

**Town and Country Planning Act 1990**  
**Planning Appeal under section 78**

**The Aylesham Centre**  
**Rye Lane**  
**Peckham**  
**London SE15 5EW**

**LOCAL PLANNING AUTHORITY'S**  
**STATEMENT OF CASE**

Local Authority Ref: 24/AP/2074  
Planning Inspectorate Ref: APP/E5900/W/23/3318344

Submission by: tp bennett  
On behalf of  
**London Borough of Southwark**

**28 July 2025**

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# 1. Introduction

- 1.1 This Statement of Case relates to an appeal by Berkeley Homes (Capital) Ltd [the Applicant/Appellant] against the failure of the local planning authority [LPA], the London Borough of Southwark [the Council/LBS], to issue a decision in relation to an application for the redevelopment of the Aylesham Centre, Rye Lane, Peckham SE15 5EW [the Site]. The appeal application [the Application] was validated on 3 September 2024 (LBS ref: 24/AP/2074). The description of development [the Development] is as follows:

*Demolition of existing buildings and phased redevelopment to provide a replacement supermarket and associated service yard and car parking (Use Class E(a)), flexible retail, leisure (including drinking establishment), and commercial accommodation (Use Class E/Sui Generis), dwellings (Use Class C3), landscaping and associated works.*

- 1.2 The Council's Planning Committee (Major Applications) B on 15 July 2025 considered the officers' report [OR] on the application. It resolved that, had the applicant not appealed against non-determination, it would have refused the Application on the following three grounds:

1. *The proposed development, owing to the low level of affordable housing, would fail to meet the significant need for social rented and intermediate homes in the borough. As such the proposal would be contrary to policy P1 'Social rented and intermediate housing' of the Southwark Plan (2022) and the Affordable Housing SPD (2025).*

2. *The proposed development, owing to the low level of affordable housing and the failure to deliver any Community Land Trust homes, would fail to deliver sufficient public benefits to outweigh the heritage harm to the character and appearance of the Rye Lane Peckham Conservation Area owing to the height, scale and massing of proposed blocks A, B and C; the scheme would also result in harm to the townscape owing to the excessive height of proposed block L. As such the proposed development would be contrary to paragraphs 212, 213 and 215 of the NPPF (2024), policies D1 'Design, character and capacity for growth', D4 'Delivering good design' and HC1 'Heritage conservation and growth' of the London Plan 2021, policies P13 'Design of places', P20 'Conservation areas', P21 'Conservation of the historic environment and natural heritage' and site allocation NSP74 of the Southwark Plan 2022, and the Rye Lane Peckham Conservation Area Appraisal (2011).*

3. *The proposed development, owing to the loss of retail floorspace, would fail to meet the site allocation requirement in NSP74 to provide at least the existing amount of retail floorspace currently on the site and as such would cause harm to the vitality and viability of the town centre and would fail to diversify and complement the existing retail offer in the town centre. This would be contrary to policy SD6 'Town centres and high streets' and E9 'Retail, markets and hot food takeaways' of the London Plan 2021 and policy P35 'Town and Local Centres' NSP74 of the Southwark Plan (2022).*

1.3 A draft Statement of Common Ground is in the process of being agreed between the Appellant and the Council. The dSoCG includes the following sections:

- 2: site and surrounding area
- 3: planning history
- 4: planning policy framework
- 5: the proposed development
- 6: planning application specification
- 7: common ground
- 8: the main issues (areas of disagreement)
- 9: planning obligations, CIL and conditions

1.4 This Statement of Case explains why the Council considers that the appeal should be dismissed. The Statement of Case is structured as follows:

- Section 2, by way of background, provides a description of the site and surrounding area together with details of the planning history of the Site
- Section 3 sets out details of the Appeal application
- Section 4 identifies the planning policy framework for the appeal, including national, regional and local guidance, and other material considerations
- Section 5 outlines the Council's case for opposing the Development
- Section 6 provides a conclusion

1.5 In accordance with PINS Procedural Guide, this Statement seeks to be succinct, providing an update on the issues, setting out the Council's case and responding to the Appellant's Statement of Case, where appropriate. It does not repeat or duplicate the planning officer's report.

