

**AVONMOUTH HOUSE,
6 AVONMOUTH STREET, LONDON, SE1 6NX**

**AN APPEAL UNDER SECTION 78 OF THE TOWN
AND COUNTRY PLANNING ACT 1990**

APPEAL REFERENCE: APP/A5840/W/22/3303205

Proof of evidence of

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on behalf of

Tribe (Avonmouth House) Ltd

16 November 2022

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1.0 Name and Qualifications

- 1.1 My name is Roger Antony Hepher. I hold an Honours Degree in Town & Country Planning from the University of Manchester, and a Master's Degree in Town Planning from the same University. I am a Chartered Town Planner, a Fellow of the Royal Institution of Chartered Surveyors, a Fellow of the Royal Society of Arts and an Academician of the Academy of Urbanism.
- 1.2 I have been a town planning and development consultant for over 40 years, holding senior positions in a succession of companies. I was a partner at J R Eve (which in due course became GVA Grimley), a founding Director of Hepher Dixon, Head of Planning and a member of the UK Board at Savills, and most recently a founding Director and now Chairman of hgh Consulting. hgh Consulting employs 34 planners and related professionals, and is a busy planning consultancy practice, primarily acting for landowners and developers. It is based in Marylebone, central London, and much of the practice's work is in inner London, including Southwark.
- 1.3 Over the years, I have twice been an adviser on planning matters to Government: firstly as a member of the Planning Advisory Group established by Greg Clark MP when he was Minister of State for Decentralisation and Planning, and later as a Red Tape Champion for Nick Boles MP, when he was Minister for Planning. In 2019 I was an expert adviser to the Rosewell Inquiry Review. I sit on the Planning Committee of the British Property Federation and am active in the affairs of various professional organisations.
- 1.4 My professional experience covers most types of property, and ranges from the very large scale to the small. Of particular relevance to the current inquiry, much of my work involves mixed use developments in London.
- 1.5 I am currently advising (or have recently advised) on a number of student housing schemes, including 45 Hornsey Street (Islington), Midland Crescent (Camden), Drummond Street (Camden), 671-679 Old Kent Road (Southwark), Grove Crescent Road (Newham) and Commercial Road (Tower Hamlets).
- 1.6 I have been involved in many projects in the London Borough of Southwark. I currently have five live projects in the Borough for various private clients, and as a business, we are advising on several others.
- 1.7 The evidence I have prepared and which I provide in this proof is, to the best of my knowledge, truthful as to the facts, and honest as to my professional opinions. It has been prepared in accordance with the guidance provided in Royal Town Planning Institute Practice Advice, 'Planners as Expert Witnesses' (2018), and in the practice statement, 'Surveyors Acting as Expert Witnesses' published by the Royal Institution of Chartered Surveyors (fourth edition).

2.0 Introduction and background

- 2.1 At this public inquiry, I represent Tribe (Avonmouth House) Ltd, the Appellant.
- 2.2 Tribe is an independent provider of student accommodation with a proven track record of delivering high-quality residential and commercial development in London. Tribe is currently in the process of delivering 910 purpose-built student bedspaces in the Old Kent Road (Southwark) and Deptford (Lewisham) and has a further 1,398 student bedspaces in the planning system awaiting determination. With a growing portfolio, Tribe has established a good relationship with Higher Education Institutions (“HEI”) across London, including within Southwark. Letters of support for the appeal scheme from London South Bank University (“LSBU”) and the University of London (“UoL”) are enclosed at Appendix 1.
- 2.3 The appeal site offers the potential for a new building which would contribute to better defining Avonmouth Street and the northern edge of Newington Gardens. The current building is poorly designed, fails to optimise the site and provides no active or animated street frontage.
- 2.4 The site is currently in use as a corporate meeting/event/training facility, having been acquired by Etc Venues Ltd in 1992. Etc Venues’ business consolidation strategy over the past few years has been to focus on developing their larger sites, such as the former County Hall, where the economics of scale and operations are greater, and migrate away from smaller venues like Avonmouth House. Hence the building is at a turning point and fresh investment is required to create modern floorspace. It is proposed that the existing business and employees of Avonmouth House will be relocated locally to Etc Venues’ Prospero House venue on Borough High Street, so no jobs will be lost from the borough. All of the above is confirmed within a letter from Etc Venues dated 3 November 2022, enclosed at Appendix 2.
- 2.5 The Appellant sought to engage collaboratively with the London Borough of Southwark (“LBS”) from the outset: a formal request for a pre-application meeting and written advice was made in June 2021. A virtual pre-application meeting took place in August 2021; however, written advice (paid for by the Appellant) has never been received.
- 2.6 As the proposed development comprises a scheme that is referable to the Mayor of London, a pre-application meeting was also held with Greater London Authority (“GLA”) officers and an officer from Transport for London (“TfL”).
- 2.7 The pre-application advice of LBS contradicted that of the GLA, including in respect of the principle of development, the height of the proposed development and its townscape impact.
- 2.8 The GLA’s written advice (received on 18 November 2021) concluded:

“This purpose-built student accommodation scheme would make a contribution to addressing overall housing need within Southwark and London and would provide for housing choice. Notwithstanding this contribution to housing, to ensure that the proposed student

accommodation scheme will be supporting London's higher education institutions, the majority of the bedrooms should be subject to a nominations agreement for one or more specified higher education institutions. In addition, the scheme is expected to deliver 35% affordable student accommodation. The principle of the provision of tall building within the site is accepted by GLA Officers, subject to a detailed assessment of the criteria set out in Part C of London Plan Policy D9."

