

SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990
AN APPEAL IN RESPECT OF THE AYLESHAM CENTRE, RYE LANE,
PECKHAM, SE15 5EW
AGAINST THE DECISION BY LONDON BOROUGH OF SOUTHWARK
BEFORE: Inspector M Shrigley BSc MPlan MRTPI
APPEAL REFERENCE: APP/A5840/W/25/3366760

OPENING REMARKS ON BEHALF OF THE AYLESHAM COMMUNITY ACTION

INTRODUCTION & SUMMARY

1. These opening remarks are on behalf of the local community in this case, the Aylesham Community Action (“**ACA**”), a Rule 6 Party to this inquiry. ACA was formed in 2020 and is made up of local residents who are deeply concerned about the proposals for the site at the Aylesham Centre. ACA has spoken with and worked alongside various local businesses, faith groups and other stakeholders, and the views expressed are highly representative of the strength of feeling in this community.
2. ACA submits to this inquiry that the appeal should be dismissed for the following cogent reasons supported by three professional witnesses.
3. **First**, the proposal causes material harm to the character and appearance of the Rye Lane Peckham Conservation Area and a number of listed heritage assets without sufficient countervailing public benefits. **Second**, it provides an inadequate level of affordable housing contrary to the relatively recently adopted development plan and the site allocation’s expectations, but also runs counter to the needs of the community in Peckham and the majority of this great city of London. **Third**, it reduces the retail floorspace against a clear policy requirement to maintain at least the existing provision. And **fourthly**, it fails to grapple with, here and now, the foreseeable equalities consequences of displacing a distinct group of small, all predominantly minority-owned businesses that form part of Peckham’s social fabric. Ultimately the planning balance begins with the scales tipped against this development, and that is where it also ends.

4. Peckham is a proud community that has its own distinct identity to the rest of London. It will be easy to cast the community action group as privileged NIMBYs who are unrepresentative of the wider community as a whole. This would be a serious mistake.
5. In reality, this is a campaign on behalf of community objectors who welcome plan-led, mixed-use regeneration in principle but are clear that this does not meet that threshold. The group has been on the streets talking to all Peckham residents, including the businesses, all with the explicit goal of ensuring the development works for the community as a whole. This is not, as has been sought to be characterised, as a minority view from the privileged few. Because this is by far the largest allocation for housing in Peckham and there is therefore only one chance to get this right.
6. The following abbreviations assist in reading and understanding this document.
 - a. National Planning Policy Framework (NPPF) (2024)
 - b. The London Plan (LP) (2021)
 - c. Southwark Plan (SP) (2022)
 - d. Site Allocation NSP74 (Aylesham Centre and Peckham Bus Station)
 - e. Rye Lane Peckham Conservation Area (the Conservation Area)
 - f. Community Land Trust (CLT)
 - g. Public Sector Equality Duty (PSED), and Equality Impact Assessment (EQIA).
7. The structure of these opening remarks is as follows: **(1)** the context of ACA and Peckham's community and expectations; **(2)** the policy context of SP, LP and NPPF; **(3)** our submissions on the main issues; **(4)** the planning balance and conclusion.
8. These opening remarks are necessarily longer because today is likely to be the only day when the vast majority of the community will be present to hear proceedings. It is therefore crucial to set out our case in full.
9. We align ourselves with the case advanced by the Council in full, and often seek to also compliment the points on heritage in particular. But we necessarily go beyond it in order to bring to this inquiry more specific and granular impacts relevant to ACA.