## 2. Site Description and Planning History

### ***Site identification and description***

- 2.1 The Site comprises the Aylesham Centre, Rye Lane, Peckham SE15 5EW, including the Morrison's supermarket, a number of individual retail units, service yard and adjoining surface-level car park (353 spaces) and petrol filling station. The centre also accommodates stall holders and a market place with individual operators. The buildings are 2-3 storeys high. The Site has a PTAL rating of 6b.
- 2.2 A site location plan is attached at Appendix 1.
- 2.3 The Site is broadly flat and its area is 2.7ha. It fronts Rye Lane to the west, Hanover Park to the south, McKerrell Road to the east, and Peckham bus station and the rear of properties fronting Peckham High Street to the north.
- 2.4 The following policy designations apply to the Site:
- Site allocation NSP74
  - Peckham and Nunhead Action Area
  - Peckham Action Area Core
  - Peckham Area Vision Boundary
  - Major Town Centre
  - Protected Shopping Frontage (Rye Lane and internal mall frontages)

- Borough View – View 1: The London Panorama of St Paul’s Cathedral from One Tree Hill
- Rye Lane Peckham Conservation Area (western part of the Site)
- Archaeological Priority Area
- Air Quality Management Area (AQMA)

2.5 The western part of the Site lies within the Rye Lane Conservation Area which encompasses the heart of the historic settlement of Peckham and its historic environment contains a number of both listed and locally-listed buildings – notably the former Jones and Higgins department store and former bank at 47-49 Rye Lane (both locally-listed) which bookend the Aylesham Centre frontage. The Site also sits within the setting of the Peckham Hill Street Conservation Area.

2.6 There is a line of protected trees on the southern boundary of the Site (Hanover Place) with houses and flats opposite. To the east on McKerrell Road are largely residential uses, a large residential building for keyworker housing and Purdon House to the north-east. The western boundary is directly onto Rye Lane at the core of the retail activities of Peckham Town Centre. To the north the Site abuts the rear of retail properties fronting Peckham High Street. Peckham Square and Library lie to the north.

2.7 Southwark is one of the most deprived local authority areas in the country. The Southwark Plan (February 2022) explains that despite Southwark’s ranking for deprivation improving in most areas since 2015, high levels of deprivation remain, particularly relating to barriers to housing and the outdoor environment. Some 93% of households in Southwark have a household income that requires social or intermediate housing. The Peckham Area Character Study



(December 2023) identifies higher areas of deprivation around Peckham town centre, with low access to housing across Peckham, and particularly in the town centre.

## ***Planning history***

- 2.8 The Site's planning history is summarised in section 3 of the dSoCG. The Aylesham Centre was originally permitted in 1985. Subsequent history relates to the management and operation of the Centre, including shopfronts, advertisements and changes of use of individual units, alongside extension of the supermarket and the PFS.
- 2.9 The Council will make reference as necessary to the planning history of nearby sites, including: the Jones and Higgins building (use as a nightclub granted May 2024); 47-49 Rye Lane (use of upper floors as an HMO granted April 2024); and 82-84 Peckham High Street (demolition of single storey retail unit and replacement 4-storey mixed retail, office and residential building granted August 2024).

## ***Pre Application Consultation***

- 2.10 The site was first allocated for redevelopment in 2014 in the Peckham and Nunhead Area Action Plan (PNAAP1). This was informed, inter alia, by the Peckham and Nunhead Characterisation Study (March 2012). The then landowner was involved in lengthy pre-application discussions between 2016 and 2021, though no planning application was ever submitted.
- 2.11 The Applicant met with Council and GLA officers for pre-application advice on four occasions, as follows:

- 28 April 2022
- 4 October 2022
- 16 November 2023
- 16 February 2024

2.12 There was also a presentation to the Council's Design Review Panel on 12 March 2024.

2.13 From this advice the following matters are noted in relation to the putative reasons for refusal and will be addressed in the Council's case:

- Concern with the height, scale and massing of Blocks A, B and C
- Concern with the height, scale and massing of Block L