- 2.9 The Appellant also engaged in pre-application discussion with non-statutory stakeholders, including locally elected political representatives, local community groups, residents and businesses around the site, and neighbouring landowners (further details of which are contained in the Statement of Community Involvement and section 5 of the Planning Statement).
- 2.10 Throughout the course of the application determination period, the Appellant continued to seek to establish contact with LBS to obtain feedback on the proposals from the various statutory consultees. However, LBS failed to respond to numerous requests for information and updates over a seven-month period after the application was validated.
- 2.11 There was very limited public interest in the application as evidenced by the fact that only 8 of the 330 addresses consulted (2.4%) made representations. We note that there was duplication of one objection supplied by LBS with their Appeal Questionnaire, so there are 8 in total, not 9.
- 2.12 The Appellant's last engagement with councillors was in May this year when a virtual meeting took place with Councillor Helen Dennis (Chaucer ward councillor and Cabinet Member for Climate Change and Sustainable Development) and Councillor Joseph Vambe (Chaucer ward councillor). Both councillors were unambiguous in their support for the principle of a student-housing led development on the site provided it was affiliated with LSBU or another HEI through a Nomination Agreement.
- 2.13 The lack of co-operation or willingness of LBS to engage with the Appellant or provide any feedback on the planning application, including sharing consultee responses, ultimately resulted in the Appellant taking the decision to appeal.
- 2.14 Since the appeal was lodged, LBS initially confirmed four reasons for refusal, had the application been determined, as follows:
1. *The proposed development fails to respond positively to the existing character and context and would, as a result, harm the local townscape contrary to policies P13 ('Design of Places') and P17 ('Tall buildings') of the Southwark Plan*
 2. *Lack of a section 106 agreement*
 3. *The development would not achieve the highest levels of fire safety contrary to policy D12 of the London Plan*
 4. *The proposed development would harm the setting of the Grade II Listed Inner London Sessions Court building contrary to Policy P19 "Listed buildings and structures"*

- 2.15 Subsequently, LBS has withdrawn the fourth reason for refusal relating to heritage matters and asked Council Members to endorse reasons for refusal 1 to 3, which they did at the Planning Committee meeting held on 2 November 2022. I deal with these in my proof of evidence as well as other planning matters.
- 2.16 My evidence complements that of other expert witnesses, as set out in their proofs of evidence covering matters of design and architecture, townscape and impact on character, and impact on neighbouring amenity with respect to daylight and sunlight.

3.0 The Site and its Context

3.1 The site description, including its designations and planning history, and its context have been agreed within the SoCG, so I will not replicate them here. I should like, however, to draw to the particular attention of the Inspector certain matters:

- i. The site is situated within a busy urban environment in Inner London. It has the highest possible public transport accessibility score (PTAL 6b) based on TfL's methodology for measuring the density of the public transport network at any given location within Greater London.
- ii. The site is designated within the Elephant and Castle Major Town Centre, Opportunity Area, Strategic Cultural Quarter, and the Central Activities Zone.
- iii. Elephant and Castle is home to LBS's 'university quarter': there are two university campuses (University of the Arts London and LSBU) within a five minute walk of the site as well all the amenities one would expect within a Major Town Centre.
- iv. The surrounding context is varied in building uses, architectural typologies, height, scale and materials. It includes several tall buildings such as the 41-storey Eileen House on the north side of Newington Causeway and the 24-storey Ceramic building at 87 Newington Causeway, located approximately 30 metres from the site, which has been shortlisted for a Tall Building Award in the 'Best Mixed-Use or Commercial Tall Building Project' category for 2022.
- v. Major investment is taking place within Elephant and Castle Town Centre, so the site is in an area experiencing rapid regeneration and transformative change both in terms of townscape and land use.

3.2 The site's connectivity and proximity to the nearest university campuses is shown graphically in the contextual diagram enclosed at Appendix 3.

4.0 The Proposed Development

- 4.1 The appeal proposal is explained in detail in the Design and Access Statement (“DAS”) by Stitch Architects and in Ms Lewis’ proof. I therefore provide only a summary below.
- 4.2 The scheme involves the demolition of the existing building to provide a single building of stepped heights ranging from 2 to 16 storeys plus a double basement. The development provides 233 purpose-built student rooms comprising 217 en-suite rooms, 4 studios, and 12 (5%) accessible studios arranged over levels 2 to 15 for LSBU or one of the University of London’s Southwark-based member institutions. In line with the development plan, the accommodation would be secured via a Nomination Rights Agreement and 35% would be affordable student accommodation.
- 4.3 A total of 165sqm external amenity space for the future student residents is provided by way of a landscaped roof terrace at seventh floor. The space has been designed to incorporate areas for lounging, eating, sitting, and working, and the landscape features include raised planters with integrated seating and multi-stem trees. Extensive urban greening is proposed on roof terraces at levels two, seven, fourteen and sixteen, including green roofs in combination with solar panels.
- 4.4 Flexible Class E/F1(a) floorspace is proposed at basement (-1), ground and first floor, totalling 1,733sqm (GIA), 10% of which would be affordable. The basement level space would receive natural daylight from large light wells located around the perimeter of the building, and the open plan arrangement allows this light to filter across the space. The floorspace has been designed as flexibly as possible to appeal to a range of potential end users. Indicative layouts on pages 34 and 35 of the DAS demonstrate how the floorspace could be configured over the three floors to accommodate various options, including a community health hub.
- 4.5 Public realm improvements form part of the appeal scheme, including new landscaping and widening of the footways around the site. Beyond the application site boundary there is the potential to significantly upgrade the public realm for the mutual benefit of local residents and future occupiers of the development, including the provision of a “pocket park”, which is shown illustratively within the Landscape Statement. This does not form part of the appeal scheme, but the Appellant has from the outset indicated a willingness and commitment to collaborate with LBS to deliver the public realm improvements to the wider area should LBS be amenable.
- 4.6 The existing access off Avonmouth Street would be retained but improved with the provision of a Copenhagen crossing along the frontage, thereby creating a more attractive and safer pedestrian environment along Avonmouth Street compared with the existing situation.
- 4.7 The appeal scheme seeks to reduce car dependency and is “car-free”, providing only one disabled car parking space on-site which will be utilised when allocated to a student/staff

member with a blue badge. Cycle parking is included within the basement, at ground floor and within the public realm at street level.

- 4.8 Deliveries and servicing by larger vehicles (including refuse vehicles) would take place on Avonmouth Street as per the current situation, whilst deliveries by smaller vehicles (such as those used by couriers etc.) can be undertaken within the site.
- 4.9 The scheme has been designed from the outset to comply with current fire regulations. However, during the course of the appeal, design amendments have been made to the scheme to address feedback received from the Health and Safety Executive (“HSE”) in respect of fire safety regulations. The amendments, explained in further detail by Stitch Architects in Core Document (“CD”) 5.0 and in the proofs of evidence of Ms Lewis and Mr Melrose, are largely internal and do not result in any substantive change to the building design or external appearance. I return to this matter in paragraphs 6.30-6.33.