ACA's case in context

Peckham and what is at stake

10. Peckham's Major Town Centre is more than a retail node. It is a living, multicultural high street economy whose identity has been shaped over decades by independent traders, specialist food and fabric shops, and faith and civic spaces, with the Jones & Higgins clocktower, the former bank building as visual anchors along the varied Rye Lane frontage. The Aylesham Centre occupies a large, inward-facing 1980s shopping precinct between Rye Lane and Peckham High Street. It contains a Morrisons supermarket, chain retailers, independent units including mall handcarts, a petrol filling station, and a 353-space surface car park.
11. It is acknowledged that the fabric of the centre is tired and car-dominated, and there is a broad consensus that the site is under-optimised in a highly accessible location. This is what NSP74 seeks to change. ACA also acknowledges that this development would be seeking to redevelop brownfield land in line with national policy and priorities. But the form and function of any replacement matters to the local people because the Centre's occupiers and the established street rhythms serve particular communities, often defined by class and socioeconomic solidarity, race and faith, and because the Conservation Area's modest scale and fine grain on Rye Lane and Peckham High Street are central to Peckham's character. As the inquiry progresses, this fundamental understanding will be shown to be lacking in the Appellant's whole approach from the start to today. In short, the overarching question for ACA is to invite the Inspector to ponder whether this development is "right for Peckham"?
12. To this end, it is worth noting some shocking statistics. Southwark's SHMA identified a need for 2,077 social rent and intermediate homes per annum, representing 71% of Southwark's **total housing need**. A staggering **93% of households** in Southwark have a household income that requires social and intermediate housing.¹ It is understandable therefore that the SP clearly considers these tenures to be a 'main priority'. The vast majority of what is being offered by this development will not even attempt to meet the overwhelming need of the people in this borough. This is a shocking state of affairs.

¹ SP1, page 108, paragraph 2

The Proposals and how it has evolved

13. And so how did we get to this point?
14. The application seeks the demolition and phased redevelopment to deliver a replacement supermarket, flexible commercial uses, new public realm and routes, and **867 dwellings**. Crucial to ACA's case is to note that when it was first submitted, the scheme proposed 877 homes with **35% affordable housing by habitable room**. In December 2024, perhaps coincidentally when the new NPPF was released, the application was amended, reducing homes to 867 and affordable housing to 12% by habitable room, comprising a meagre 77 affordable homes split between social rent (50) and intermediate tenures (27). Further to this, contrary to what the specific policy requires, uniquely through this site, no CLT homes are proposed. In the context of Peckham, these are fundamental and we say fatal flaws in the proposed scheme.
15. On **height and massing**, the Rye Lane frontage (Blocks A–C) rises to seven storeys with upper-level set-backs, while Block L, addressing the bus station to the north, reaches around 10–11 storeys. The design introduces new east–west and north–south routes and over a hectare of open space. It also reduces retail floorspace drastically below existing levels (-c.3,500sqm), contrary to the allocation's explicit requirement to provide at least what is there today. This is not without consequence: the SP seeks to rely on this site to contribute to the overall target of 7,000sqm of retail floorspace in Peckham, representing a tenth of the Southwark wide target. These all represent fundamental failures to meet the allocation policy.
16. The Inspector is invited to track the progression of this particular site and other Peckham allocations (NSP sites) as they were said to be, in principle, deliverable at allocation. Then, there was a clear conclusion reached that these particular sites were positively prepared and justified. Meaning their viability was never called into question. The modification of the policy to require at least the same amount of retail floorspace also required a modification (**MM160**) meaning there was a clear intention behind it.
17. In this inquiry when what is sought is compared against that background, the thrust, intention and overall aim of the policy is fundamentally undermined.

Community perspectives, concerns and interests

18. Local residents and traders accept that comprehensive redevelopment is (and should be) plan-led and is somewhat overdue. Their concern is not about change per se, but about the form and consequences of this negatively transformative change. Far be it a regeneration, it is a generationally damaging change that will be irreversible. Away from the policy interpretation and heritage assessments are real life stories and impacts.
19. The **first** concern is the scale of built form on Rye Lane and behind the buildings on Peckham High Street and the cumulative visual effect on the Conservation Area's significance. This includes the experience of the clocktower and established rooflines, the sense of enclosure on a street of predominantly three to four storeys, and on the character of the oldest buildings in Peckham, on the south side of Peckham High Street. ACA's case also bolsters the Council's case in looking beyond just factors pertaining to physical / visual heritage effects.
20. The **second** concern is **affordability** in the context of Peckham (as set out above): the reduction from 35% to 12% affordable housing and the absence of CLT homes erode the very benefits that would be needed to *justify* heritage harm and to meet local housing need in an area of acute deprivation and overcrowding. The consequence will be for an inordinate amount of harm to be rendered on this part of Peckham whilst the promised benefits wither away. The Appellant simply prays in aid of the site being an allocation.
21. The **third** concern is the net loss of retail floorspace (c.3,546 sqm) against a clear policy requirement to retain at least the existing provision, coupled with a shift toward higher-end offer that risks weakening the diverse, affordable retail ecology that defines Peckham today. Instead, what the Appellant seeks to deliver through the purported workspace has no policy support or compelling evidence.
22. The **fourth** concern is **equality**. Displacement will fall disproportionately on non-white, often older proprietors from lower income and socio-economic status whose goods and services support specific cultural and faith practices and who lack the resilience to survive a long hiatus in trading. We know that the Elephant and Castle example has been raised and we shall explore it no doubt during the inquiry.