### 3. The Appeal Application

#### ***The Appeal Application***

- 3.1 The Application was submitted on 15 July 2024 and made valid on 3 September 2024 (LBS ref: 24/AP/2074). The delay related to the validation requirement to provide a VuCity model of the Development.
- 3.2 As originally submitted the planning application proposed 877 homes including 35% affordable housing by habitable room (270 homes, 185 social-rented, 85 intermediate tenure).
- 3.3 In December 2024 the Appellant submitted amendments to the application, comprising minor changes to the commercial spaces, minor elevational changes, a reduction in the number of new homes to 867, and a reduction in affordable housing to 12% (77 homes, 50 social-rented, 27 intermediate).
- 3.4 During the determination period, there were also some relatively minor amendments to during the residential layouts, balconies encroaching over the site boundary, and changes to the materials on the lower levels of Block L.
- 3.5 During the application process comments were received from the following statutory consultees:
- Mayor of London Stage 1 report (21 October 2024)
  - Transport for London
  - Historic England

- Environment Agency
- Natural England
- HSE
- London Fire Brigade
- Thames Water

3.6 During the Council's normal consultation processes, over 2,500 objections were received from local residents, businesses, and community groups, alongside over 50 comments of support.

3.7 The Appellant appealed against non-determination on 30 May 2025. PINS accepted the appeal with a start date of 23 June 2025.

3.8 The application was reported to the Council's Planning Committee B on 15 July 2025 with a recommendation that the appeal be contested on one single ground (now presented as RfR2). The Committee resolved to contest the appeal on three grounds, as set out in para 1.2 above.

### ***Mitigation***

3.9 Planning Committee also agreed the following heads of terms for a s106 agreement (as set out in the OR para 726), with authority delegated to the Director of Planning and Growth to agree the final terms through the appeal process:

- phasing, including delivery of supermarket prior to existing supermarket demolished, delivery of retail space before occupation of proportion of private homes

- demolition and construction management plans and monitoring fee
- affordable retail space for independent business, including access to agent and legal support, provision of temporary space and relocation fund
- affordable housing delivery, monitoring and monitoring fee, early, mid- and late-stage reviews
- delivery of wheelchair homes
- archaeology contribution (£14,391)
- biodiversity net gain – plan, metrics, monitoring, including £12,874 monitoring fee
- local employment during construction and within completed development
- local procurement
- affordable workspace – strategy, 10% provision
- play space contribution £113,100
- tree planting strategy/£4,000 per tree not planted
- bus station improvements works prior to occupation, TfL bus accessibility contribution (£80,000)
- pedestrian and cycle route to Clifton Estate, Rye Lane cycle route contribution (£226,000), cycle hire membership and expansion (or £270,00 contribution), on-site provision
- highway works, including pre-commencement condition survey, new street/wayfinding signage (£22,000)
- car club membership and bays
- EV charging points – 20% active provision, 80% passive provision
- parking permit exemption
- CCTV additional provision and mitigation (£193,182.93)

- carbon off-set payment (£911,525), future-proofing for district heating network, be-seen carbon monitoring and post-installation review
- travel plan monitoring fee (£2,790)
- estate management plan, including Public access through the site 24/7
- making good flank wall of Jones and Higgins building
- GLA mortgagee in possession clauses
- total financial contributions £2,054,622.93

3.10 This is a fuller version than para 9.6 of the dSoCG. It is the intention that a full agreement will be put in place for the Public Inquiry in the event the Appeal is allowed, to ensure the impacts of the Development are adequately addressed through relevant planning obligations.

3.11 Draft planning conditions to be imposed should the Appeal be allowed will be included in the SoCG.

3.12 The development would also be liable for payment of the Community Infrastructure Levy of £14,141,885.86 (see OR para 730).

## 4. Planning Policy Context

### ***Introduction***

- 4.1 This Appeal must be determined in accordance with the development plan unless material considerations indicate otherwise: s38(6) of the Planning and Compulsory Purchase Act 2004 [the 2004 Act].
- 4.2 Section 4 of the dSoCG sets out details of the relevant planning policy framework. This section of the LPA's Statement of Case briefly summarises these.

