

Executive 13th November 2006

Report from the Director of Environment and Culture

For Action Wards Affected:

Dollis Hill

Certificate of Appropriate Alternative Development for the Evans Business Centre, Brook Road, NW2

Forward Plan Ref: E&C-06/07-010

1.0 Summary

1.1 This report seeks the Executive's decision in supporting the officer's recommendation to refuse the proposed 6 options of appropriate alternative development for the Evans Business Centre site (see appendix 1).

2.0 Recommendations

- 2.1 The Certificate to be issued refusing all six options for appropriate alternative developments of the subject site as set out in the application but permitting (subject to conditions) the alternative classes of development set out in paragraph 3.26.
- 2.2 The Executive authorise the director of planning to specify the conditions that would apply to the alternative classes of the development that would be permitted in the Certificate.

3.0 Detail

3.1 The applicant, Mulgate Investments Ltd, have applied for a Certificate of Appropriate Alternative Development under the Land Compensation Act 1961, Section 17. This application was received by the Council on 26 July 2006. As this application is neither, a full planning application or a Certificate of Lawfulness, the determination is not within the remit of officers' delegated authority nor is it within that of the Planning Committee. Therefore, a decision is sought from the Executive.

- 3.2 The certificate procedure in Part III of the 1961 Act has only one purpose to provide valuers and (ultimately) the Lands Tribunal with guidance on the development value, if any, of land that is being acquired by an authority with compulsory purchase powers. The applications are decided against the background of a hypothetical 'no scheme world'. The Act also requires the Local Planning Authority to certify the alternative developments for which planning permission would have been granted 'in respect of the land in question, if it were not proposed to be acquired by the Council possessing compulsory purchase powers'.
- 3.3 The Council have a statutory time frame of 2 months to issue the Certificate under the said Act. However, because an Executive decision is needed, the Certificate will be issued outside the statutory time frame. The applicants are aware of this and have raised no objections.
- 3.4 The application site is located to the west of Brook Road in an area known as the Dollis Hill Estate (also identified as the Evans Business Centre). The application site in total consists of approximately 1.76 hectares of land and is an L-shaped plot.
- 3.5 Within this Estate there are 9 units mainly of light industrial use comprising local employment land. However, there are education uses and facilities for community use within the site. It is also recognised that currently there are few vacant premises within the estate.
- 3.6 The site has a long and recent planning history whereby the Planning Committee have refused a high density residential scheme in two separate instances.
- 3.7 On 2 June 2004, the Planning Committee refused an application for the demolition of existing buildings and erection of buildings within Use Class D1 as secondary school and sixth form with ancillary facilities including indoor and outdoor sports facilities and car-parking; the erection of residential units (Use Class C3), together with ancillary car-parking; works of hard and soft landscaping and other works incidental to redevelopment of site for various reasons. The decision notice is attached in background papers as appendix 2 (Council's reference 04/0716).
- 3.8 On 30 November 2005, a similar application was refused by the Planning Committee. This was for the demolition of existing buildings and redevelopment of the site for a mixed-use development of 6 new buildings, comprising 140 flats (Class C3), 54 of which will be affordable housing, 4,120m² of space for commercial use (Class B1) and 130m² of space for community use (Class D1) with associated car-parking and landscaping (as accompanied by Sustainability checklist received 07/10/2005, Planning Statement by Barton Willmore dated October 2005, Design Statement by

Carey Jones Architects dated September 2005 and Transport Statement dated October 2005). This decision notice is attached in background papers as appendix 3 (Council ref 05/2757)

- In both instances, the applicant appealed to the Secretary of State, by way of Public Inquiry, however, the applicant has withdrawn the appeal for the initial application (04/0716). The Public Inquiry is still outstanding for 05/2757 and waiting for dates to be arranged.
- 3.10 During the stages of the above mentioned applications, John Kelly School, in conjunction with the Brent's Director of Children and Families, applied for an outline planning permission to rebuild the two schools (John Kelly Girls and Boys School) over the current school site and expanding across to the subject site. This was approved at the Planning Committee on 17 March 2005.
- 3.11 More recently, on 17 July 2006 the Director of Children and Families reported to seek Executive's approval for the Compulsory Purchase Order of the subject site to expand the schools. A copy of the report is attached in the Background Paper under Appendix 4.
- 3.12 Given recent approval to CPO of the subject land, the land owners have been notified and negotiations are due to take place. One of the reasons for the subject application may be to ascertain a potential value of the land through the proposed options were John Kelly School to have had no interest in the land.
- 3.13 The applicants have proposed 6 options for potential development which all involve the demolition of the existing buildings and the development of the site.

