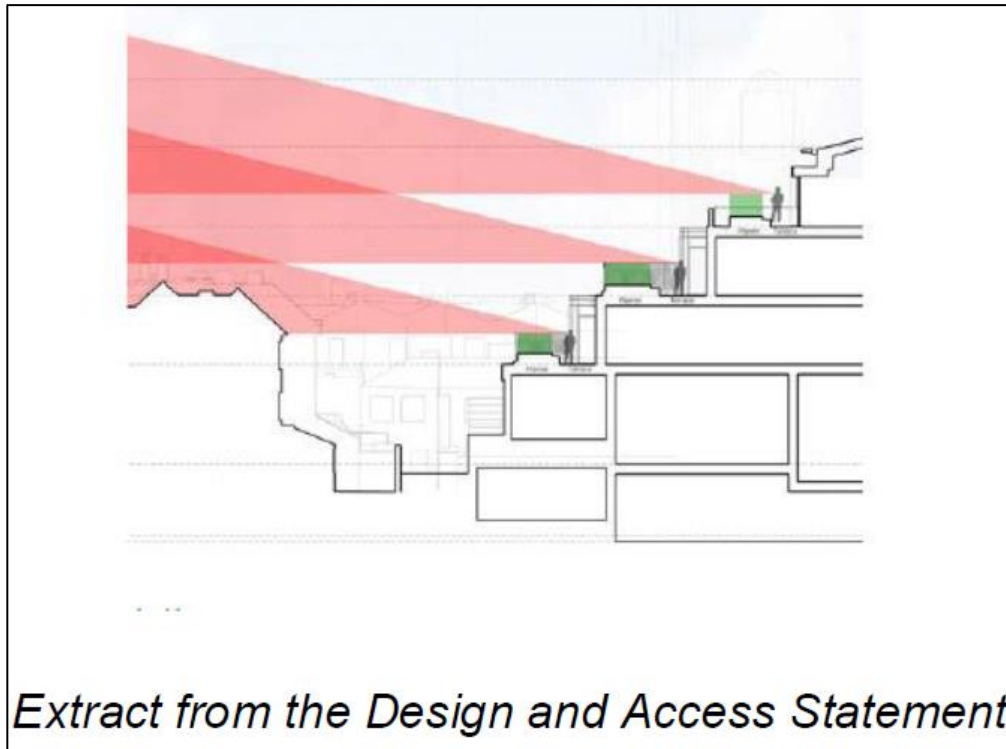
Planning policies require that there is reasonable visual privacy for occupants of existing properties affected by new development. The proposal introduces windows and external terraces all facing towards the private elevations and back gardens of the CIIP houses. The Council's standard separation distance is 18 metres between opposite habitable rooms. Whilst policy references the acceptability of lesser standards, this is provided in the context of historic fabric, not in the context of the distances between two modern developments that were built around the same time, 40 years' ago.

The proposed separation distances are below the Council's standards as set out in the Planning Committee report (paragraph 6.135), with the proposed windows in the new building being only 15m from those in the CIIP houses to the south (and less to their rear gardens) and some 8-9m to the east between existing single aspect CIIP windows to the edge of the proposed external terrace.

The scheme relies on protecting residential privacy through planting. Even were these planters densely planted, to rely on plants to prevent overlooking is problematic given that living things take time to grow and establish, will die, and do not always grow in the manner desired. They offer no protection against the passage of noise or light and do not reduce the 'feeling' of being overlooked. At 127 Kensington High Street, a development which the Applicant's Agent has quoted as a comparable scheme, clear views are facilitated into the windows of the apartments opposite the terraces and below. Balustrades similarly offer no screening properties.

During the Planning Committee meeting, the Applicant's Agent stated that the "planting is not in itself a device to offer screening for privacy issues, quite the opposite" This is despite the QRP (May 2022) and Objectors' understanding that this is exactly its purpose – plus the Applicant's submission similarly confirms this in the Design and Access Statement (below). The Agent's incorrect assertion was neither challenged nor clarification sought by the Planning Committee. However, the Planning Committee, in acknowledging the potential for overlooking required the provision of solid balustrades, via planning conditions. Solid balustrades will effectively add 1.5m in height to the edge of each terrace, adding to the visual bulk and massing of the development, potentially exacerbating the impact on daylight,

outlook and increasing the sense of enclosure for the CIIP properties. As above, the material change to the proposal should be subject to the provision of amended plans so the implications can be fully understood and assessed prior to the determination of the application.



Photographs showing the planters at 127 Kensington which face onto Kensington High Street and Wrights Lane at a busy commercial intersection. The windows to the flats opposite are visible despite the presence of planters.