### ***The Development Plan***

- 4.3 The Development Plan comprises:
- the London Plan (March 2021) [LP]
  - the Southwark Plan (March 2022) [SP]

### ***National Planning Policy Framework and Guidance***

- 4.4 The National Planning Policy Framework (December 2024) is a material consideration in the determination of the Appeal. The following key provisions of the NPPF are most relevant in this case:
- Sustainable development – para 11
  - Housing delivery – paras 61, 63, 66, 79
  - Town centre vitality – para 90
  - Making best use of land – paras 125, 126, 130

- Achieving good design – paras 131-135, 137
- Planning for climate change – paras 161-167
- Protecting and enhancing the historic environment – paras 212, 213, 215

4.5 Reference will be made to relevant sections of National Planning Practice Guidance [PPG] where appropriate and to other national guidance including that issued by Historic England.

### ***Heritage legislation***

4.6 S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on LPAs in exercising its planning functions “with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

### ***Development Plan Policies***

4.7 The dSoCG (para 4.12) sets out a comprehensive list of all relevant LP and SP policies.

4.8 The following LP policies are referenced in the RfR and are specifically relevant to this Appeal:

- D1: Design, character and capacity for growth
- HC1: Heritage conservation and growth
- SD6: Town centres and high streets
- E9: Retail, markets and hot food takeaways



4.9 The following SP policies are referenced in the RfR and specifically relevant to this Appeal:

- P1: Social rented and intermediate housing
- P13: Design of places
- P20: Conservation areas
- P21: Conservation of the historic environment and natural heritage
- P35: Town and Local Centres
- Site allocation NSP74

***Other Material Considerations***

4.10 The dSoCG (para 4.4) sets out a comprehensive list of supplementary planning documents that may be relevant to determination of the appeal.

4.11 The Council considers the following guidance is particularly material in this case:

- Rye Lane Peckham Conservation Area Appraisal (October 2011)
- Affordable Housing SPD (May 2025)

4.12 The Council may also make reference to the following documents:

- LBS Peckham Area Character Study (Draft) (December 2023)
- LBS Heritage SPD (September 2021)

- LBS Section 106 obligations and Community Infrastructure Levy (CIL) (April 2015, update November 2020) and draft replacement (July 2024)
- Peckham and Nunhead Characterisation Study (March 2012)
- Central Peckham, London Borough of Southwark, Historic Area Assessment (English Heritage, 2009)

4.13 The Council is able to demonstrate that there is over five years housing land supply in the borough. The last published data (July 2021) shows a 5.4-year supply.

4.14 The most recent Housing Delivery Test (December 2024) showed that LBS scored 82% - ie requiring a buffer of 20% on its five-year housing supply and an action plan (NPPF paras 78 and 79 refer), but not engaging the “tilted balance” (NPPF para 11 footnote 8). The buffer is accounted for the five-year housing land supply figure above.

4.15 The Council reserves the right to refer to any other documents considered material to the determination of the appeal.

## 5. The Council's Case for Opposing the Development

### ***Introduction***

- 5.1 This section of the Statement sets out the Council's putative reasons for refusal as the basis for contesting the Appeal. It outlines the key arguments for considering the Development contrary to the Development Plan and which will be elaborated in its evidence to the Inquiry.
- 5.2 It is agreed that the principle of residential-led mixed-use development is acceptable on the Site, in accordance with the site allocation. However, the Development does not accord with the Development Plan in important respects relating to: the proportion and tenure of affordable housing; heritage harm with insufficient balancing public benefits and adverse impacts on townscape; and adverse impacts on the vitality of Peckham Town Centre..