a) Option 1

 The option 1 is a mixed use scheme comprising employment and residential floor space. Six new buildings are proposed which include 140 residential flats (Class C3), 4,120sq.m of commercial space (Class B1) and 130sq.m of Community space with associated car parking and landscaping. The proposed residential density would be 301 habitable rooms per hectare.

b) Option 2

Option 2 is for the erection of 5 buildings for a mixed use scheme, including 173 residential flats (Class C3), 4,120sq.m of space of commercial (Class B1) with associated car parking and landscaping. This option will result in the proposed residential density of 372 habitable rooms per hectare and does not include any community use floor space.

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c) Option 3

 This option is purely a residential scheme comprising 5 new buildings accommodating 5 houses and 246 flats (Class C3). This results in the density of 364 habitable rooms per hectare.

d) Option 4

 A pure residential development comprising 6 new buildings accommodating 21 houses and 202 flats. This will result in a density of 334 habitable rooms per hectare.

e) Option 5

• This option involves the redevelopment of the site for Class B uses comprising, 6,420sq.m of Class B1(a) (office use not in A2) and 12,600sq.m of B(c) (light industrial) of which are 2 storeys in height.

f) Option 6

- Option 6 is for a Use Class B1 scheme comprising of 14,490sq.m floor space of business units which are 4 storeys in height. Associated parking, servicing and landscaping also forms part of this option.
- 3.14 All of the above mentioned proposed options would be contrary to Council's adopted planning policies resulting in the loss of existing uses on the site. These objections were previously raised, in particular to the loss of employment land and community use or to varying degrees on the subject site, in the refused applications which are now subject to an appeal.
- 3.15 Firstly, with all the residential schemes, including the first and second options which are the mixed use scheme, the proposed densities are too high for the location. As previously reported in two Planning Committee Meetings, the suggested appropriate density in accordance with Supplementary planning guidance No 17 is 150-240hrh for a location in an area of Low Transport Accessibility. Table 4B.1 of the London Plan February 2004 (attached as appendix 5 in the background paper) also sets out a density matrix with appropriate ranges related to location, setting in terms of existing building form and massing, and the index of public transport accessibility. This site can be defined as suburban which is a low density development predominately residential dwellinghouses. There is no indicative density threshold within this plan that is applicable to a flat development within a suburban location. Therefore, The London Plan together with the Council's SPG 17 indicates that the proposed densities above 300 habitable room or more per hectare within this location to be an overdevelopment.
- 3.16 Therefore, the proposed densities of the residential developments cannot be supported. With regards to the pure residential developments, i.e. Options 3 and 4, there would be objections to the loss of a local employment site.

- 3.17 The subject site is considered as a Local Employment site within the context of the adopted Brent Unitary Development Plan 2004, and therefore policies STR1 and EMP9 would be the key policies in considering this application.
- 3.18 In order to allow the release of the site from employment to an alternative use, it has to be demonstrated that there are either environmental problems associated with the operation of the site for business and industry or that there is no demand for the premises and there is no prospect for re-use or redevelopment to modern standards in the medium term.
- 3.19 No information, demonstrating the nil demand for the current employment land, has been provided to support the release of the currently occupied employment land as part of this Certificate. Therefore, the release of this entire employment lane for housing is not considered to be acceptable, in the case of Option 2 and 3.
- 3.20 Objections are raised to options 1, 2, 3 and 4 due to the inappropriate proposed densities which can lead to over development of the site, a site without much accessible public transport and infrastructure to support such a dense residential scheme.
- 3.21 Objections are raised to Options 3 and 4 due to the loss of employment land. The proposed development would result in the loss of employment land for which there remains demand would have detrimental impact to the existing local job opportunities within the Borough. In addition, there is no satisfactory evidence to support the loss of the employment land.
- 3.22 Another issue arising from the alternative development proposals is the loss of community facilities within the site. Currently, there are established community facilities (school, training centre and a day care centre) within the site. Education use is already established, the Menorah High School occupying two of the units (nos. 19 and 21). A redevelopment without adequate replacement will result in a substantial loss of the community facilities (Use Class D1) on site which is also contrary to the Brent's UDP policy CF3. All of the options do not sufficiently replace the existing available community floor space within the subject site. The loss of the facility would have a detrimental impact on the existing stock of community facilities within the Borough and, in particular, to the local area.
- 3.23 Having considered the impact on the loss of the established community facilities, objection is raised to options 1, 2, 3, 4, 5 and 6 alternatives without sufficient replacement.
- 3.24 Option 6 is an intensified office use development (Use class B1). In accordance with the Council's adopted policy, EMP15, such a proposal is not appropriate on the subject site. This is in accordance with the Government policy on the sequential approach to development, set out in PPS6. This requires that uses, such as purpose-built offices, which generate a lot of trips be located in town centres and, only if there are no sites within or on the edge of town centres, should they be permitted in out-of-centre locations such as