6. Impact of noise

RBKC Local Plan policies CL5 and CE6, together with London Plan policies D13 and D14, require that the reasonable enjoyment of the use of buildings, gardens and other spaces is not harmed due to increases in traffic, servicing, parking, noise, disturbance, odours or vibration or local microclimatic effects. The Agent of Change principle (London Plan Policy D13) requires development proposals to clearly demonstrate how noise and other nuisances will be mitigated and managed.

Policy D3(9) of the London Plan requires development proposals to, inter alia, help prevent or mitigate the impacts of noise and poor air quality.

The Board has serious concerns over the Applicant's submitted acoustics survey, in particular that the background noise level monitoring locations were chosen as they were unreflective of the existing noise environment of Charles II Place.

In addition, as the Applicant's noise report refers to an out of date, superseded British Standard, all sources of noise have not been assessed in the report. These concerns were raised with RBKC but were dismissed.

The Board of CIIP commissioned acoustics specialists Sharps Redmore to review the Applicant's noise report and also carry out their own survey of the noise levels in the more representative noise environment of the rear gardens of the Charles II Place properties to the south. The Sharps Redmore noise survey measured a range of levels; but the measured levels were considerably less than the Applicant's noise levels.

The use of incorrect baseline noise levels to inform conditions means there is potential to be a significant noise impact to nearby residents. It is irrefutable that the extent, nature and specific impacts of noise and vibration cannot be known in the absence of full and correct baseline information. Nor can the extent to which such impacts could be effectively mitigated and made acceptable – that option does not exist given the lack of information, and the inaccuracy of the information, in the planning application.

The Planning Committee report considers the proposal will not result in materially more noise, disturbance, vibration and air quality issues over and above the existing situation. The Board of CIIP strongly disagree – the proposal is for a considerably larger commercial building, it introduces facing opening windows, external terraces, additional servicing, a servicing area closer to houses, a car park access proposed on the same level as houses, plant including basement extract fan on the boundary with houses etc. As an example, the extract plan overleaf shows how refuse vehicles – and of course delivery vehicles – will have to reverse close to the rear gardens and elevations of the CIIP houses. This does not happen at present as the servicing takes place closer to the King's Road. The proposal will clearly result in materially more noise and disturbance to the residents.

