

2 February 2021

**Delivered by email**

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Our ref: TELL3021

Dear Sir/Madam,

**RESPONSE TO PLANNING INSPECTORS MATTERS, ISSUES AND QUESTIONS (EIP88) – DRAFT NEW SOUTHWARK PLAN (DNSP) EXAMINATION IN PUBLIC**

**117-125 & 129 RYE LANE, PECKHAM – SITE ALLOCATION NSP73**

**INTRODUCTION**

1. These representations have been prepared by Turley on behalf of the Arch Company (the Arch Co), freehold owners of the majority of the above site (the Site) since February 2019, in response to Inspectors' Matters, Issues and Questions (MIQ) (EIP88) in relation to site allocation NSP73.
2. Arch Co's ownership within the allocation comprises approximately 0.81ha, comprising a three storey building (circa 1,599 sqm GIA) fronting Rye Lane (no.s 117-125 and 129), 30 railway arches and associated open land. The site is opposite Peckham Rye Station with its proposed new square, subject to demolition of the existing arcade buildings, and is accessed from Rye Lane and Consort Road.
3. The Arch Co land comprises the only realistically developable portion of the Site Allocation, otherwise in National Rail ownership (refer to plan submitted with previous representations). This is relevant to question 10.3 of the MIQ.
4. The site has a prominent location within Peckham's Major Town Centre and presents a fantastic opportunity for an enhanced contribution to the Council's vision for Peckham Town Centre, including through the refurbishment of the Art Deco style frontage building.
5. This vision, set out in the Peckham and Nunhead Area Action Plan (2014) (PNAAP) and at DNSP Policy AV.14 *Peckham Area Vision*, seeks to support and enhance the lively character of the existing highly accessible town centre, providing a range of daytime and night time activities with a burgeoning sector of small and medium

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enterprises. AV.14 notes growth opportunities for large<sup>1</sup> development sites in Peckham to provide **new homes** and employment space.

6. In order to fulfil its development potential as a large site, the site must address some notable constraints, including the site's narrow wedge shape and surrounding railway tracks, as well as the Rye Lane Peckham Conservation Area and an area of designated Borough Open Land and Site of Importance for Nature Conservation, to the south. However, with good design and appropriate mitigation measures, these physical constraints can be overcome and sustainable development for Peckham Town Centre delivered.
7. This letter responds specifically to question 10.90, Issue 13, as well as addressing relevant considerations set out in questions 10.1 – 10.9, within Issue 1.

*10.90 "Would the Policy for NSP73 facilitate effective and deliverable regeneration of this site? Is there a realistic potential for the site to accommodate residential development as part of a mix of uses?"*

8. We have structured our response around the tests of soundness set out in the National Planning Policy Framework (NPPF), Paragraph 35 i.e. that the plan is (a) positively prepared, (b) justified, (c) effective, and (d) consistent with national policy. This response is supplementary to our representations submitted on 26<sup>th</sup> October 2020.

### **Positively prepared (meeting objectively assessed needs)**

9. Objectively assessed needs include housing need; NPPF footnote 19 states: *'Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 60 of this Framework'*.
10. The draft replacement London Plan (DLP) identifies objectively assessed need for 23,550 new homes in LBS 2019 – 2029, which contributes to a target of 52,000 homes per annum across London. This falls short of objectively assessed need for 66,000 homes per annum.<sup>2</sup> The DNSP commits to a target of at least 2,355 new homes every year over the plan period and is partly reliant on site allocations to achieve this.
11. The DNSP's housing trajectory<sup>3</sup>, should be considered in the context of LBS' 'presumption' status with regards to MHCLG housing targets<sup>4</sup>. Southwark was required to deliver 7,043 homes 2017-2020 (2,348 / annum) and delivered 72% of these. LBS must produce a revised Housing Delivery Test Action Plan; its 2019 plan (in relation to 2019 prior 'Action Plan' status<sup>5</sup>) states:

*'The Council is absolutely committed to responding to the housing crisis. This is why we are using every tool available to increase the supply of all kinds of homes and to continue revitalising neighbourhoods and deliver[ing] the homes, jobs and public spaces that the borough needs.'*

12. The 2019 Action Plan identifies constraints to housing delivery, which underpins the need to optimise housing delivery on available sites. Notwithstanding Opportunity Areas, the Action Plan notes there are very few available

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<sup>1</sup> Large developments are defined as those over 1,000 sqm gross and therefore we assume large development sites are those that can accommodate at least that amount of floorspace

<sup>2</sup> London-wide Strategic Housing Market Assessment, as referred to in the Publication draft London Plan (2020) para. 4.1.1.

<sup>3</sup> *Indicative NSP Housing Trajectory (2018 -2033)* graph (P30) and *Housing Trajectory - Source of Supply by Year table* (P31)

<sup>4</sup> Housing Delivery Test: 2020 measurement MHCLG

<sup>5</sup> Housing Delivery Test: 2019 measurement MHCLG

large sites and housing delivery needs to be met on small and constricted sites, making housing delivery more challenging. The DNSP also sets a target of 11,000 council homes by 2043; the site can contribute to housing, including affordable housing, subject to viability.