### ***Reason for refusal 1: insufficient affordable housing to meet local needs***

- 5.3 The first putative RfR reads as follows:

*The proposed development, owing to the low level of affordable housing, would fail to meet the significant need for social rented and intermediate homes in the borough. As such the proposal would be contrary to policy P1 'Social rented and intermediate housing' of the Southwark Plan (2022) and the Affordable Housing SPD (2025).*

- 5.4 The Council will present evidence demonstrating the very high levels of need in LBS and more locally for affordable housing. This will provide the context for the application of relevant policy tests to the Development.
- 5.5 SP Policy NSP74 allocated the site for mixed-use development in 2022. In allocating the site, there was no suggestion that the proposal should come forward with a level of affordable housing below that which had been demonstrated to be viable across the plan area.
- 5.6 The Development proposed 35% affordable housing on submission in July 2024, reflecting the “minimum” in SP Policy P1. SP Policy P1 requires 40% affordable housing to enable an application to follow the “fast-track” process, so the application was subject to viability testing to demonstrate that no more than the minimum should be provided. The Appellant subsequently amended its proposals to propose just 12% affordable housing.
- 5.7 Importantly, national policy makes clear that major housing development is expected to deliver a mix of affordable housing to meet identified local needs (NPPF 66). Both the London Plan and Southwark Plan set an overall target of 50% of new homes to be affordable. SP Policy P1 seeks the maximum amount of affordable housing, up to the strategic target of 50%, and that viability information should be provided to justify providing less than that. It also seeks a minimum of 35% affordable housing with a focus on social housing. The site allocation NSP74 does not suggest a lower level than 35% affordable housing would be acceptable.
- 5.8 While the minimum affordable housing requirement in Policy P1 is expressed as “subject to viability”, the NPPF and PPG make clear

that the weight to be given to viability appraisals is a matter for the decision-maker. The Council does not dispute the overall outcome of the Appellant's viability appraisal. However, given the very significant levels of housing need locally (with 93% of households in Southwark having a household income indicating a need for affordable housing), the Council's case is that the failure to deliver the minimum amount of affordable housing provision outweighs the viability appraisal, and that development at the site should be required to deliver at least 35% affordable housing.

- 5.9 Similarly, the absence of proposals to meet the requirements of NSP74 in respect of Community Land Trust homes means that the public benefits of the proposal do not accord with the requirements of policy.

***Reason for refusal 2: insufficient public benefit to off-set less than substantial harm to heritage assets***

- 5.10 The second putative RfR reads as follows:

*The proposed development, owing to the low level of affordable housing and the failure to deliver any Community Land Trust homes would fail to deliver sufficient public benefits to outweigh the heritage harm to the character and appearance of the Rye Lane Peckham Conservation Area owing to the height, scale and massing of proposed blocks A, B and C; the scheme would also result in harm to the townscape owing to the excessive height of proposed block L. As such the proposed development would be contrary to paragraphs 212, 213 and 215 of the NPPF (2024), policies D1 'Design, character and capacity for growth', D4 'Delivering good design' and HC1 'Heritage conservation and growth' of the London Plan 2021, policies P13 'Design of places', P20*

*'Conservation areas', P21 'Conservation of the historic environment and natural heritage' and site allocation NSP74 of the Southwark Plan 2022, and the Rye Lane Peckham Conservation Area Appraisal (2011).*

- 5.11 This RfR subsumes two separate issues – heritage harm and townscape harm; these will be addressed separately in the Council's evidence.
- 5.12 The evidence will set out the care that has been taken by the LPA over the years to ensure that the significance, character, and appearance of the historic environment, notably scale, key views and landmarks have been safeguarded. This is evident in a sequence of policy documents including the Rye Lane Conservation Area Appraisal, Heritage SPD, AAP Townscape Characterisation Study, Site Allocation and Development Brief.
- 5.13 The evidence will show that, in exercising its development management functions in the conservation area and its context, the Council has taken a consistent approach to applying these policies. It has sought to do so on the Appellant's scheme, especially in respect of the development edges, including scale, height, massing, bulk and apparent bulk, roofscape etc.
- 5.14 While LBS has come to agreement on many aspects of the proposal, discussions have not brought forward revised proposals that would sufficiently diminish the harm caused by Blocks A, B and C to the character and appearance of the Rye Lane Conservation Area, its setting, views in and out and to the setting of its component assets including non-designated assets.