23. Fundamentally, and ultimately, the community's interest is in a scheme that enhances the Conservation Area, maintains retail capacity and affordability, delivers robust and policy-compliant affordable housing including CLT provision, and secures business continuity through enforceable relocation and right-to-return arrangements rather than deferring hard questions to a later stage.
24. Peckham and its community are not afraid of change, indeed a huge part of its identity is the evolution that has made this the eclectic community what it is today. What the people do not want is a change that seeks to erase them and their surroundings. To that end, this morning after the opening remarks, you will hear from a representative number of individuals from the community. In their voices you will hear fear of the unknown, in their faces will be imprinted the disappointment at what is being offered, and in their compelling words an expectation that they will be heard – often for the first time.

POLICY CONTEXT

25. **NSP74** allocates the site for comprehensive mixed-use redevelopment anchored by a supermarket and retail uses, with new homes and new public realm. It signals that taller elements up to around 20 storeys can be appropriate in principle in this location, subject to design and the context in Peckham, and it requires a comprehensive approach that re-stitches routes and delivers inclusive growth. Material to this inquiry, it expects provision of CLT homes and requires the retention of at **least** the existing amount of retail floorspace. It sits within the broader **SP strategy to deliver 50%** affordable housing across the borough and to protect and enhance town centres as places for inclusive economic participation. Crucially, spaces that ensure development supports existing communities and businesses.² It is a policy that is the closest expression of what is collectively acceptable in this location at this time.
26. The Appellant's failure to meet this policy in full speaks to their lack of understanding of Peckham, the lack of what is acceptable following a rigorous plan testing process, and ultimately an ambition to provide something alien to Peckham as a whole.

² Southwark Plan, 159-160; **Policy ST1**: ...*This new development **must** provide housing of all tenures for all age groups to integrate with existing communities and improve places for existing residents and businesses particularly in the areas around where the new development is being built...* (page 46); **Policy P17**: ... *"Well-designed tall buildings can add value to **existing communities** by ensuring that they provide benefits for all."* (page 134)

27. No doubt the Appellant will seek to rely on the recent government and Mayor of London announcement about requiring 20% AH for a specific period of time. This is totally irrelevant to this inquiry for four reasons. **First**, the law reminds us that we need to make decisions in accordance with the development plan unless material considerations indicate otherwise. The requirement to meet policy remains the overarching consideration and this is not displaced by an announcement to consult on a change. **Second**, there is no rational way in which this inquiry could give this announcement any weight given the nascent nature of it, and in any event, what is on offer is substantially lower than the purported temporary ambition (almost half). **Third**, the legal and adopted policy position cannot be displaced by a press release and the launching of a consultation document.
28. In making effective use of land, the NPPF reminds us that ‘substantial weight’ should be given to using suitable **brownfield land** within settlements for homes and other identified needs. However this support is conditional on any such proposal being ‘*approved unless substantial harm would be caused*’.³ Taking account of the cumulative harms caused by this development (heritage, townscape, lack of adequate AH etc) as well as providing for other identified needs (i.e. retail), there can be no doubt that the harm caused is substantial.
29. This is the planning context against which the main issues must be assessed.

