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**STATEMENT OF CASE OF  
AYLESHAM COMMUNITY ACTION  
RULE 6 PARTY**

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**Planning Appeal Inquiry  
Aylesham Centre, Rye Lane, London, SE15 5EW  
App ref: 24/AP/2074  
PINS ref: APP/A5840/W/25/3366760**

## **Introduction**

1. This is the Statement of Case of 'Aylesham Community Action' ("**ACA**"), in relation to the planning appeal (appeal ref APP/A5840/W/25/3366760) (the "**Appeal**") brought by Berkeley Homes (Capital) Plc (the "**Appellant**") following the non-determination of planning application ref 24/AP/2074 by Southwark Council (the "**Council**") for the proposed redevelopment of the Aylesham Centre ("**Proposed Development**").
2. ACA is a grassroots campaign made up of local residents and local business owners who oppose the Proposed Development. ACA was originally formed in 2020 and over that time has held multiple public meeting and awareness campaigns, engaging thousands of people. Members of the campaign have an intimate knowledge of the site, the surrounding area, and what gives Peckham its unique identity. ACA is not opposed to development on the site; its goal is to ensure development works for local people and respects Peckham's social and architectural heritage. This is a major, strategic site, and its redevelopment will have a profound impact on the whole community and local economy; therefore ACA believes it is absolutely crucial to get this development right.
3. ACA supports the three putative reasons for refusal given by the Council, being:
  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).*

4. ACA will avoid duplication of the Council's arguments but seeks to provide further evidence and references to policy to support and expand upon these reasons for refusal.
5. Collectively, the harms of the Proposed Development amount to substantial planning harm far outweighing the purported planning benefit. Further, the Proposed Development has not had due regard to the applicable public sector duty pursuant to Section 149 of the Equality Act 2010. This renders the proposals flawed in the way it seeks to meet the needs of individuals with a protected characteristic, without sufficient mitigation. Coupled with this is the failure to adhere to the clear commitments of the Council's Development Consultation Charter (part of the Statement of Community Involvement), further diminishing the robustness of the proposal's engagement.
6. For all these reasons and the reasons advanced by the Council, we will respectfully be inviting the Inspector to dismiss the Appeal.

**ACA's case for opposing the Proposed Development (in addition to the Council's putative reasons for refusal)**

**Socioeconomic context**

7. ACA will present evidence analysing the socioeconomic context of Peckham. This will be an important component of the evidence in order to give the Inspector a fuller understanding of the community receiving the Proposed Development. The evidence will show an area with a high level of deprivation in parts akin to other parts of the capital. It will demonstrate not only the acute need for affordable housing, but also the risk that the Proposed Development would displace established communities and irrevocably damage the cultural fabric of Peckham. This risk arises not only from the high levels of private housing proposed (without sufficient affordable housing), but also the shift in retail provision. This is contrary to both local and national policies. This evidence will supplement both the Council's first and third putative reasons for refusal.
8. The evidence presented by ACA will demonstrate that, in addition to the policies and SPD referred to in the Council's putative reasons for refusal, the Proposed Development is contrary to the following Southwark Plan policies (which ought to be read in their totality in the Southwark Plan, but key elements of which have been selected here for brevity):

- ST2 (Southwark's Places) – the Proposed Development fails to *“improve our places for local communities”*;
- SP1 (Homes for all) – the Proposed Development fails to ensure *“vulnerable residents and families are helped to find the right housing to live as independently as possible”* and to ensure Southwark residents *“take pride in and feel responsible for their homes and local area”*;
- SP2 (Southwark Together) – the Proposed Development fails to:
  - *“create new opportunities for residents and local businesses [and] to promote wellbeing and reduce inequalities”*;
  - develop a place *“where everyone can benefit from all activities”* and *“enable everyone to feel proud of their home and create a sense of belonging in the community”*;
  - invest in *“communities and residents, and particularly existing residents, so that everyone can access the benefits of our regeneration programmes and the opportunities created by those programmes”*;
  - be *“designed for the diverse communities in Southwark”* and *“allow all to participate equally, confidently and independently in everyday activities”*;
  - ensure *“our existing residents and neighbourhoods prosper from good growth by giving people from every community the opportunity to collaborate throughout the regeneration process [including] supporting and diversifying our strong local economy [and] championing existing and new business growth and supporting shops and businesses through regeneration”*;
  - *“enhanc[e] local distinctiveness and heritage-led regeneration by requiring the highest possible standards of design, creating vibrant, attractive, healthy, safe and distinctive buildings and places that instil pride of place in all our communities”* – this policy also relates to the Council's second putative reason for refusal and ACA's submissions relating to heritage, as mentioned below; and
  - *“strengthen[ ] support in regeneration areas for those who are vulnerable or who face greater disadvantage, by investing in the prevention and tackling causes of inequality”*.
- SP5 (Thriving neighbourhoods and tackling health inequalities) – the Proposed Development fails to *“maintain and improve the health and wellbeing of our residents, encouraging healthy lives by tackling the causes of ill health and inequalities”*, particularly by failing to *“enable[e] people to remain in their homes for longer and ensuring vulnerable residents can lead and enjoy independent lives, achieve their goals and have a great future in Southwark”*.