- 5.15 It will demonstrate that the merged design of Blocks A, B and C to form one larger sheer monolithic block, including elements of its detailed design which exacerbate the problematic apparent bulk and scale, fails to respond to the sensitive and carefully managed physical environment of Peckham's historic village core set around the staggered crossroads including along Rye Lane and Peckham High Street and to views within and to/from this area.
- 5.16 This careful management includes the Peckham Townscape Heritage Initiative which is seeking the ongoing restoration of assets around the edge of the Site and whose considerable enhancements would be undercut by harm to their settings.
- 5.17 It is recognised and agreed that aspects of the current Aylesham Centre are a negative feature of the conservation area. However, aspects of its current design responded closely in scale to retained elements of the historic townscape and sought to replicate the scale of the department store structures it replaced. It will be argued that the Appellant's scheme fails to take the same care and so while the redevelopment of the Aylesham Centre is welcome in principle, the proposals increase the harm caused rather than lessen it.
- 5.18 In particular, Blocks A, B and C together form a substantially out-of-scale and alien intrusion, harming the character and appearance of Rye Lane, diminishing the prominent and long-standing role of key historic landmarks (including the clocktower and 47-49 Rye Lane), creating a poor relationship with these 'bookends' and overwhelming the setting of several other locally listed buildings on Rye Lane and Peckham High Street and obstructing key views and approaches from locations such as Peckham Square and Peckham Hill Street and along Rye Lane and Peckham High Street.

- 5.19 As such, evidence will show that there are medium to high levels of less than substantial harm to the significance of these assets and there is a failure to preserve or enhance the character and appearance of the relevant part of the Rye Lane Conservation Area including its positively contributing heritage assets and the key views and approaches identified in the conservation area appraisal.
- 5.20 The evidence will have regard to the views of relevant heritage stakeholders, including Historic England and the GLA (noting that the GLA's view of the harm/public benefits balance pertained to the previous iteration of the scheme with a 35% affordable housing element).
- 5.21 It is noted that the Appellant has not submitted a separate Heritage Impact Assessment for the scheme and has instead relied on its Environmental Statement and related documents including its HTVIA. Assumptions in the Appellant's ES such as the sensitivity to change of the Rye Lane Conservation Area, the magnitude of change and the effect of change will be challenged.
- 5.22 The Council will demonstrate that Block L is a poor-quality building with a cliff-like, monolithic form of unrelenting scale that does not perform the required 'stepping down' to the public edges of the Site. It will not have a sufficiently modelled frontage to the public north edge of the site including at ground level. In so doing, as captured in view 37, it will provide a poor, overshadowed frontage to the bus station and Peckham High Street, failing to respond adequately to its context.
- 5.23 Consequently, Block L will have a harmful impact on a major and highly visible frontage in the town centre and will have an adverse impact on the periphery of the historic town centre (which is a



constituent element of the overall townscape). This includes kinetic views approaching the conservation area from the east along Queens Road/Peckham High Street.

- 5.24 As such it fails to meet the thresholds for quality design set out in national, regional and local policy including Southwark's tall building policies and those contained within the London Plan.
- 5.25 Taken together, Blocks A, B, and C cause medium to high levels of less than substantial harm to the significance of heritage assets and their settings, and fail to preserve or enhance the character or appearance of this part of the Rye Lane Conservation Area. Block L has unacceptable adverse impacts on townscape.
- 5.26 In accordance with the NPPF, firstly, great weight has been given to the balancing of this less than substantial harm to designated assets with the perceived public benefits and, secondly, a balanced judgement has been taken on the less than substantial harm caused to the setting of non-designated assets. In both instances, it is considered that those benefits do not outweigh the level of harm caused.
- 5.27 The public benefits in terms of AH, as set out above, are not considered to outweigh the level of harm to the relevant assets. Similarly, the absence of proposals to meet the requirements of NSP74 in respect of Community Land Trust homes means that the public benefits of the proposal do not accord with the requirements of policy.
- 5.28 There are no other evident public benefits pertinent to offsetting the heritage harm with features such as the provision of landscaped

space within the development regarded as minimum design requirements rather than benefits. The only heritage-specific benefit offered by the appellant (by way of planning obligations) are some lengths of York stone paving.