the Dollis Hill Estate. In addition, the purpose built commercial business offices are better directed towards the Wembley Stadium Regeneration Area and Park Royal Gateways. Moreover, the proposed intensified B1 office units as suggested in Option 6 are resisted as the site has a low level of public transport access and the proposal will lead to an increased level of private vehicle dependency and traffic movement within this area.

- 3.25 For the reasons as stated above, the proposed six options are unacceptable and are likely to give rise to undue impact to the area as a whole. Therefore, it is recommended for all six options be rejected for the following reasons;
 - a) The proposed options for the appropriate alternative developments would result in the loss of the community facilities and loss of employment land to varying degrees for which there remains demand which would have detrimental impact to the existing stock of community facilities and local job opportunities within the Borough and also contrary to policy STR1, STR25, CF3 and EMP9 of Brent Unitary Development Plan 2004.
 - b) The proposed density of the residential development on all the proposed options is considered too high for this suburban site. As such, the proposal would fail to comply with policies H14 of the adopted Unitary Development Plan 2004, Supplementary Planning Guidance no.17 and London Plan 2004.
 - c) Some of the proposed options for the intensified business office (Use Class B1) are unacceptable due to the low level of public transport access which will lead to an increased level of private vehicle dependency and traffic movement within this area contrary to policy EMP15 of Unitary Development Plan.
- 3.26 The Council would consider the following to be acceptable for appropriate alternative developments at the subject site only if the site was not required for the expansion of the adjacent school.
 - a) The occupied site areas of each existing use (Employment and Community Use Class D1 uses) to be re-provided within the site and the remainder of the site to provide further opportunities for employment uses.
 - b) The occupied site areas of each existing use (Employment and Community Use Class D1 uses) to be replaced on the site with any remaining land to accommodate housing development at an appropriate density, to a maximum density threshold of 150-240hrh, and with appropriate level of parking, amenity space and residential quality. The development should take place at an appropriate level of massing and scale that is within the context of the area and which would not impinge on the amenity of the neighbouring occupiers.

4.0 Financial Implications

4.1 The granting of a positive certificate would have implications for the land value and hence the cost of compulsory purchasing the land for the John Kelly Schools expansion. However as stated in 5.1 these financial implications must be disregarded in arriving at the decision.

5.0 Legal Implications

5.1 The only purpose for applying for a certificate of appropriate alternative development is to provide valuers and (ultimately) the Lands Tribunal with guidance on the development value, if any, of the land which the Executive has resolved to compulsorily purchase. However, it should be emphasised that the effect of a Certificate on the sum to be paid by the Council for the land is not relevant to the Council's decision on the Certificate.

The Executive needs to decide what development, if any, would have been allowed if the land were not being acquired compulsorily. It is, in effect, a hypothetical planning permission. For this reason, the purpose for which land is being acquired must always be disregarded.

The applicant has set out six classes of development which it considers would be appropriate for the land if it were not being acquired compulsorily. The Executive may:-

- a) grant a positive certificate, that planning permission would have been granted for one or more of those classes of development (as well as for the development for which the CPO is required) or for any other development which it considers would have been appropriate for the site, or
- b) grant a negative certificate, that although planning permission would have been granted for the development for which the land is being acquired, it would not have been granted for any other development.

The relevant date in this case for deciding whether planning permission would be granted is the date of the written offer by the Council to negotiate for the purchase of the land i.e. 21st April 2006.

There is a right of appeal to the Secretary of State against a certificate.