5.0 The need for Purpose-Built Student Accommodation

5.1 In this section I examine the need for the proposed development, in particular the purpose-built student accommodation (“PBSA”) with reference to relevant planning policy and guidance and the demand study, including market analysis, by Knight Frank submitted with the planning application (CD 1.74).

5.2 Government guidance on housing needs for different groups set out within the Planning Practice Guidance (“PPG”) provides a useful national context. In response to the question of “How can student housing needs be assessed?”, the PPG (CD 7.31) says:

“Strategic policy-making authorities need to plan for sufficient student accommodation whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus. Encouraging more dedicated student accommodation may provide low cost housing that takes pressure off the private rented sector and increases the overall housing stock. Strategic policy-making authorities are encouraged to consider options which would support both the needs of the student population as well as local residents before imposing caps or restrictions on students living outside university-provided accommodation. Local Planning Authorities will also need to engage with universities and other higher educational establishments to ensure they understand their student accommodation requirements in their area.”

5.3 This is supported by the strategic context as outlined within the London Plan. The supporting text (paragraph 4.15.2) to Policy H15 identifies a strategic requirement of 3,500 additional PBSA bed spaces per annum. The strategic need for PBSA is not broken down into borough-specific targets as it is recognised that the location of this need will vary according to changes in higher education providers’ expansion plans and availability of appropriate sites (CD 7.1, pgs. 207-208, para. 4.15.3). Part B of Policy H15 notes that boroughs are “*encouraged to develop student accommodation in locations well-connected to local services by walking, cycling and public transport, as part of mixed-use regeneration and redevelopment schemes*”.

5.4 Analysis of completions data for PBSA schemes indicates that the average yearly delivery of PBSA bed spaces totals approximately 2,100 in the period 2016 to 2020, considerably short of the 3,500 per annum strategic target in the London Plan (CD 7.1, p. 207, para. 4.15.2).

5.5 Furthermore, although the planning system regards PBSA as a form of non-self-contained accommodation, the London Plan recognises that the housing need of students in London, whether in PBSA or shared conventional housing, is an element of the overall housing need for London. In other words, PBSA contributes to meeting London’s housing need. For the purposes of housing targets, the conversion factor to be applied is 2:5:1, whereby two and a half bedrooms/units are counted as a single home, as defined by the London Plan (CD 7.1, pgs.160-161, para. 4.1.9). Applying this to the appeal scheme, the delivery of 233 PBSA bed spaces

would contribute the equivalent of 93 homes towards LBS's strategic target of 2,355 new homes per annum. At the same time, it would reduce pressure on the local private rental market by releasing 93 single dwellings back to the private rented sector.

- 5.6 I now turn to the local context. Unlike the London Plan, the Southwark Plan does not contain a target for PBSA. However, the evidence base for the Southwark Plan provides some useful references. A background paper on student housing dated December 2019 (CD 7.39) refers to LBS's Strategic Housing Market Assessment ("SHMA") Update 2019 which found that over 21,000 students aged 20 or above live in the Borough during term time, and that there are 23,500 places at HEIs in Southwark. At least 50% of these students live in private rented accommodation and 15% live with their parents. In other words, there is a clear shortage of PBSA relative to the number of students living and studying in the Borough.
- 5.7 The demand study by Knight Frank (CD 1.74) provides an updated picture of the local context at the point of submission of the application (November 2021). A summary is contained at paragraphs 7.56-7.60 of the Planning Statement (CD 1.44). Since then, the pressure and demand for PBSA has increased as follows:
- i. Full-time students studying at HEIs within a 30-minute travel time of Avonmouth House has increased from 119,861 to 132,456 (+11%)
 - ii. Full-time students living within a 30-minute travel time of Avonmouth House has increased from 42,842 to 50,749 (+18%)
 - iii. The student per bed space ratio within a 30-minute travel time of Avonmouth House has increased from 3.5 to 4.3.
- 5.8 The evidence leads to a conclusion that there is an acute strategic and local need for PBSA, which would not be met in the short to medium term. The contribution of 233 PBSA bed spaces by the appeal scheme should, therefore, be given very substantial weight.

6.0 Development Plan Policy and Other Material Considerations

- 6.1 I appraise the appeal scheme through the prism of s.70(2) of the Town and Country Planning Act 1990 and s.38(6) of the Planning and Compulsory Purchase Act 2004, by considering whether the scheme complies with the development plan when read as a whole and whether other material considerations support the scheme.
- 6.2 The statutory development plan comprises the Southwark Plan (February 2022) and the London Plan (March 2021).
- 6.3 Since the appeal was lodged, LBS has confirmed three reasons for refusal, had the application been determined, as follows:
1. *The proposed development fails to respond positively to the existing character and context and would, as a result, harm the local townscape contrary to policies P13 ('Design of Places') and P17 ('Tall buildings') of the Southwark Plan*
 2. *Lack of a section 106 agreement*
 3. *The development would not achieve the highest levels of fire safety contrary to policy D12 of the London Plan*
- 6.4 I deal with LBS's three reasons for refusals in turn, first tending to the policies noted in the reasons for refusal as well as other policies and material considerations pertinent to the three reasons.
- 6.5 In addition, I address other policies relevant to the appeal scheme under the following headings:
- i. Impact on neighbouring amenity (daylight, sunlight, and overshadowing);
 - ii. Land use;
 - iii. The site's relationship with the rest of Site Allocation NSP46;
 - iv. Technical considerations; and
 - v. Matters raised by third parties.