9. The adverse impacts of the Proposed Development would disproportionately affect those with protected characteristics, particularly the well-established ethnic minority communities within Peckham including the large West African heritage population.
10. The failure of the Proposed Development to adequately consider and mitigate these impacts is such that allowing the Appeal risks failing to meet the public sector equality duty under section 149 of the Equality Act 2010.
11. It is noted that the assessment of socioeconomic impact within the Appellant's Environmental Statement (Chapter 6 - 'Socio-Economics') does not include an assessment of the impact on the surrounding population.
12. ACA will also present evidence critiquing aspects of the Appellant's approach to calculating viability, including debt financing assumptions and the approach to replacement of the supermarket. This will feed into arguments about what should be prioritised for the site in order to maximise the benefit of the Proposed Development. Crucially, it will ultimately feed into what weight should be attached to the viability evidence in the final planning balance. For the avoidance of doubt, ACA does not wish to present formal and full viability evidence beyond the narrow context of socio-economic impacts, the over-engineering choices made as part of the Proposed Development, the consequences for affordable housing, and the planning balance.
13. Furthermore, ACA will present evidence regarding viability review mechanisms. At this stage, it has not been demonstrated that the viability reviews will be effective in maximising the delivery of affordable housing over the lifetime of the Proposed Development in line with London Plan policy H5, the Mayor of London's Affordable Housing and Viability SPG and National Planning Practice Guidance on Viability.
14. ACA intends to provide comments on the draft s106 agreement as soon as the Appellant and Council provide a copy, and to participate in any roundtable session regarding the s106 agreement at the Inquiry.

#### **Heritage, townscape and visual impact**

15. ACA supports the Council's finding of heritage and townscape harm from proposed blocks A, B, C and L, and the Council's finding that the Proposed Development would be contrary to the NPPF paragraphs and policies reference in the second putative reason for refusal. Further, ACA will be submitting evidence that there is *additional* adverse heritage, townscape and visual impact from the Proposed Development that is contrary to such policies and guidance, including:

- a. heritage harm to the setting of the northern part of the Rye Lane Peckham Conservation Area (“**RLPCA**”) – including from “key approaches” identified in the Rye Lane Peckham Conservation Area Appraisal;
  - b. heritage harm to the significance of the locally listed buildings on Peckham High Street immediately to the north of the site (also within RLPCA), caused by the overbearing scale and mass of proposed blocks E, G, K and L;
  - c. heritage harm through undermining RLPCA’s historic significance and degradation of its sense of place;
  - d. visual impact to the view to the City from the Bussey Building rooftop (as referenced in the site allocation) and other rooftop views, caused by proposed blocks E, G, J1, M and N; and
  - e. these impacts undermine the RLPCA’s function as a community asset and relate to ACA’s broader concerns around the socioeconomic and wellbeing impacts to the local community (linking to the policies raised in paragraph 8 above).
16. Collectively, the heritage harm amounts to less than substantial heritage harm at the higher end of the spectrum.
17. The failure to adequately take into account and mitigate impact to locally listed buildings is also contrary to Southwark Plan policy P26 (Local list).
18. Some of this additional heritage harm (and negative contribution to wider townscape character) would arise from the tall buildings within the Proposed Development. Comments from Historic England support this view. Accordingly, in the absence of “*clear and convincing justification*” and sufficient public benefit, the Proposed Development would also be contrary to London Plan policy D9(C) and Southwark Plan policy P17(3). The tall buildings also fail to “*make a positive contribution to the London skyline and landscape*” and fail to “*respond positively to local character and townscape*” and are therefore also contrary to policy P17(2).
19. While the site allocation (Southwark Plan NSP74) states “*development of up to 20 storeys could be appropriate in this location*” (emphasis added), it also states:
- “The site is within the setting of Rye Lane Peckham and Peckham Hill Street conservation areas, so any taller development should be set back from the Rye Lane shopping frontage, towards the eastern end of site, to mitigate its impact. Development massing should be directed to the east of the site to minimise impact on the view to the City from the Bussey Building rooftop. In any case a 20 storey height restriction on development proposals should be observed. Careful consideration would also need to be given to the neighbouring residential areas and important local heritage buildings.”*

20. Accordingly, the site allocation tolerance of 20 storeys is conditional on sufficient mitigation of heritage impact, minimisation of impact on views from Bussey Building, and consideration of neighbouring residential areas. ACA will present evidence demonstrating how the Proposed Development does not meet these conditions, such that its height and massing are not compliant with the site allocation.
21. The site allocation's indicative residential capacity (which the Proposed Development exceeds) includes the adjoining bus station and so covers a larger area than the Proposed Development footprint. Therefore, the scale of the Proposed Development does not accord with this aspect of the site allocation.
22. ACA's case is that great weight should be given to this heritage and townscape harm and that the Proposed Development lacks clear and convincing justification for this harm.