6.0 Diversity Implications

- 6.1 It is considered that there are no diversity implications.
- 7.0 Staffing/Accommodation Implications (if appropriate)
- 7.1 Not appropriate

Background Papers

Appendix 1 – Location Map

Appendix 2 – Decision Notice 04/0716

Appendix 3 – Decision Notice 05/2757

Appendix 4 – Director of Families and Children executive report 17/7/06 on JK schools and its CPO

Appendix 5 – Density Matrix

Contact Officers

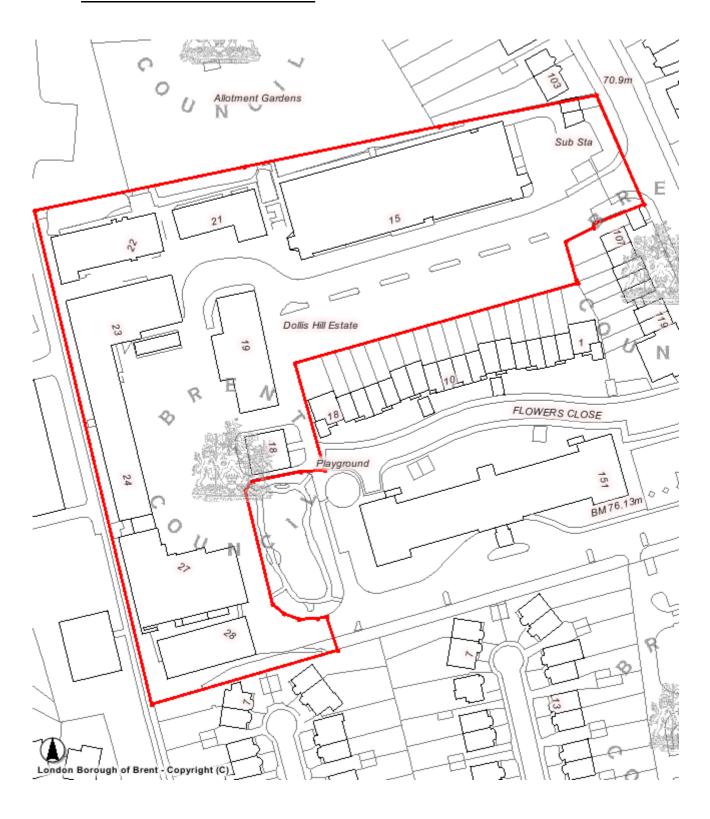
Jane Jin (Principal Planner) Ext 5231

Richard Saunders
Director of Environment and Culture

Chris Walker Director of Planning

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APPENDIX 1 – LOCATION MAP



BRENT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

DECISION NOTICE - REFUSAL

Application No: 04/0716

To: Mr Paul Henry DP9 Cassini House 57-59 St James's Street London SQ1A 1LD

I refer to your application dated 01/03/2004 proposing the following:

Demolition of existing buildings and erection of buildings within Use Class D1 as secondary school and sixth form with ancillary facilities including indoor and outdoor sports facilities and car-parking; the erection of residential units (Use Class C3), together with ancillary carparking; works of hard and soft landscaping and other works incidental to redevelopment of site

and accompanied by plans or drawings under the reference(s):

Planning Statement by Montagu Evans dated March 2004

Design Statement by Carey Jones Architect dated March 2004

Transport Statement by Savell Bird & Axon dated February 2004

Supply and demand in respect of business use class presmises by Mills & Wood Surveyors & Valuers dated March 2004

Phase 1 Environmental Review by Environ dated November 1999

Site Plan: ME1

AL(0)20

AL(0)01 A

AL(0)11 A

AP-90-001 C

AP-90-002 D

AP-90-003 B

AP-90-004 B AP-90-005 B

AP-90-006 B

AF-90-000 B

AE-(20)-001 A

PR_AF-AE-(20)-002 A

AE-(20)-003 A

at:

1-28 INC, EVANS BUSINESS CENTRE, Brook Road, London, NW2

The Council of the London Borough of Brent, the Local Planning Authority, hereby REFUSE permission for the reasons set out on the attached Schedule B.

Date: 03/06/2004 Signature:

Director of Planning

Notes

Your attention is particularly drawn to Part I of Schedule A to this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.