The heritage and legal framework

30. **Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990** require special regard to be had to the desirability of preserving listed buildings or their settings, and special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
31. The NPPF mandates **great weight** to the conservation of designated heritage assets.⁴ Where a scheme causes less than substantial harm, that harm must be weighed against public benefits. The LP requires development to respond to local character, optimise site capacity through a design-led approach, conserve heritage significance, and

³ NPPF 125 (c)

⁴ NPPF paras 212-215

manage the location and design of tall buildings.⁵ The SP repeats those duties and includes detailed expectations for conservation areas, design of places, and tall buildings. The Rye Lane Peckham Conservation Area Appraisal describes the street's significance and sets expectations for height, massing, and roofscape along the frontage.

Affordable housing and viability policy requirement

32. The London Plan sets a strategic target of **50% affordable** housing and a **minimum of 35%** on-site provision for major schemes, subject to tenure mix and viability tests. The SP mirrors the 50% strategic target and requires a minimum 35% on-site delivery as a baseline, calibrated to local need, with policy flexibility informed by viability scrutiny where duly evidenced. The plan which was found sound only in 2022 would not have mandated the same if it was not, in principle, viable to achieve this.
33. The allocation's reference to CLT homes reflects a **unique** policy ambition in the SP for locally rooted intermediate tenures in this location. Again, this is highly specific to Peckham in particular. The weight to be attached to viability is for the decision-maker, having regard to local need, the site's history, and the extent to which other benefits are advanced. Exploring this is a significant part of ACA's case.

Town centre vitality and retail floorspace policy

34. The London Plan town centre policy seeks to strengthen high streets and supports a diverse retail ecology, with an emphasis on affordability and accessibility, and identity and character, not only quantum. The SP's centre policies protect the function and vitality of Major Town Centres and, for NSP74, require at least the existing amount of retail floorspace on the site. The rationale is clear: this is a major, centrally located allocation where growth should **not** come at the expense of capacity for day-to-day shopping and services. A reduction in retail floorspace (some 3,546 sqm) in this context risks undermining vitality, particularly if unit sizes and rent levels trend upward and displace the small-format, lower-rent provision that meets local needs.

⁵ LP D1, D3, D4, D9, HC1: SP P13, P20, P21; Rye Lane Peckham Conservation Area Appraisal (2011);

35. The consequence of which includes the draining away the core part of the centre's identity. The Appellant's evidence has fundamentally failed to engage with this fully.

Equality duties and business displacement

36. **Section 149 of the Equality Act 2010** requires decision-makers to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations. The PSED must be considered at the point of decision and cannot be delegated or deferred. In this case, the applicant's EQIA acknowledges potential disproportionate effects on minority-owned independent businesses and their customers, and differential construction impacts on age and disability groups. Officers have identified the need for more detailed, business-specific equality analysis and a robust Business Relocation Strategy nearer the time of vacant possession, currently projected no earlier than January 2030. Community objectors do not dispute phasing realities, but they contend that the Inquiry must be satisfied **now** that the relocation and right-to-return provisions, and the affordability and availability of units, will avoid disproportionate impacts, rather than treating equalities as a matter to be worked out later.
37. This is particularly acute when one considers the social implications of rising residential and commercial rents in the area. This development will disturb the rich mix of ethnic communities that current co-exist. This could be eroded and subsequently transform the local character to serve a narrower demographic profile.⁶
38. On this specific point, there have been some shifting sands with the Appellant seeking to bolster its case through the negotiations with the S106/UU, and to that end, it is crucial that the Inspector is clear, by the end of this inquiry, about what is being promised and how and when it is likely to be delivered. And ultimately whether it will actually result in the protection of these businesses. Ahead of the inquiry, Town Legal on behalf of the Council submitted a detailed note on where matters stand, and in particular the woeful presentation of the Unilateral Undertaking that fails to make adequate provision on an array of matters. ACA will continue to monitor the situation, but suffice it to say we have even less confidence in the Appellant's intention to fully meet its obligations.