13. In addition, Policy 16 of the PNAAP *New homes* sets a target to provide ‘a *minimum* of 2,000 net new homes between 2011 and 2026’, (our emphasis) whilst balancing jobs and place making objectives.
14. NSP73 is not positively prepared; it does not allow the site to contribute to meeting Southwark’s housing needs. Should LBS’ trajectory not prove resilient, which the MHCLG figures suggest could be likely, additional supply will be important. Furthermore, in a best case the ability to exceed LBS targets will assist with London-wide supply in the context of housing delivery averaging 37,000 homes per annum 2017/18 – 2019/20 against a new target of 52,000.
15. The omission is also out of step with the increased housing ambitions and policies within the draft NSP, specifically Policy SP1a, which seeks to provide increased housing of all tenure types in highly accessible, sustainable locations, which include town centres under Policy SP1a; furthermore, Policy SP4, promotes the co-location of housing and industrial land to meet identified London housing need.
16. We also question the extent to which there is an objectively assessed need for four different pedestrian/cycle links and three active frontages (including one which is currently a railway embankment), or evidence in relation to a need for leisure, community and market uses. We set this out in our prior representations. We are not aware of an evidence base which demonstrates a need for leisure, community or market uses in this location.
17. In response to question 10.7 and with regards to employment retention and re-provision, we accept the aims of policy P29 to retain or increase the amount of commercial floorspace subject to feasibility, as allowed for in P29 2; however, we do not consider that challenges around feasibility can legitimately be described as ‘exceptional circumstances’, rather the feasibility of development is a consideration for all redevelopment schemes. We therefore request that the words ‘*In exceptional circumstances*’ should be deleted from the policy at P29 (2). Furthermore, commercial uses should be described as ‘Class E, Class B and appropriate Sui Generis uses’ rather than ‘*B class use or sui generis employment generating uses*’.

### **Justified (an appropriate evidence-based strategy, accounting for reasonable alternatives)**

18. A reasonable alternative to the draft NSP73 would include positive encouragement of residential development, or at least not to potentially preclude it through a residential capacity of 0 homes. This would assist with delivery of the Development Plan as a whole, as discussed above.
19. Reasonable alternatives for the policy should, as relevant evidence, include the views of the land-owner as to their development intentions for the site. The Arch Co. has conducted feasibility studies for the re-development of the site. Capital expenditure costs of refurbishing and re-letting the railway arches and 117-125 Rye Lane alone would not support delivery of the Council’s aims for the Site, so the possibility of introducing additional uses has been considered. The feasibility studies indicated that, to bring the site forward for re-development in line with the Council’s ambitions for the site, residential floorspace, including new build floorspace, is necessary for a deliverable scheme. Further details are provided below under ‘Effective’.

Given the site’s size, Major Town Centre location and 6b PTAL rating, the site is appropriate for residential in principle. Architectural feasibility studies have been undertaken for the landowner by Assael Architects, which demonstrate that new homes can be accommodated, meeting space and amenity standards in the DLP, access

and place making requirements of the draft NSP (including to facilitate the revival of the Peckham Coal Line) and incorporating design mitigation in relation to the adjacent railways.

20. The evidence base for the PNNAP shows that Site's suitability to provide housing was not even considered as part of the PNAAP back in 2014 and this assessment was not updated as part of the site allocations methodology for the draft NSP, despite the Site's appropriate size, location and town centre designation.
21. On this basis we conclude that the draft NSP policy for Site Allocation NSP73 does not currently represent an appropriate strategy for the redevelopment of the Site, as it does not take into account reasonable (land owner backed) alternatives and the necessary provision of housing for scheme delivery.
22. This response in relation to whether the policy is justified is also relevant to question 10.3 of the MIQ.

### **Effective (deliverable)**

23. Important aspects of deliverability include the existence of a willing and able landowner to redevelop a site, as well as a policy position which enables a financially viable and commercially attractive scheme to come forward. Where sites already generate an income, such as this site, and particularly where sites form part of a large portfolio of sites, as this does, sites will only be deliverable where policy allows sufficient flexibility for the landowner to progress with an optimum scheme.
24. As referred to above, the Arch Co.'s assessment of the prospects for redeveloping this site, as opposed to retaining it as an income-producing asset, which it has been for a considerable time, indicates that a commercial-only scheme would have a commercially unviable return. There are also greater risks to a commercial-led scheme, particularly given long-standing and worsening challenges to town centre businesses, exacerbated by the Covid-19 pandemic. Risk of voids is a particular issue, as well as rental returns.
25. Residential floorspace in this location is more valuable and is required as a commercial necessity to support a viable redevelopment scheme, which would include the provision of employment floorspace, thus delivering the LPA's aims for the site. The draft site allocation would impede the delivery of redevelopment of this site and, as such, undermine delivery of the Development Plan in this area of the borough and in relation to the planned supply of commercial and residential floorspace.
26. The site's status, being one of many in the Arch Co's large portfolio of major sites, requires it to be commercially competitive against other portfolio sites in order to secure the company's capital investment needed to bring forward redevelopment. Flexibility to promote a range of uses onsite, to optimise its development potential, will incentivise the developer to promote this site, thereby creating more realistic redevelopment prospects for the site and more effective delivery of the development plan.
27. Additionally, we note that 'effectiveness' requires clear policy with unambiguous meaning. In this case, cross-reference to PNAAP 3 could lead to a lack of clarity and we suggest that all relevant points from the PNAAP be transferred to the NSP.
28. This response in relation to effectiveness is also relevant to question 10.3 of the MIQ.