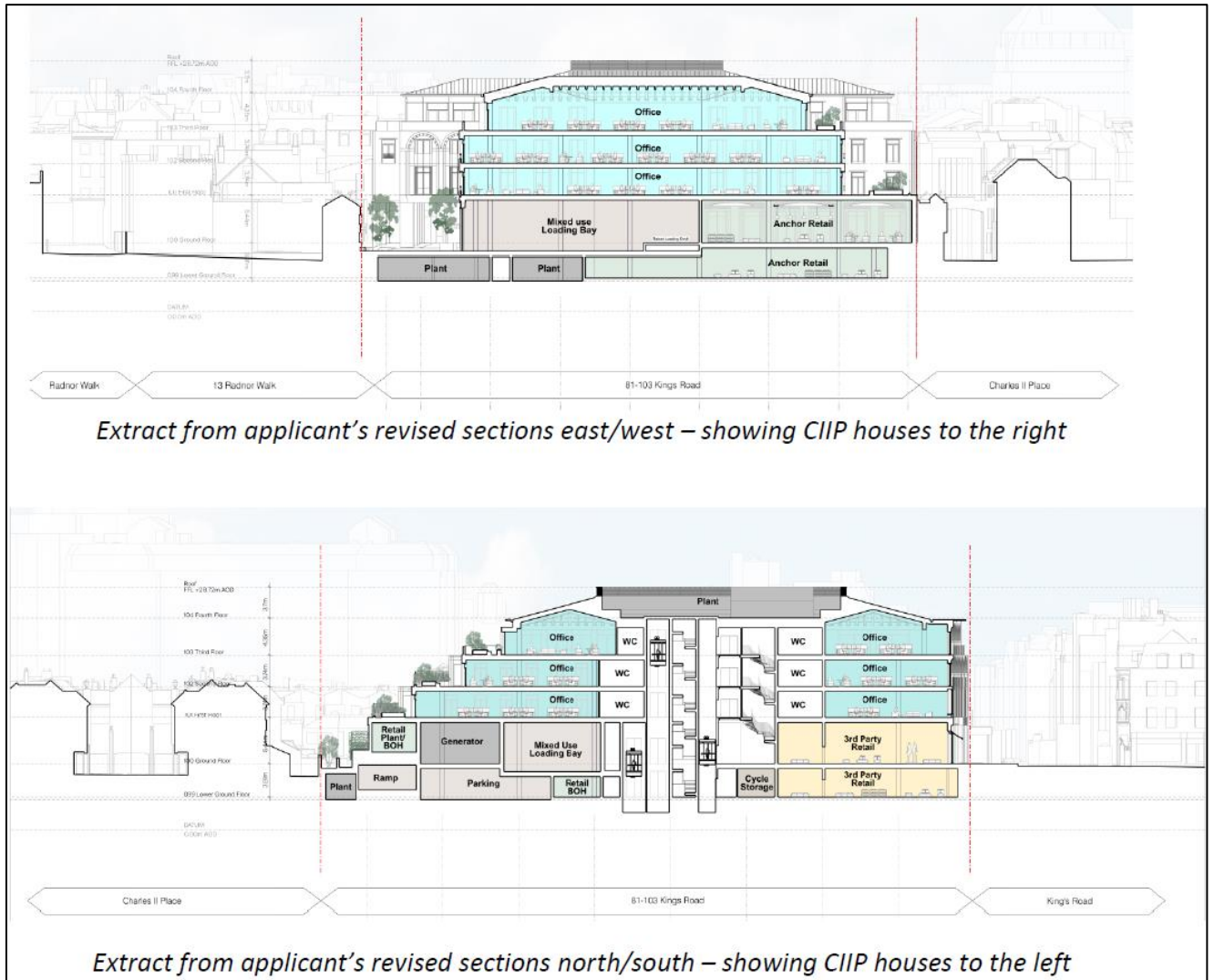


Extract from drawing no. 2204038-TK203 'Swept Path Analysis Refuse Vehicle', included as Appendix A of Operational Waste Management Plan, prepared by Motion ref. 2204038/paking dated 24/08/2023

7. Impact on outlook and increased sense of enclosure

RBKC Policy CL5(d) requires that there is no harmful increase in the sense of enclosure to existing buildings and spaces, neighbouring gardens, balconies and terraces. Policy D3(7) of the London Plan requires development proposals to deliver, inter alia, appropriate outlook and amenity.

The proposal represents a building which will effectively be double the height of the flanking houses at CIIP. Due to bulk, scale and height of new building, the increase in storeys, the provision of solid balustrades, the building's overall proximity to the CIIP houses and the below standard separation distances, the oppressive nature of the proposal on residents' outlook and the material change to their sense of enclosure will be significant. The relative scales of the existing housing and the new building are clearly demonstrated in the Applicant's submitted visuals (note these visuals do not include the solid balustrades).



The Planning Committee report recognises that the new building would bring an increased sense of enclosure but considers this is not harmful.

The resolution of the Planning Committee to include solid balustrades to the external terraces (due to the need to prevent overlooking) will add to the sense of enclosure created by this development, as well as further detrimentally impacting upon visual and residential amenity. Revised plans showing these solid balconies should be required prior to the determination of this application so this impact can be properly assessed.

8. Impact on daylight

Local Plan Policy CL5 relates to living conditions, with part (b) considering daylight and sunlight to neighbouring properties. It states that where daylight and sunlight is already substandard, there should be no material worsening of the conditions. The London Plan Policy D3 requires that development proposals should deliver appropriate outlook, privacy and amenity – this is not met in the scheme.

The amended Daylight and Sunlight report states that nos. 1, 2, 3, 4, 35, 36, 37, 38, 39 and 46 CIIP have the potential to experience a reduction in daylight beyond the BRE guidelines for either VSC or NSL. The Planning Committee report also confirms that diffuse daylighting

in 4 of these rooms is likely to be significantly/ adversely affected. A reduction to these rooms would represent a material worsening of conditions.

Transgressions of the guidelines evidenced in the scheme are brushed aside in the Planning Committee report even though policy requires that good standards of daylight and sunlight are achieved in existing properties affected by new development; and where they are already substandard, that there should be no material worsening of the conditions. This proposal gives rise to clear examples of a material worsening of conditions arising from this development. The Board of CIIP do not agree with the argument that site optimisation is acceptable at the expense of residents' living conditions and the other identified unacceptable issues with the proposal. The impact on the daylight of the Charles II Place houses will be exacerbated by the requirement for solid balustrades.

9. Procedural concerns, inaccurate and misleading information

It is considered that the Planning Committee decision appeared to be influenced by Marks and Spencer confirming shortly before the meeting that they would stay on the site. Members of the Planning Committee were invited to ask Planning Officers about this, and questions included asking what guarantees there were about that retailer staying in the area. In response, the Planning Officer confirmed that this was not relevant, and should not be taken into account, but then went onto talk about Marks and Spencer reaching an agreement to stay on site. The potential of the existing retailer staying at the site was raised a number of times during the Planning Committee.

The Chairman of the Planning Committee also advised the Committee that an 'important factor' in their decision making was that potential decision makers other than RBKC might not require conditions to benefit residents. This is not a basis on which to approve a proposal which is contrary to prevailing planning policies. The advice is incorrect and is misleading.

The resolution to approve the application was based on a vote of 2 Councillors voting in favour of the recommendation in the Planning Committee report, whilst the majority of the Planning Committee did not vote in favour – there were 2 abstentions and 1 vote against. The RBKC mandate to approve the planning application is somewhat questionable.