⁶ Appendix 1 to POE JH, The Aylesham Shopping Centre and the Reshaping of Peckham, Dr Habiba Jelali

SUBMISSIONS

Heritage, Townscape, and Design: Impact and Balance

The Conservation Area, Rye Lane frontage, and Blocks A–C

39. The Conservation Area derives significance from its consistent **three to four** storeys street wall, narrow plot grain, and the kinetic experience of shopfronts, canopies, and facades that vary within a coherent record.⁷
40. The design of Blocks A–C is said to interpret local rhythms with vertical articulation, tall ground floors, and set-back upper levels. However, the seven-storey envelope reads as a single, continuous intervention across a long frontage, with upper storeys visible in important linear views.⁸ It is also noteworthy that Historic England, the statutory consultee considers that, when viewed from Rye Lane, the proposal would cause harm to the conservation area’s character.⁹ Their views are recorded in the committee report as follows:

*“Historic England has no in-principle issue with the redevelopment of the Aylesham Centre site which is allocated for redevelopment with buildings of increased height in the Southwark Plan. However, **HE consider that the overall height and distribution of tall buildings would have in an incongruous relationship with the more modest-scale and fine grain townscape along Rye Lane and Peckham High Street, from some locations appearing as an enormous wall of development in the background of key views of the Rye Lane Peckham Conservation Area.** HE consider that these impacts would cause harm to the conservation area’s character. This harm could be mitigated through the development of a frontage building to Rye Lane that successfully responds to the fine grain and modest scale of buildings within the conservation area. Unfortunately, **HE consider that this opportunity has been missed due to the overbearing presence of Buildings A, B and C in key conservation area views.**”¹⁰*
(emphasis added)

⁷ POE Mike Ibott

⁸ POE Claire Hegarty, paragraph 5.7

⁹ REF

¹⁰ CD 3.1: Historic England objection, paragraph 798, PDF 294 (internal 224)

41. ACA's evidence explains the concern about the backdropping and diminution of the **Jones & Higgins clocktower** in some views, and the risk that the massing will erode the legibility of the conservation street scene by introducing an upper tier on a scale not typical of Rye Lane.¹¹ The applicant characterises any harm as very low.
42. The Council's heritage evidence places the harm within the less than substantial category but at a **medium-to-high level**. The local experience on the ground aligns more closely with the latter. The benefits of replacing a detracting 1980s mall are real, and we do not seek to ignore these, but the removal of a negative addition such as this proposal is not a license to insert a form that in turn harms significance.

Block L, townscape transition, and tall buildings expectations

43. **Block L at 10–11 storeys** addresses the bus station and an urban edge of larger elements. The concern is not in-principle simply about height but composition and the relationship to the townscape transition, including the outlook from adjacent residential blocks and the experience of the bus station forecourt.
44. The Council's position is that Block L's east–west mass forms a conspicuous cliff-like edge that is poorly moderated by setbacks and articulation, failing the tall buildings policy tests of slenderness, townscape integration, and high design quality.¹² While ACA's principal heritage concern lies with Blocks A–C, Block L's form adds a townscape disbenefit that weighs in the overall balance. ACA's further concern lies with the harm to the setting of the RLPCA and the historic townscape caused by Blocks D, E, G, J1, M, L, K, M and P that all weigh in the overall balance.¹³

The heritage balance and what it requires

45. The statutory duty requires special attention to conservation area character and appearance. The NPPF requires **great weight** to be given to conservation, **irrespective** of harm level, and requires any harm to be justified by public benefits. In this case, the benefits relied upon include **(1)** market housing delivery, **(2)** some paltry affordable housing, **(3)** new public realm and routes, and **(4)** a replacement supermarket.

¹¹ POE Claire Hegarty

¹² POE Mike Ibbott, 7.5.0

¹³ *Ibid*, see POE Claire Hegarty, Section 5 – and table 5.12

46. Ultimately, the weight of those benefits must be moderated by the fact that the affordable housing is a small proportion of the total units; that the allocation expects CLT homes and at least existing retail floorspace; and – to the best of our understanding – that the supermarket replacement is part of a **commercial** phasing strategy anchored by existing contractual arrangements rather than a discretionary gain.
47. On a fair reading, the public benefits as now quantified and secured do **not** clearly outweigh the identified harm to heritage significance. The Inspector will, of course, have to test that assessment in the evidence before him, but the community submits that the heritage balance falls against the proposal.