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Application No: 04/0716

REASONS

- The proposed development would result in the loss of the community facilities and loss of employment land for which there remains demand would have detrimental impact to the existing stock of community facilities and local job opportunities within the Borough and also contrary to policy STR1, STR25, CF3 and EMP9 of Brent Unitary Development Plan 2004.
- The proposed residential development would prejudice the opportunity to expand the adjacent John Kelly schools resulting in additional pressures on local land supplies. The subject site being the only available land within the Borough to maximise the opportunity for an expansion of a local school site where the facilities are drastically deficient for the number of existing pupils and for the growing school population will be eliminated as a result of the proposed development. It will also add to the pressure on the increasing demand for school places in the future, where the education resources are exhausted within Borough of Brent and therefore these shortcomings will increase with the consequent negative impact on school standards contrary to policies CF7 and CF8 of Brent Unitary Development Plan 2004.
- The affordable housing element of the scheme is not considered acceptable in terms of the percentage, mix of unit sizes and tenure. More specifically, the scheme fails to provide an acceptable number of larger family units for which there is a definite need within the Borough. As such, the application is contrary to policies H1 & H8 of the adopted Brent Unitary Development Plan 2004.
- The proposed residential development is an intensified overdevelopment of the site which results in lack of social inclusion, poor residential amenity, poor outlook, lack of outdoor amenity space, lack of landscaping and privacy impact to the future occupiers of the development. The proposal also fails to adopt safer by design principle contrary to policies STR 3, STR14, STR 18, STR19, STR20, BE2, BE3, BE5, BE6, BE9, BE12, H1A, H2, H8, H12, H14 and OS18 of Brent UDP 2004, Supplementary Planning Guidance Note 17 and 19, policies within The Mayor of London: London Plan 2004 and Central Government Guidance PPS1: Creating sustainable communities (The planning system and crime prevention).
- The density of the development at 449 habitable rooms per hectare is considered too high for this suburban site and the quality of design is not sufficient to accommodate this. As such, the proposal fails to comply with policies BE2, BE3, BE9 & H14 of the adopted Unitary Development Plan 2004, Supplementary Planning Guidance no.17 and Table 4B.1 of the London Plan, February 2004.
- The proposed developments by reasons of its proposed access, insufficient parking provisions for both disabled and able and poor parking layout, would have significant negative impact to the locality by increasing the level of traffic congestion, road safety hazards in the nearby area and unacceptable increase in on-street parking. The formation of the access from a private road would also result in unacceptable level of amenity and detrimental to the road safety conditions to the nearby residents. Overall, proposed number of residential development together with the proposed form of school would have dramatic cumulative impact on the environment and the road network due to the insufficient existing public transport facilities and provisions to cater for the demand thus contrary to policies STR 3, STR14, STR19, BE3, BE4, BE12, H12, TRN2, TRN 3, TRN 4, TRN12, TRN15, TRN 22, TRN 23, TRN24, TRN31, PS14, PS15 and PS16 of Brent UDP 2004, Supplementary Planning Guidance 17 and 19 and The London Plan 2004.
- 7 The proposed school by reasons of its roof terrace would have detrimental impact to the neighbouring occupiers from nuisance and loss of amenity due to increase in noise levels as a result of intensification of activities within the roof terrace. The proposed location and parking



BRENT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

DECISION NOTICE - REFUSAL

Application No: 05/2757

To: Barton Willmore 6th Floor Venture House 27-29 Glasshouse Street London W1B 5BW

I refer to your application dated 05/10/2005 proposing the following:

Demolition of existing buildings and redevelopment of the site for a mixed-use development of 6 new buildings, comprising 140 flats (Class C3), 54 of which will be affordable housing, 4,120m² of space for commercial use (Class B1) and 130m² of space for community use (Class D1) with associated car-parking and landscaping (as accompanied by Sustainability checklist received 07/10/2005, Planning Statement by Barton Willmore dated October 2005, Design Statement by Carey Jones Architects dated September 2005 and Transport Statement dated October 2005)

and accompanied by plans or drawings under the reference(s):

AP0000 REV A, AP2000 REV A, AP2001 REV A, AP2002 REV A, AP2003 REV A, AP2004 REV A, AS2000 REV A, AE2000 REV A, AE2001 REV A, project numner 13840 with drawing numers L1 revision B, L2, L3 and L4

at 1-28 Inc, Evans Business Centre, Brook Road, London, NW2

The Council of the London Borough of Brent, the Local Planning Authority, hereby REFUSE permission for the reasons set out on the attached Schedule B.

Date: 01/12/2005 Signature:

Director of Planning

Notes

Your attention is particularly drawn to Part I of Schedule A to this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.