The Board of CIIP are concerned that there are several plans, for example street scenes, and documents, for example, the noise report, which contain incomplete or misleading information. No visuals from upper terraces were provided to check the impact and overlooking etc - it can only be assumed that such visuals would not assist the Applicant's case. It is not considered that the Committee report adequately addresses these concerns.

A misleading section plan was also provided in the Planning Committee presentation at the meeting. This plan, taken from Section 1 'Response to RBKC comments' – '1.1 Terraces' of the '81-103 KING'S ROAD Response to RBKC comments' June 2023, page 17, purports to show the separation distances internally in CIIP and to the southwest towards Smith Terrace. In the first instance, it is noted that the section includes 'dwelling to dwelling' distances on their front elevations which would be expected to be closer as they relate to the front of the houses and show the distance between their 'public' elevations. The distance between an office (or other Class E use) to the private windows and gardens of the houses at CIIP is simply not a direct comparison. The other 'separation distance' shown on this plan (12.6m) is

implied to be the distance between the rear of the CIIP properties and the rear of the houses on Smith Terrace to the southwest – however this section is incomplete and the distance of the rear of the dwellings in CIIP to the rear of dwellings in Smith Terrace is around 20/21m between the original rear building lines.

Finally, it is also noted that no further details of the proposed construction, or delivery/ servicing, of the development have been provided. The proposal is incumbent upon the acceptability of these aspects due to the close interrelationship of the application site with its residential neighbours, including the fact that the application site contains the sole egress from CIIP. The lack of firm proposals at this stage are a great concern to the Board of CIIP, for the reasons set out. If such matters are dealt with by condition, it means that the decision making is neither transparent nor affords the Board of CIIP the opportunity for involvement on behalf of the affected residents they represent.

Conclusions

The Board of Directors of Charles II Place fundamentally disagree with the Royal Borough of Kensington and Chelsea's assessment of planning application PP/23/00968 as set out in the Planning Committee report and in the subsequent resolution to approve by the Planning Committee on 5th October 2023. There is a huge amount of local objection to the proposal, demonstrated by the numerous letters sent to the Council against the proposal, as well as a petition containing thousands of signatories. It is also noted that the Stage 1 GLA report raised issues over the proposal.

Grave concerns remain to the principle of a proposal which reduces the retail floorspace on this premier shopping street, when there is evidenced demand for additional retail floorspace; the lack of evidence and justification for the demolition and replacement of a relatively modern building; the incorrect assessment of the heritage impact and the failure to properly assess the proposal on that basis; the out of context development in townscape terms; the loss of privacy to the neighbouring houses and their gardens; the noise and disturbance to the residents (when clearly the impact is not properly assessed in the submission); the excessive height, scale, and bulk of the proposed building, and the consequent adverse impact on outlook and an increased sense of enclosure created to a number of CIIP houses; the impact on daylight; and procedural concerns, including the accuracy of the submitted information in the application, together with a lack of information.

The Secretary of State's Oxford Street refusal on 20th July 2023 and the policies of the emerging RBKC Local Plan represent material considerations to be taken into account but are not referenced by the Council.

The Planning Committee report and subsequent discussion of the planning application at the Planning Committee raised significant concerns, including over the Council's assessment of the heritage impact of the proposal, the perceived importance to the decision making that the Marks and Spencer's store may remain on the site, and the guidance from the Chairman that an 'important factor' in the Committee's decision making was that other decision makers might not require conditions of benefit to residents. The Committee resolution to approve the proposal with solid balustrades will also fundamentally change the appearance and impact of the proposal and amended plans should be sought and considered prior to the determination

of the application.

On behalf of the Board of Charles II Place, it is considered there are sound planning reasons for the Mayor to intervene in this case. Accordingly, for the reasons set out in this letter, the Board of CIIP respectfully request that the Mayor uses his powers under Article 6 of the Town and Country Planning (Mayor of London) Order 2008 and directs the RBKC to refuse planning permission, or uses his powers under Article 7 to act as the local planning authority for the purpose of determining the application.

I would be obliged if you could acknowledge receipt of this objection and keep me informed of progress of the Stage 2 Referral.

Yours sincerely,



Gail Collins BSC(Hons) DipTP MRTPI DMS

Director

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Encl. Building Heights Plan, Extract from RBKC 'Tall Building Threshold' (October 2022)

Copied to:

Amanda Reid, Martin Lomas, Laura Fogarty, RBKC

Councillor Kasim Ali, Councillor James Husband, Councillor Marwan Elnaghi,

Councillor Emma Will, Councillor Cem Kemahli, RBKC

Sir Paul Lever, The Chelsea Society

Extract from RBKC 'Tall Building Threshold' (October 2022) – Application site shown in red circle