Affordable Housing and Viability: Policy Compliance and Public Value

The need and the promise of the allocation

48. Southwark's housing needs are acute, both in absolute terms and in the proportionate need for social rent (as set out above). When the value of the median home nationally and the propensity to live in an owner occupied property nationally is compared to Southwark, the difference could not be more acute and stark.¹⁴ Average house prices are significantly higher than the national average.¹⁵ The allocation anticipates a large housing-led scheme in a location with excellent transport accessibility. That promise, gained through the plan-making process, carried with it a policy expectation that affordable housing would be delivered at or above the minimum policy baseline, with CLT homes as part of a locally resonant tenure mix. The role played by the provision of genuinely affordable homes here is far greater here than most of the country. After all, some 93% of the population in Southwark desperately need it.
49. Our Inspector in this inquiry must therefore have in mind what his colleague was allocating at that time (2022), and what is now being advanced, and whether this is an appropriate proposal for this location at this critical juncture. The initial application, even if conceded to be at a deficit (which we do not), **proposed 35% by habitable room**. The subsequent amendment to **12%** fundamentally altered the balance of

¹⁴ POE Venning, Section 3

¹⁵ POE Venning, 3.7

benefits relative to harms. The composition of the local housing stock is highly unusual. In Peckham almost half of all households (44%) live in social rented homes. This is almost twice as high as the proportion across London (23%) and almost three times as high as in the country as a whole (17%). By contrast, fewer than a third of all households own their homes.¹⁶ Would this site have been allocated just a few years ago if this colossal reduction of the offer was ultimately going to the outcome before this inquiry?

50. ACA similarly acknowledges that a lot has changed in the world since that allocation. Not least the claimed deterioration of market conditions, the increase in construction costs, finance and marketing costs, and other pressures. But three years since adoption cannot possibly carry the weight that is being placed on these considerations. Not least because the Appellant's whole stance, in that context, assumes a static position on the part of the community receiving this development. The reality is what has also changed is the need for affordable housing in Peckham which has similarly gone up, and affordability ratios for local people has got worse. And yet, whilst the Appellant wishes for the policy to be adjusted for the benefit of their profits, there is no such adjustment for the people at the receiving end of the outcome of failing to meet policy. Ultimately, when one considers what is now on offer, and the high likelihood that a further reduction will inevitably be sought at later planning stages, such a shortfall must be calibrated by the weight to be attached to the purported benefits.
51. Viability is of course relevant in this case, and policies allow for it to be engaged, but it is not determinative.¹⁷ The weight to be attached remains for the decision-maker, having regard to local need, policy priorities, and the credibility and transparency of inputs. ACA have been not been privy to the details of discussions and negotiations between the Council and the Appellant during the application process. The Council's case explains that viability testing was undertaken and that some design reductions were accepted to secure officer support earlier in the process, even at a cost to viability.

¹⁶ POE Venning

¹⁷ NPPF 59, and the PPG makes clear that weight ultimately remains for the decision-maker.

52. The appellant's viability evidence requires independent scrutiny at this Inquiry. For opening purposes, the community's position is simple. On a site of this scale, in this location, as a relatively fresh allocation, a 12% affordable housing outcome cannot be given the same weight in the planning balance as an offer that seeks to give expression to what adopted policy expected. The choices made by the Appellant is a matter for them, but we are entitled to offer thoughts on whether they are wise choices, and how this relates to the ultimate price we are being asked to pay in the reduction in affordable homes. Modest adjustments to the inputs can often lead to significant outcomes in a case like this one. At most, it is a modest benefit relative to an acute and urgent need and must be described as such. What is being offered is an anathema to adopted policy, not a justifiable departure. Further, without the CLT provision, the allocation's locally tailored objective is also unmet. These shortfalls weaken the public benefits side of the heritage balance and the overall planning balance.