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Application No: 05/2757

REASONS

- The proposed residential development is considered to be premature and would prejudice the opportunity to expand the adjacent John Kelly schools resulting in additional pressures on local land supplies. The subject site being the only available land within the Borough to maximise the opportunity for an expansion of a local school site where the facilities are drastically deficient for the number of existing pupils and for the growing school population will be eliminated as a result of the proposed development. It will also add to the pressure on the increasing demand for school places in the future, where the education resources are exhausted within Borough of Brent and therefore these shortcomings will increase with the consequent negative impact on school standards contrary to policies CF7 and CF8 of Brent Unitary Development Plan 2004 the objectives of The Mayor of London: London Plan 2004.
- The proposed residential development is an intensified overdevelopment of the site which results in lack of social inclusion, poor provision of amenity, lack of outdoor amenity space, lack of landscaping to the future occupiers of the development. The proposed residential site layout with its excessive hard surfacing and its vehicular accessways and parking spaces dominating the entire site would not provide satisfactory suburban environment which does not positively contribute to the built environment of the surrounding locality. The proposal also fails to adopt safer by design principle and would be a scheme that does not promote sustainable development contrary to policies STR 3, STR14, STR 18, STR19, STR20, BE2, BE3, BE5, BE6, BE9, BE12, H1A, H2, H8, H12, H14 and OS18 of Brent UDP 2004, Supplementary Planning Guidance Note 17 and 19, policies within The Mayor of London: London Plan 2004.
- The private and affordable housing element of the scheme is not considered acceptable in terms of the percentage of affordable housing, mix of unit sizes and tenure. More specifically, the scheme fails to provide an acceptable number of larger family units for which there is a definite need within the Borough. As such, the application is contrary to policies H1 & H8 of the adopted Brent Unitary Development Plan 2004.
- The density of the development at 302 habitable rooms per hectare is considered too high for this suburban site with low level of public transport accessibility and the quality of design is not sufficient to accommodate this. As such, the proposal fails to comply with policies BE2, BE3, BE9 & H14 of the adopted Unitary Development Plan 2004, Supplementary Planning Guidance no.17 and Table 4B.1 of the London Plan, February 2004.
- The proposed development would result in the loss of the employment land for housing for which there remains a demand and would have an impact to the existing local job opportunities within the Borough and also contrary to policy STR1, STR25, CF3 and EMP9 of Brent Unitary Development Plan 2004.
- The proposed development fails to provide a replacement of the existing community facilities and would therefore result in the substantial loss of the community facilities (D1) on site. This would have detrimental impact on the existing stock of community facilities within the Borough and in particular to the area within the vicinity and also contrary to policy CF3 of Brent Unitary Development Plan 2004.

<u>APPENDIX 4 – DIRECTOR OF FAMILIES AND CHILDREN EXECUTIVE</u> <u>REPORT 17/7/06 ON JK SCHOOLS AND ITS CPO</u>

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APPENDIX 5 – DENSITY MATRIX

table 4B.1 Density location and parking matrix (habitable rooms and dwellings per hectare)

		Car parking	High	Moderate	Low
		provision	2 – 1.5 spaces	1.5 – 1 space	Less than 1
			per unit	per unit	space per unit
		Predominant	Detached and	Terraced houses	Mostly flats
		housing type	linked houses	& flats	
Location	Accessibility	Setting			
	Index				
Sites within	6 to 4	Central			650 – 1100 hr/ha
10 mins					240 – 435 u/ha
walking distance					Ave. 2.7hr/u
of a town centre		Urban		200 – 450 hr/ha	450 - 700 hr/h
				55 – 175 u/ha	165 – 275 u/ha
				Ave. 3.1hr/u	Ave. 3.0hr/u
		Suburban		200 - 300 hr/ha	250 – 350 hr/ha
				50 – 110 u/ha	80 - 120 u/ha
				Ave. 3.7hr/u	Ave. 3.0hr/u
Sites along	3 to 2	Urban		200 - 300 hr/ha	300 – 450 hr/ha
transport corridors				50 – 110 u/ha	100 – 150 u/ha
& sites close to				Ave. 3.7hr/u	Ave. 3.0hr/u
a town centre		Suburban	150 – 200 hr/ha	200 - 250hr/ha	
			30 – 65 u/ha	50 – 80 u/ha	
			Ave. 4.4hr/u	Ave. 3.8hr/u	
Currently remote	2 to 1	Suburban	150 – 200 hr/ha		
sites			30 – 50 u/ha		
			Ave. 4.6hr/u		

source GLA

- 4.47 Appropriate density ranges are related to location, setting in terms of existing building form and massing, and the index of public transport accessibility (PTAL). Site setting can be defined as:
 - Central very dense development, large building footprints and buildings of four to six storeys and above, such as larger town centres all over London and much of central London.
 - Urban dense development, with a mix of different uses and buildings of three to four storeys, such as town centres, along main arterial routes and substantial parts of inner London.