Reason for Refusal 1: Impact on townscape and local character

- 6.6 The appeal scheme's design narrative and architectural qualities are explained by Ms Lewis in her proof of evidence. The impact of the appeal scheme on the townscape and local character is examined independently by Mr Coleman in his proof of evidence.
- 6.7 Ms Lewis concludes that the scale and character of the proposed development is a fitting response to the local context and townscape and will be a positive contribution to the neighbourhood, both within the current and future development context (CD 8.19, p.15, para. 8.6). In summarising, Ms Lewis adds that the building form and elevational treatment responds well to the context and provides a unique and distinctive design to complement the park and

provide an attractive backdrop and gateway to the green space as well as provide an appropriate neighbour to the Rockingham Estate buildings (CD 8.19, p.15, para 8.5).

- 6.8 Mr Coleman in his proof concludes that the appeal scheme is planning policy compliant, of high quality in urban design and architecture terms, and worthily adds to a townscape and sense of place for this area of Southwark while providing much needed student accommodation (CD 8.14, p.33, para 4.5).
- 6.9 Reason for refusal 1 is based upon the assertion that the appeal scheme is contrary to development plan policies P13 and P17.
- 6.10 Policy P13 provides ten design principles that developments should respect. Section 2 (p.4) of the DAS Addendum assesses the scheme against the ten design principles as they appear in the policy. Ms Lewis elaborates on how the appeal scheme meets the design principles in her proof of evidence.
- 6.11 Policy P17 provides guidance on developments comprising tall buildings. There are three parts to the policy.
- 6.12 Part 1 deals with the location of tall buildings. It is a matter of fact that the proposal complies with Part 1 of the policy by virtue of it falling within a Major Town Centre, Opportunity Area, and the Central Activities Zone. In other words, it is located in an *“area where we [Southwark Council] expect tall buildings”*. The potential for a tall building on the site is also established through Site Allocation NSP46, as acknowledged by LBS in their Statement of Case (“SoC”) (para 8.8).
- 6.13 Furthermore, it is a fact that the site is not located within or beneath any identified important local views or distinctive Borough Views, nor would it have an impact on strategic views within the London View Management Framework. Again, this is acknowledged at paragraph 2.4 of LBS’s SoC.
- 6.14 The Heritage Townscape and Visual Assessment (“HTVA”) (pgs.32-59) by Citydesigner has, rightly, therefore, assessed the visual effects of the appeal scheme on the setting of listed buildings, conservation areas, and the local townscape in the principal views that are likely to be affected by the development. It finds that there would be no harm to the existing character, heritage, and townscape.
- 6.15 The criteria in Parts 2 and 3 of Policy P17 are focused upon matters relating to townscape and design. I therefore leave the analysis to Ms Lewis and Mr Coleman within their respective proofs and the HTVA (CD 1.69, p.18, paras. 5.8-5.12).
- 6.16 I concur with the examination undertaken by Mr Coleman and Ms Lewis and their respective conclusions. Their assessment, in finding that the design proposals respect, respond positively to, and enhance the local character and townscape, is reasonable and appropriate in my opinion. I am, therefore, of the strong view that the appeal scheme complies with Policies P13 and P17 of the Southwark Plan.

- 6.17 LBS have referred to additional policies in their SoC as being of relevance but do not consider them so relevant, or the non-compliance to be strong enough, to include them in their reasons for refusal. LBS's SoC fails to explain how the appeal scheme is contrary to these additional policies; it merely references the policies and states that an explanation will be given in the Council's evidence.
- 6.18 Nonetheless, I deal with the following policies for completeness and to aid the Inspector:
- i. Southwark Plan Policies P14 "Design quality" and P19 "Listed buildings and structures"
 - ii. London Plan Policies D3 "Optimising site capacity through the design-led approach", D9 "Tall buildings", HC1 "Heritage conservation and growth" and HC3 "Strategic and local views"
- 6.19 Policies P14 of the Southwark Plan and D3 of the London Plan are addressed within the DAS Addendum. As demonstrated by Citydesigner in the HTVA, the appeal scheme conserves and enhances the significance of the local historic environment. The appeal scheme ensures that the immediate and wider setting of the Grade II Inner London Sessions Court and other nearby listed buildings and non-designated heritage assets, and views that contribute positively to their significance, are preserved or enhanced, in accordance with Policy P19 of the Southwark Plan and Policies HC1 and HC3 of the London Plan.
- 6.20 I note that LBS have removed their reason for refusal in respect of harm to heritage assets and therefore Southwark Plan Policy P19 no longer forms part of LBS's case. This is also true of London Plan Policy HC1 and HC3 which deal with heritage and strategic and local views (the site is not within a strategic or protected local view).
- 6.21 In relation to Policy D9 of the London Plan, the GLA have confirmed that the scheme accords with it, as explained in paragraph 7.8 of the SoC.

Other material considerations

- 6.22 I now turn my attention to other 'material planning considerations'.
- 6.23 Paragraph 119 of the National Planning Policy Framework ("NPPF") seeks to make effective use of land: *"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land"*.
- 6.24 Paragraph 120c advises that *"Planning policies and decisions should give **substantial weight** to the value of using brownfield land within settlements for **homes and other identified needs**..."* [my emphasis].
- 6.25 The appeal scheme makes efficient use of brownfield land by providing purpose-built student accommodation (which counts towards LBS's housing delivery targets) in a multi-storey format

to meet an identified need whilst increasing the space available for a flexible range of uses that could increase the employment and social value provided by the site, to which substantial weight should be given.

- 6.26 The Council have claimed in their SoC that the appeal scheme is contrary to chapter 12 of the NPPF. It is difficult to understand LBS's reasoning as they have not set it out with any clarity. I have considered the proposals against chapter 12 of the NPPF and find them to be wholly compliant. Not only is there no conflict, but chapter 12 actually promotes development such as this:

*"134. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, **significant weight** should be given to:*

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings." [my emphasis]

- 6.27 The Elephant and Castle SPD and OAPF is, too, a material consideration. I consider the appeal scheme satisfies the guidance on building heights at 'SPD 17' because it would provide an appropriate transition in height and scale from the high buildings of Newington Causeway and the lower scale hinterland to the south and east and would not result in coalescence with other taller buildings to form a single mass. The transition also occurs within the form of the development, itself stepping down from 16 to 14 to 7 to 2 storeys. This is discussed further in Mr Coleman's proof of evidence.