The consequences of low affordable housing for inclusive growth

53. Low affordable output at the Aylesham Centre has knock-on effects for Peckham as a whole.¹⁸ The real life consequences is that it will narrow opportunities for local households to benefit from regeneration, and it intensifies concerns about indirect displacement through rent and price pressures.¹⁹ The community's support for redevelopment is conditional on housing that people from Peckham can viably occupy. If the scheme cannot credibly deliver a materially higher proportion of affordable homes with an appropriate tenure mix, the community asks that it be refused and re-worked rather than approved on the basis of a slender affordable offer. The SP lays out in stark terms the consequences of not meeting the need: the failure to house homeless households living in unsuitable temporary accommodation, unaddressed overcrowding related to poor physical and mental health that strain family relationships.²⁰
54. Now the Appellant's case also rests on the notion that the review mechanisms will allow for any improvement of conditions to be reflected in an uplift to the affordable offer. This is both without credibility and unrealistic. It is much more likely than not that at the later stages of the planning process the Appellant will return to the Council with

¹⁸ CD 3.1: Planning Committee Report, para 7.11

¹⁹ Academic Research supports this comprehensively, see Habiba Jelali, Appendix 1 of Holloway POE

²⁰ SP, page 108

new inputs and ‘evidence’ to suggest that matters have deteriorated further, requiring a further slashing of affordable housing being provided on site. And again, there will be no account of the impact on the local community whose circumstances will undoubtedly deteriorate.

Town Centre Vitality, Retail Floorspace, and the Local Economy

The policy requirement to retain retail floorspace

55. **NSP74** requires at least the existing amount of retail floorspace to be re-provided. This is also echoed in **SP Policy 35** on towns and local centres. That requirement recognises the site’s role in the town centre’s commercial capacity. Contrary to policy, the permission sought clearly indicates a substantial net reduction in retail floorspace.²¹ The appellant will rely on qualitative arguments about modern formats and a stronger retail circuit to try and explain away the fundamental point that there is a clear failure to meet policy. The community does not dismiss the value of better layouts and active frontages. But policy is explicit, and it is not being met. On this allocation, growth should not be balanced on reduced retail capacity. Again, when properly understood, what this is ultimately about is erasing the finely tuned tapestry of the community.

Small businesses, unit sizes, and the changing offer

56. Community evidence raises two linked concerns: the shift toward “artisan” and “premium” retailing and the suitability and affordability of units for returning small businesses. The applicant’s own evidence anticipates a curation strategy that leans toward higher-end occupiers to diversify and elevate the offer. This approach fails to properly respond to the local context. Nevertheless, without strong and enforceable commitments to a right to return at affordable rents for all affected businesses, including temporary relocation, the effect will be to filter out the very businesses that anchor Peckham’s cultural economy.

²¹ Policy SD6 and E9 of the London Plan 2021 as well as P35 and NSP75 of the SP (2022)

57. This is not an abstract fear, this is the dark side of regeneration that must be confronted. The Council's and ACA's evidence shows that many independent traders are from minority backgrounds and serve specific cultural and faith communities. If they are priced out or displaced to low-footfall backwaters, for a significant period of time, the centre's vitality and distinctiveness will be eroded permanently. This is another layer of failure to meet national policy ambition to create a 'mixed and balanced' community.²²

Lessons from recent relocation exercises

58. Evidence placed before the Inquiry illustrates the lived experience of displaced traders in a nearby London redevelopments: relocation to temporary sites, long interruptions to trading, reduced footfall, and stresses linked to management and maintenance.²³ While every scheme is different, the consistent lessons are that relocation capacity must match need, terms must be clear and enforceable, and a right to return must be meaningful in both timing and affordability.
59. Absent credible, deliverable, and binding relocation and return mechanisms, the supposed benefits of new commercial space will not accrue to the existing ecology of small businesses, with no guarantee of a retail offer that works for local people.

Equality and Displacement – PSED and the Inquiry decision-making role

60. The PSED requires the decision-maker to have due regard at the time of decision. The EQIA acknowledges potential disproportionate and differential impacts. Officers recommend a more detailed, business-specific equality assessment in the future to inform an updated Business Relocation Strategy, to be secured by obligation. The community's submission is that the Inquiry should not defer the core equalities problem to a later stage. The Inspector must be able to see, in the decision making stage, how the specific risks to minority-owned independent businesses, their employees, and their customers are to be mitigated, and how construction impacts on sensitive age and disability groups and on the adjoining Islamic Centre will be managed.