***Reason for refusal 3: loss of retail floorspace***

5.29 The third putative RfR reads as follows:

*The proposed development, owing to the loss of retail floorspace, would fail to meet the site allocation requirement in NSP74 to provide at least the existing amount of retail floorspace currently on the site and as such would cause harm to the vitality and viability of the town centre and would fail to diversify and complement the existing retail offer in the town centre. This would be contrary to policy SD6 'Town centres and high streets' and E9 'Retail, markets and hot food takeaways' of the London Plan 2021 and policy P35 'Town and Local Centres' NSP74 of the Southwark Plan (2022).*

5.30 SP Site Allocation NSP74 requires the retention of the existing supermarket use and provision of at least the current amount of retail floorspace on the site. The following table (adapted from para 29 of the OR) compares the existing and proposed non-residential floorspace on the Site:

<b>Land use</b>	<b>Floorspace (GIA sqm)</b>		
	<b>Existing</b>	<b>Proposed</b>	<b>Difference</b>
Supermarket	4,976	4,436	-540
Flexible retail, leisure, commercial (Class Ea-g), sui generis	5,109	3,813	-1,296
Internal mall, atrium	1,392	0	-1,392
Petrol filling station (sui generis)	98	0	-98
Workspace	0	2,725	+2,725
<b>TOTAL</b>	<b>11,575</b>	<b>10,974</b>	<b>-601</b>

- 5.31 There is an overall loss of some 3,226sqm of retail and related commercial/sui generis floorspace. This is proposed to be off-set by 2,725sqm of workshop space.
- 5.32 The Council will present evidence showing that the vitality of Peckham Town Centre is a function of the many market traders and independent retailers, including in the Aylesham Centre and the Market Place, which specialise in West African goods (and increasingly from a wider range of geographical and ethnic backgrounds).
- 5.33 It will show how the Development, with its conventional approach to retail provision, will not meet the relevant NSP74 requirement “to diversify and complement the existing retail offer in the town centre”. The Council’s case is that the Development will fail to meet the policy requirements for an inclusive and diverse range of uses that complement local character and strengthened sense of place and local identity (London Plan Policies SD6 and E9) and would harm the Town Centre’s vitality (Southwark Plan Policy P35).

- 5.34 Planning obligations are proposed that would seek to provide both retail space for independent traders operating on the site (including stallholders and market place traders) and temporary space at affordable rents during construction, alongside provision of professional property and legal support. These may go some way towards mitigating the adverse impacts on the vitality of the Town Centre but, given that the direct impacts on traders will be in the second phase of construction, there is no current certainty as to the likely efficacy, deliverability or affordability of these measures.

***Ineffective mitigation measures***

- 5.35 As set out in para 3.9 above, the Council's Planning Committee resolved that a range of planning obligations should be secured in the event the Appeal were allowed.
- 5.36 The Council's case is that these obligations do not address the unacceptable impacts of the Development.
- 5.37 The Council will also provide the Inquiry with a list of draft conditions – to be agreed with the Appellant and set out in the SoCG – that it considers are necessary and meet the relevant tests in NPPF para 57 to mitigate in the event the Appeal were allowed.

## 4. Conclusion

- 6.1 The Council will present evidence on the three putative reasons for refusal.
- 6.2 The Council considers that there is conflict with the Development Plan in important respects and that this conflict is not outweighed by other material considerations, including the benefits of the proposal.
- 6.3 Accordingly, the Council will invite the Inspector to dismiss the Appeal.
- 6.4 Draft planning conditions to be applied to the Development should the Appeal be allowed are in the process of being agreed with the Appellant, without prejudice to the Council's case, and are to be included with the dSoCG. To the extent that any cannot be agreed, they will be the subject of evidence from the Council.
- 6.5 A s106 planning obligation in the form of a legal agreement will be provided in accordance with the Appeal timetable, in the event the Appeal is allowed, to secure the agreed heads of terms set out in the dSoCG. To the extent that it cannot be agreed, it will be the subject of evidence from the Council.

## Appendix: Site location plan