Reason for Refusal 2: Lack of a section 106 agreement

- 6.28 The Council have identified in their SoC (para 8.16) that in the absence of a completed section 106 ("s106") agreement or unilateral undertaking, the appeal scheme fails to secure appropriate planning obligations to mitigate its impacts and to secure the public benefits of the proposal to ensure compliance with planning policies for these topics.
- 6.29 This issue will be dealt with by the s106 agreement which is currently being agreed between the parties. In the absence of agreement, a unilateral undertaking will be executed securing any necessary planning obligations in a policy compliant way.

Reason for Refusal 3: Fire safety

- 6.30 A late request to add an additional reason for refusal relating to fire safety was made by LBS on 21 October 2022 by way of an addendum to the Council's SoC. LBS has relied upon feedback received by the HSE in this regard. The HSE were consulted on 18th January 2022, two months

following the Council's receipt of the valid planning application, and they returned comments to LBS on 7th February 2022 highlighting a number of issues with the design and the building in relation to fire safety. The comments were not passed on to the Appellant by LBS despite repeated requests.

6.31 Notwithstanding the above, the appeal scheme was designed to comply with current fire regulations. Qualified fire engineers, Clarke Banks, provided advice to the scheme architect and design team during the scheme's evolution to ensure that it complied with fire regulations. However, in light of the late additional reason for refusal by LBS and the feedback received from the HSE, design amendments have been made to the appeal scheme to address the comments and further enhance the scheme's performance. The amended drawings are currently under review by the HSE, and a response is expected on 24 November.

6.32 A document describing the design amendments in detail is contained at CD 5.0. I summarise them briefly as follows:

- i. The internal arrangement at ground floor has been redesigned to provide separate staircases serving the student accommodation at upper floors and the basement -2 level;
- ii. At ground floor, each staircase has its own separate independent egress route directly to the external fire escape route along the north-west side of the building;
- iii. The amended staircase arrangement results in the relocation of fire escape exit doors to the west façade of the building, providing a clear escape route directly to the street without any need to pass the bin store;
- iv. At ground level, the concierge area no longer provides access to ancillary accommodation; and
- v. Minor design amendments have been made to the upper floors containing student accommodation to ensure all kitchens are located at the remote end of the corridor away from the final exit to the cluster.

6.33 This issue is dealt with further by Mr Melrose of Clarke Banks in his proof of evidence.

Other Matters

Impact on neighbouring amenity (daylight, sunlight, and overshadowing)

6.34 The appeal scheme has been designed to minimise impact on the amenity of neighbours. As explained by Ms Lewis in her proof of evidence (para 3.6) *"We moved towards a strategy that split the form into 2 parts to allow each side of the building to be responsive to neighbours. The taller elements were orientated to the north of the site, with the building stepping down at the southern end to respect the existing scale and outlook of the nearby Rockingham Estate."*

6.35 Whilst the Council have not raised any issues on these grounds, we consider amenity insofar as it is raised by third parties (8 out of a total 330 consulted). In this instance, the principal

consideration is loss of light. This issue is dealt with by Mr Dunford in his proof of evidence with reference to BRE guidelines (published June 2022).

6.36 In carefully assessing the effects of the appeal scheme on the daylight and sunlight amenity to surrounding residential properties, Mr Dunford concludes that although there are effects, having regard to the urban context, retained levels of daylight and sunlight to the properties will remain more than satisfactory after development. The effects are, in Mr Dunford's view, acceptable and will be commensurate with similar sites and localities (CD 8.13, pgs. 25-26, para 12.19).

6.37 I do not consider there to be any other amenity issues that require exploration.

Land use

6.38 The Council have not raised any issues with respect to the proposed land uses and nor have the GLA. In fact, the GLA fully support the provision of PBSA and Class E/F1(a) uses on the site, as noted in their Stage 1 report.

6.39 It is an issue, however, that has been raised by third parties and in particular the provision of PBSA.

6.40 I therefore examine how PBSA and Class E/F1(a) are appropriate land uses for the site having regard to planning policy and the site's context.

6.41 In respect of the principle of PBSA:

- i. The site's suitability for PBSA is established by virtue of its highly accessible location, its Opportunity Area status, Major Town Centre and CAZ designations;
- ii. Not only is the site within an Opportunity Area considered appropriate for student housing generally, but it is also within the Enterprise Quarter part of the Opportunity Area in which student housing proposals "will be supported" according to the Elephant and Castle SPD and OAPF;
- iii. There are two University campuses within a five minute walk of the site, including LSBU who have agreed Heads of Terms for a Nomination Agreement with the Appellant to secure the majority of the accommodation for students of LSBU should planning permission be granted;
- iv. There is an acute local and strategic need for PBSA, as evidenced in section 5.0 of my proof;
- v. The provision of this number of bedspaces would contribute the equivalent of 93 homes towards LBS's housing target of 2,355 new homes per annum; and
- vi. Of the total number of PBSA rooms provided, 35% would be affordable (as defined by the Mayor of London) and 5% would be easily adaptable for occupation by wheelchair users in compliance with Policy P5 "Student homes" of the Southwark Plan.

6.42 The facts above lead me to the conclusion that the proposed PBSA would meet planning policy objectives at all levels.