²² NPPF paras 90 and 64

²³ CD 9.03 – Elephant and Castle relocation impact assessment

61. Mitigation cannot be entirely open-ended. If the present package lacks sufficient specificity about relocation capacity, temporary trading solutions during phasing, affordable rent caps, and a practicable right to return, the PSED is not satisfied. The continuously shifting position of the Appellant seems to be to now offer this to two businesses, but the force of the point still remains.

Independent business and their protected characteristics

62. Survey data collected to date indicate that all respondents among the independent business cohort identify as non-white and many are older proprietors. Some serve customer bases defined by race and religion, including halal butchers, African textiles, Asian medicines, and specialist food shops.²⁴ Others, even if not specialist, still serve a diverse and lower-income client base. The EQIA concedes that disproportionate impacts are possible but suggests that the scale of the effect is small in the context of the wider high street. This is a woeful downplaying of the impacts, and we fundamentally reject this framing. In equalities terms, it is the nature and concentration of the impact on protected groups that matters, not only aggregate town centre capacity. If the small cluster that serves particular communities is broken up or diminished, the harm is not neutralised by the presence of generic retail elsewhere.

PLANNING BALANCE

63. The planning balance to be struck at this appeal is quite simple. **Section 38(6)** of the Planning Compulsory Act 2004 tells us that planning decisions should be made in accordance with the development plan, unless material considerations indicate otherwise. This is a local authority that can demonstrate a 5YHLS position and this matter need not trouble this inquiry much. We have an up to date LP. It follows that the Inspector must decide this appeal in a ‘*flat balance*’ context under paragraph 11(c) where the proposals clearly fail to accord with an up-to-date development plan.
64. For the reasons set out above, these proposals fail to accord with the allocating policy in the SP as well as offending other policies in it, the London Plan and the NPPF. Footnote 7 of the NPPF is similarly engaged given the failure to adhere to policies relating to designated heritage assets. Statutory duties are engaged in this case, most

²⁴ CD 3.1 – Planning Committee Report, para 137

notably in relation to the impact on the RLPCA and the listed heritage assets. In short, the scheme begins its journey with the scales very much tipped against it.

65. Whilst the use of brownfield land is rightly given 'substantial weight' (NPPF 125(c)), the substantial harm to be caused, as set out fully above and as a whole, tempers this weighting against the development.
66. The reduction of the affordable housing offer to 12% is a substantial departure. Local and national policy and guidance can justify departure subject to viability, but the weight to viability is ultimately a matter for the decision-maker. There are multiple countervailing reasons which underpins why such departure should be taken cautiously. The failure to deliver CLT homes contrary to allocation expectations further diminishes the public benefits, further directly weakening the heritage balance case.
67. A further layer of harm is the loss of retail floorspace, the displacement of the community and the failure to adhere to adopted policy couched in mandatory terms. The recent breakdown in negotiations between the Council and the Appellant on securing the details of this is further troubling. The failure to properly discharge the PSED is a further damning weight to place on the scales against this proposal.
68. The reliance on the **Stag Brewery** and **Cuba Street** examples are misplaced. These are both context specific, neither supports approving such a high level of heritage harm where the public benefits (i.e. affordable housing) are materially diminished. This Inspector must reach his own judgement based on the facts and case before him.

CONCLUSION

69. The community's sincere objective is not to block regeneration or block any development. The attempt to paint ACA and their fellow travellers as NIMBYs who do not want anything to happen falls very far from the truth. The ask is not high, it is to simply to secure a **policy-compliant, inclusive** scheme. Without this basic ask, the socio-economic impacts, beyond businesses for example, will result in increased rents in the area concerned and result in the displacement of marginalised communities indefinitely. The result will not be a mixed and balanced community. The finely tuned ecology of this community would be irreparably damaged, will not be restored once the

development is complete and instead creating a sterile location that would amount to a vacuum into which everything that makes this place so special disappear.

70. The case for dismissal as set out above is compelling. We align ourselves fully also with the case advanced by the Council. We respectfully invite the Inspector to dismiss this appeal.

HASHI MOHAMED

Landmark Chambers

180 Fleet Street

London

26 October 2025