### **Consistent with national policy (delivering sustainable development)**

29. Housing delivery is a key tenant of the social dimension of sustainable development and effective use of land is a key tenant of the environmental objective. The omission of residential uses from NSP73 is therefore contrary to the NPPF and adopted London Plan Policy, which seeks to optimise sustainable housing on brownfield sites

in well-connected town centre locations. Furthermore, increasing the number of homes in the town centre will contribute to the vitality of the town centre, consistent with the economic dimension of sustainable development<sup>67</sup>.

30. It is clear that in order for a Development Plan to enable ‘the delivery of sustainable development’ the policies, including site allocation policies, must support appropriate growth. Those aspects of the draft policy that would threaten the likelihood and ability for redevelopment of this site would be inconsistent with national policy.
31. Consistency with the new Class E of the Use Classes Order is also an issue of soundness. Please refer to our previous representations for further detail.

## PROPOSED AMENDMENTS

32. We request the following amendments, reflecting the above comments and those made in our previous representations.
  - Amend the site allocation diagram and site area to reflect developable land, which coincides with Arch Co ownership.
  - The key to the site allocation diagram should be revised to refer to **‘potential for improved connectivity for pedestrians and cyclists, subject to feasibility testing’**. Furthermore, the route marker should not cross the southern boundary of the scheme and only one marker east-west (rather than two) should be shown on the site diagram.
  - The proposed active frontage along Network Rail’s north-facing railway embankment and retaining wall should be removed from the site diagram. It should be noted that **‘there is no requirement for dual active frontages to the arches’**. Preferably, the site diagram should only indicate an active frontage facing south, into the site (i.e. the central of the three currently indicated).
  - Amend existing uses in accordance with details provided with our previous representations.
  - Indicative residential capacity should be considered with reference to LBS’ methodology for other residential/mixed use sites and reflecting the need to optimise delivery. Initial feasibility studies undertaken for The Arch Co indicate residential capacity of circa 90-100 new homes, as part of a mixed use scheme. We would be happy to work with LBS further in relation to the indicative residential capacity of the site.
  - **‘Redevelopment of the site may provide employment and retail space (Class E, Class B and appropriate Sui Generis uses) where consistent with the overall vision of the allocation and where this does not conflict with the provision of active town centre uses’**. [This also responds to question 10.8]
  - **‘Redevelopment of the site may provide residential floorspace / new homes’**.
  - **‘Redevelopment of the site may provide leisure and community uses for the benefit of the local community; however a replacement church is not required as part of a redevelopment scheme.** Amendments to policy P46 in this respect are set out in our previous representations.

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<sup>6</sup> Policy ref

<sup>7</sup> Policy SD6 A (1) of the Publication London Plan states that residential uses, amongst others, will promote and enhance the vitality and viability of London’s town centres.

- 'Can provide Low Line walking routes: Yes – the Peckham Coal Line, **as a low-line route subject to feasibility and safety considerations and excluding access to operational railway land**'.
- Relevant points from PNAAP 3 should be carried into NSP73 for clarity.
- *'The site is suitable for a mixed use development with **residential**, small scale businesses, cultural, leisure and retail elements. There **may be** the opportunity to create a market within this site, which would help promote the local economy; however, this is not a requirement of the site allocation policy and would need to be considered in relation to any potential impact on the feasibility and viability of a redevelopment scheme for the site. The site provides great opportunities to increase the linkages both to the north and east to west. There **'may be'** scope to open up some of the railway arches to create alternative links.*
- Add to 'Design and accessibility guidance': **'The scale and density of development, including possible residential development, should be optimised subject to appropriate environmental, amenity and townscape considerations. Residential density should be optimised to support site delivery'**. As set out in our previous representations, draft policy P33 Railway arches should only **encourage**, rather than require, specific land uses, as part of an appropriate mix of uses determined on a site-specific basis.
- Policy P29: we request that the words 'In exceptional circumstances' should be deleted from the policy. Furthermore, commercial uses should be described as **'Class E, Class B and appropriate Sui Generis uses'** rather than 'B class use of sui generis employment generating uses'.

33. We have written to LBS to formally request the opportunity to present at the Examination in Public on the basis of the above representations. I trust that these are helpful for further consideration of the draft NSP. Please contact me should you have any questions.

Yours sincerely



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