6.43 In respect of the principle and quantum of Class E/F1(a) employment/health/education floorspace:

- i. The appeal scheme would provide 1,733sqm of employment generating floorspace, which represents a net increase of 426sqm compared with the existing position. It is thus in accordance with Southwark Plan Policy P30 “Office and business development”.
- ii. The quantum of Class E/F1(a) floorspace delivered by the appeal scheme is proportionate to the site-wide employment capacity target for Site Allocation NSP46 as a whole. In other words, the appeal site’s footprint measures approximately 30% of the site allocation’s footprint (including the servicing yard), and the quantum of Class E/F1(a) floorspace proposed by the appeal scheme equates to 25% of the total employment capacity target for the allocation. Hence, it is proportionate and achieves the objectives of NSP46.
- iii. The Appellant has prepared scenarios for a blend of flexible employment, education and/or health related uses. These could support up to 158 office jobs, allowing for management of the building (10 staff) and deduction of the existing staff (5) although these will be relocated nearby and not lost from the borough. Non-office uses have a lower employment density but nonetheless could support a substantial increase in the number of jobs compared to the baseline, with wider education and health benefits for the community. Policies of the London Plan, Southwark Plan, and para. 81 of the NPPF are therefore complied with.
- iv. The Class E/F1(a) floorspace has been designed to be inherently flexible, as explained at paragraph 5.2 of the DAS (CD 1.39): *“The employment use is split across 3 levels with the core arranged to ensure maximum flexibility allowing a wide range of uses to occupy the space. This creates a flexible and adaptable building for the long term. Each commercial floor is given generous floor to ceiling heights to ensure a flexible and well lit set of spaces.”* It could, therefore, deliver education space for LSBU or other HEI, a community health hub, as sought by Site Allocation NSP46, or another Class E use.
- v. In the event that Class E use is implemented, 10% of the floorspace would be provided as affordable workspace, in accordance with Policy P31 of the Southwark Plan.
- vi. In qualitative terms, the Class E/F1(a) floorspace would activate the ground floor on Avonmouth Street and Tiverton Street, enlivening the streetscape which is currently compromised by the expansive dead frontage presently on the site.

6.44 The NPPF gives strong endorsement to development that improves economic, social and environmental conditions of an area whilst making effective use of land. Amongst other land

uses specified in the NPPF, priorities include student housing and business space – i.e., those being promoted in this case.

6.45 I find no incompatibility between the appeal scheme, the development plan or NPPF in land use terms.

The site's relationship with the rest of Site Allocation NSP46

6.46 This matter has not been identified as an issue by LBS, however, I deal with it briefly insofar as it relates to the broader planning case.

6.47 The land ownership position of Site Allocation NSP46 is one of complex multiple ownerships.

6.48 The Appellant met with the other landowners within the allocation during the pre-application and application stages to discuss the proposals for Avonmouth House. The feedback received was supportive and no objections were raised.

6.49 However, LBS received very late representations on 31 October 2022 on behalf of the adjoining landowners at 63-67 Newington Causeway, 73-77 Newington Causeway, and 49-51 Tiverton Street in relation to the subject appeal and the second application (22/AP/2227) that is under determination by LBS. The representations have sought to outline why the proposed development at Avonmouth House would unreasonably compromise development on the neighbouring sites. In response, LBS produced an Addendum Committee Report (CD 8.5) outlining why officers believe the appeal scheme would not compromise reasonable development on neighbouring sites and, consequently, why members ought not to add an additional reason for refusal as sought by the objectors, a motion which was carried.

6.50 The Appellant has also responded to the points raised by way of a rebuttal letter dated 2 November 2022 (CD 8.11), which demonstrates why the representations do not have merit.

6.51 In summary, I note that the site allocation does not require the individual sites within the allocation to come forward comprehensively, nor have LBS indicated at any point that they should. However, the appeal scheme's relationship with the rest of the allocation is considered in the context of possible future development on neighbouring sites within the allocation by Stitch Architects within the DAS (pages 16-21). The illustrative masterplan prepared serves to demonstrate how, in theoretical terms, the appeal scheme would not prejudice the future redevelopment of the rest of the allocation.

6.52 This matter is dealt with in greater detail by Ms Lewis in her proof.

Technical considerations

6.53 The planning application submission assessed how the appeal proposals are acceptable in all technical respects. The Council have not raised any technical areas of non-compliance, and, on this basis, I do not provide any further evidence to that provided within the original application.

Matters raised by third parties

6.54 Excluding the aforementioned late objections from adjoining landowners, the appeal scheme has attracted very few objections (8 out of a total 330 consulted). The matters raised by local residents are addressed within Appendix 2 of the SoC. I provide a brief summary below.

- i. Building height (too tall) – addressed within the HTVA and Mr Coleman’s proof of evidence.
- ii. Loss of daylight and sunlight to surrounding properties – addressed within the Daylight and Sunlight Report (CD 1.55) and Mr Dunford’s proof of evidence.
- iii. Noise pollution and anti-social behaviour from students – addressed within the Student Housing Management Plan submitted with the application which deals with all matters relating to the operation of management of the student accommodation. An ongoing commitment to the management plan is secured within the draft s106 agreement.
- iv. Noise and disturbance during construction phase – addressed within the Noise and Vibration Assessment (CD 1.52) submitted with the application which specifies construction noise limits that construction works must adhere to. A condition requiring the approval of a Construction Environmental Management Plan is included within the agreed Statement of Common Ground.
- v. Traffic and congestion during operational phase – addressed within the Delivery and Servicing Management Plan (CD 1.47) and Student Management Plan (Transport) (CD 1.50) supporting the application. The former deals with anticipated servicing movements for the development, which are expected to be minimal, and the latter deals with the student move in/move out arrangements, including the booking system to be implemented to ensure that impact on the local highway network is minimised.
- vi. Increased pressure on local infrastructure – as well as provision being made for a community health hub within the appeal scheme, appropriate planning obligations to mitigate the scheme’s impacts and to secure the public benefits of the proposal will be secured by way of the s106 agreement. Mandatory CIL payments will also contribute directly towards the delivery of infrastructure.

7.0 Planning Balance and Conclusions

7.1 I now turn to the planning balance for the appeal scheme.

7.2 Paragraph 11 of the NPPF sets out:

“Plans and decisions should apply a presumption in favour of sustainable development... For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

7.3 The Southwark Plan was adopted in February 2023 and the London Plan was adopted in March 2021. The development plans are therefore up to date.

7.4 I have demonstrated in my evidence that the appeal scheme accords with the development plan when read as a whole; therefore, paragraph 11c applies and planning permission ought to be granted without delay.

7.5 The appeal scheme makes highly efficient use of its site and the mixed-use format proposed should be welcomed for its positive contributions to employment and the local economy, the Higher Education Sector, flexible space for community use if required and to the longstanding ambitions of policy for regeneration of the area. There would be no harm done as a result of the appeal scheme.

7.6 The characteristics and benefits that weigh in the appeal scheme's favour are summed up below. These demonstrate how the scheme meets the overarching development plan policy objectives and the objectives set out in the NPPF. The benefits set out below should be read in conjunction with the other expert witnesses' proofs of evidence.