#### **Loss of retail and impact on businesses**

23. Further to the guaranteed overall loss of some 3,226sqm of retail and related commercial/sui generis floorspace (as confirmed by paragraphs 5.30-5.31 of the Council's Statement of Case), there is the potential for further loss of such floorspace due to up to 320sqm of the proposed 'flexible' floorspace being able to be used as workspace. A worst-case scenario of a total loss of 3,546sqm should be assumed.
24. ACA will present evidence demonstrating the need for retail in Peckham and on the Aylesham Centre site, and specifically the sort already there. ACA will also present evidence demonstrating that office workspace is not appropriate for this site, particularly given the large amount of delivery of workspace in the area since adoption of the Southwark Plan and greater suitability of other sites.
25. ACA will also present evidence demonstrating how the Proposed Development is contrary to Southwark Plan policies P32 (small shops) and P33 (business relocation), due to the potential displacement of existing small shops, small businesses and independent businesses without sufficient provisions relating to their retention or relocation. This raises further socioeconomic and equalities issues given the ethnicity of the business owners and their customers. This issue is separate to the loss of retail and the Council's third putative reason for refusal, and ACA will make the case that it could be determinative on its own. However, it is also relevant to the Council's third putative reason for refusal insofar as the loss of retail space increases the likelihood of displacement of the existing businesses; additionally, the displacement of these businesses would harm the vitality and viability of the town centre and would fail to diversify and complement the existing retail offer in the town centre (as per the site allocation, as quoted in the Council's third putative reason for refusal).

26. The Appellant has overlooked policy P32(1), which requires existing small shops at risk of displacement to be retained. The Appellant has also failed to correctly identify the existing small shops onsite.
27. ACA agrees with the Council's view that the Appellant's current Business Relocation Strategy *"does not currently fully comply with policy P33"* (paragraph 112 of Officers' Report). The Council also states that *"there is no current certainty as to the likely efficacy, deliverability or affordability"* of the planning obligations currently proposed (paragraph 5.34 of Council Statement of Case). ACA will provide comments on proposed planning obligations once the draft s106 agreement is shared.
28. The Council's Planning Committee proposed a condition requiring any final Business Relocation Strategy to go back to planning committee for approval. ACA notes that no such condition appears in the Council's proposed condition list (shared alongside its Statement of Case).
29. In any event, ACA will advance the argument that the Council's proposed condition would not in itself be sufficient. Detailed business relocation measures, informed by consultation with affected business owners, should be secured in the s106 agreement during the Inquiry for the Inspector's consideration and should not be deferred. Furthermore, even if the Council's proposed additional business relocation measures (as set out in the Officers' Report) were fully accepted by the Appellant, this would not secure full compliance with policies P32 and P33, as will be detailed in ACA's evidence. Again, the Appellant has failed to correctly identify all of the small businesses and independent businesses onsite.
30. As stated above, the shift in retail under the Proposed Development – from the existing businesses which are run by and serve Peckham's diverse population, to *"high-end"*, *"artisan"* and *"gourmet"* offerings – will damage the cultural fabric and identity of Peckham. ACA will present evidence on this point, including a detailed analysis of the CF Commercial report appended to the Appellant's Planning Statement.

## **Consultation**

31. The Council's Statement of Community Involvement ("**SCI**") is unique in that it incorporates a further document called the 'Development Consultation Charter' ("**DCC**"). ACA believes the requirements of the SCI and DCC should extend to decisions made by Planning Inspector relating to applicable proposals in Southwark.
32. ACA will be providing evidence to demonstrate that key requirements of the DCC were not met, which undermined the consultation process. These failings meant that local stakeholders did not have a meaningful say in the Proposed Development at an early, formative stage. These failings also contributed to the failure to adequately assess the socioeconomic context of the Proposed



Development (including the extent of small shops and small and independent businesses on site), equalities impacts, and potential indirect effects to the local community and cultural fabric of Peckham.

33. Furthermore, the failure to comply with clear commitments in the DCC (as part of the SCI) amounts to a breach of legitimate expectation. ACA's evidence will discuss this point in further detail.

### **Conclusion**

34. ACA will present evidence supporting and expanding on the Council's three putative reasons for refusal, covering the lack of affordable housing (and the socioeconomic context), the heritage harm, and the impact on retail (including the loss of retail, and the impact on small shops and small/independent businesses). ACA's case is that, accordingly, the Appeal should be dismissed.
35. Due to the extensive failures to meet the policies in the London Plan and Southwark Plan, the Proposed Development is not in accordance with the development plan. Material considerations do not indicate that the Inspector should determine the Appeal otherwise – in fact, various material considerations support dismissal of the Appeal. The Proposed Development would cause substantial planning harm.
36. The significant equalities impacts of the scheme, which have not been adequately considered or mitigated, mean that allowing the Appeal based on the current proposals would be contrary to the public sector equality duty under section 149 of the Equality Act 2010.
37. The Appellant's approach to consultation failed to adhere to clear commitments in the Council's SCI and DCC, resulting in a breach of legitimate expectation.
38. For all these reasons, and the reasons to be advanced by the Council, we will present formal evidence at the end of which we will be inviting the Inspector to dismiss this appeal.