- i. **Delivery of PBSA** – Very substantial weight should be afforded to the delivery of 233 PBSA rooms, 35% of which would be affordable and 5% of which would be accessible, for which there is an irrefutable and significant need.
- ii. **Contribution towards conventional housing** – Very substantial weight must be afforded to the indirect contribution of 93 homes (based on the London Plan ratio of 2:5:1) towards LBS's and the GLA's housing targets, which, in turn, would free up conventional housing thus reducing pressure on the local private rental housing market.

LBS scored 90% in the Housing Delivery Test (“HDT”) 2021; therefore, it had to prepare an “action plan”. The 90% was only achieved due to the over delivery of housing in the 2018-19 monitoring year. The number of homes delivered in the latter two monitoring years (2019-20 and 2020-21) meets only 69% of the Borough's requirement, hence LBS is likely to be in the “presumption” category in the next HDT (2022).

- iii. **Employment generation – Very substantial weight** should be afforded to the provision of 1,733sqm of modern and energy efficient floorspace, an increase of 426sqm compared with the current position, 10% of which would be affordable. This quantum of floorspace could support up to 158 office jobs, allowing for the deduction of the baseline staff (5), although these will be relocated nearby and not lost from the borough.
- iv. **Optimising the use of underutilised brownfield land – Substantial weight** must be afforded to the delivery of specialist housing on brownfield land and land allocated for redevelopment within the Southwark Plan. The appeal scheme would contribute to the ongoing regeneration of the Elephant and Castle Opportunity Area.
- v. **Early delivery of specialist housing** – and thus early economic benefit, particularly relevant in recessionary and uncertain economic conditions. In the context of the NPPF, the site is demonstrably “deliverable”. That is to say, it is available now, offers a suitable location for development now, and is achievable with a realistic prospect of the housing being delivered on the site within five years (the expected occupation date for the PBSA is September 2025).
- vi. **Financial benefits from construction** – The estimated construction cost of the development of £31.2m could be worth over £88.6m in turnover in the construction supply chain and over £11.2m to the public purse based on industry benchmarks¹. On conservative assumptions, the construction cost would generate 518 person years of construction work, which equates to just over 93 FTE jobs².
- vii. **Ongoing economic expenditure effects** – Following completion of the development there would be significant, ongoing expenditure by the occupiers (233 students and the operational staff). The students' living expenses alone could generate in the order of £2.1m per annum of typically local expenditure³. Students generate wider economic and social benefits through their learning and development; achievement of elevated qualifications and employment prospects; and through the voluntary and charitable work often undertaken by students.
- viii. **Financial benefits to LBS** – including annual business rates on the commercial floorspace; CIL payments and s106 contributions.

¹ Paragraph 3.19 of the Economic Regeneration Statement (CD 3.0)

² Paragraph 3.11 of the Economic Regeneration Statement (CD 3.0)

³ Paragraph 4.8 of the Economic Regeneration Statement (CD 3.0)

- ix. **Townscape enhancements** – As Mr Coleman concludes *“The qualities of the design lie in its three dimensional compositional form, the particular articulations both horizontally and vertically defining these forms and the differential in the colour of the masonry cladding material. The further enriched articulation of the top two floors, with extended pilasters forming a crown, add to the buildings character and identity. This means that when it is seen it becomes an enrichment to the area and makes a positive townscape contribution.”* (CD 8.14, p.11, para. 3.25).
- x. **Exceptional design quality** – Mr Coleman's view is that *“I maintain that the scheme is of exemplary quality...”* (CD 8.14, p.13, para.3.3.7), *“The high quality of the design effectively eliminates any harm that a poor design may otherwise cause to the listed Sessions House...”* (CD 8.14, p.13, para. 3.3.4).
- xi. **Highly accessible and sustainable development** – A zero-carbon, air quality neutral development with BREEAM “Excellent” rated employment floorspace and an Urban Greening Factor of 0.4 within a Major Town Centre and PTAL 6b (“excellent”) location; and
- xii. **Public realm benefits** – Active frontages and enhanced public realm on Avonmouth Street and Tiverton Street that would create an attractive, safe and high quality environment for people and students to work, live and visit, better revealing local distinctiveness and providing a strong sense of place.

7.7 I see no disbenefits of any significance, and so conclude that the planning balance weighs overwhelmingly in favour of the appeal scheme. I therefore respectfully ask the inspector to allow the appeal and grant planning permission.

Appendix 1 – LSBU and UoL Letters of Support

Yvonne Lewis
London Borough of Southwark

Date: 2 February 2022

Dear Yvonne

PROPOSED STUDENT RESIDENCES, AVONMOUTH HOUSE, 6 AVONMOUTH STREET, ELEPHANT AND CASTLE

We are pleased to confirm our support for the latest proposed redevelopment plans for new student accommodation at Avonmouth House which are currently being advanced by Tribe.

Having met with Tribe in May and July and more recently in November 2021 where they outlined their plans for the site, it is good to hear their commitment to providing high class student accommodation at affordable rents for students studying in London in line with GLA and London Borough of Southwark policies.

The proposed cluster flat arrangement with dedicated on site amenities facilitates student interaction and collaborative working in a social setting which is encouraged and within the university sector is seen as essential for both their studies and for their personal development.

LSBU support and welcomes the provision of good quality affordable student accommodation in the Elephant and Castle area and we look forward to exploring possible opportunities with Tribe once they have comfort on planning.

Additionally, the 17,000sqft of floorspace at basement, ground and first floor may also be of interest to LSBU in which to extend its enterprise activities as the facilities are well situated within walking distance of the main campus.

I trust this is useful and provides a level of support to the application made by Tribe as they develop and proceed through the planning application consultation process.

Yours sincerely,

Carol Rose

Carol Rose

Executive Director of Estates and Academic Environment, London South Bank University, Technopark, London Road, London, SE1 6LN

t: +44 (0)20 7815 6801 e: rosec8@lsbu.ac.uk



**UNIVERSITY
OF LONDON**

10th September 2021

Dear Sir/Madam,

Avonmouth House, 6 Avonmouth Street, London SE1 6NX

I am writing with regard to the above property.

The University of London (UoL) recently identified that our Member Institutions had a shortfall of over 11,500 Purpose Built Student Accommodation (PBSA) rooms. As a result, we support the development of more PBSA rooms across London at appropriate rents.

Student numbers are due to increase from 2022, as the demographic dip in 18-20 years olds ends. Without appropriate PBSA, this will both put additional pressure on the PRS and reduce student satisfaction. The site at Elephant and Castle is well located for a number of our Member Institutions and, priced appropriately, would attract many of those currently living in the PRS.

We understand that 35% of the rooms will be provided at the affordable rents defined in Policy H15 of the London Plan. As our greatest shortfall in supply of PBSA is rooms priced appropriately for first-year Home students, these rooms would help address that shortfall.

In principle, we therefore support this application.

Yours sincerely,

Andrew Howarth
Director of Residential Services

Appendix 2 – Letter from Etc Venues

space to meet in a prime location, discuss, digress,
draw inspiration, develop, propose, present, define,
achieve, aspire, envisage, shine etc.

Nick Lawrence
Tribe
35 Berkeley Square
London W1J 5BF

etc.venues

3rd November 2022

Dear Nick,

Avonmouth House

Avonmouth House is being run as a corporate meeting/event/training venue having been acquired by etc.venues Ltd in 1992.

Over the last 5+ years etc.venues Ltd has focussed on building a new venue experience for delegates with landmark sites such as County Hall being developed. The business strategy has been to migrate away from smaller venues, like Avonmouth, to larger venues where the economies of scale and operations are greater.

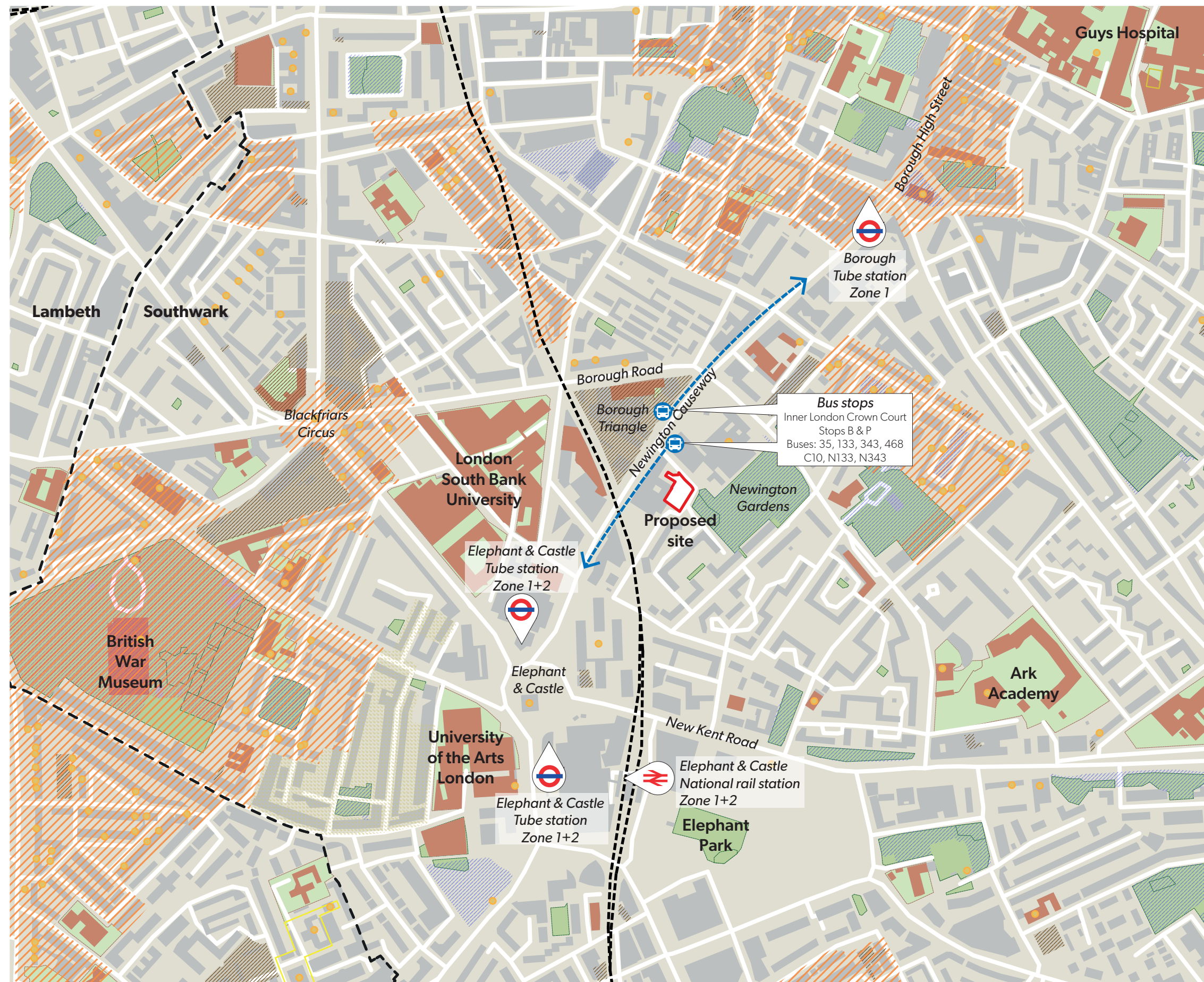
In addition to Avonmouth, etc.venues retains a strong presence in Southwark at the nearby Prospero House (Borough High Street) where a recent 10 year lease extension was signed in 2021. Prospero House will be able to support former Avonmouth House clients. Avonmouth currently has 5 employees on site, all of whom can be absorbed into our Prospero House."

Yours sincerely,



E Ethelston
CFO, etc.venues Ltd

Appendix 3 – Site Context Map



KEY

- Civic buildings
(e.g. universities, hospitals, schools)
- Private outdoor space
(e.g. school playing fields)
- Protected public open space
- Land on the brown field register
- Conservation areas
- Listed buildings



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