



Report to the First Secretary of State

by **David Nicholson** RIBA IHBC

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ GTN 1371 8000

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TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990, SECTION 20

COUNCIL OF THE LONDON BOROUGH OF HOUNSLOW

APPEAL BY ST. GEORGE WEST LONDON

Inquiry opened on 28 June 2005

Land at Kew Bridge Road/Kew Road, Brentford TW8 0EB

File Refs: APP/F5540/A/05/1180177 & APP/F5540/E/05/1180179

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Abbreviations

| | | |
|-----------|---|---|
| 1990 Act | - | the Town and Country Planning Act 1990 |
| 2004 Act | - | the Planning and Compulsory Purchase Act 2004 |
| ADF | - | Average Daylight Factor |
| AOD | - | above ordnance datum |
| ARA | - | Amateur Rowing Association |
| BCC | - | Brentford Community Council |
| BRE Guide | - | British Research Establishment Report: <i>Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice</i> (1991) |
| the Brief | - | The Planning & Urban Design Brief |
| BRN | - | Blue Ribbon Network |
| CD | - | Core Document |
| CGI | - | computer generated image |
| CPZ | - | Controlled Parking Zone |
| EA | - | Environment Agency |
| EIA | - | Environmental Impact Assessment |
| FSS | - | First Secretary of State |
| GLA | - | Greater London Authority |
| ha | - | hectares |
| hrha | - | habitable rooms per hectare |

| | | |
|--------|---|--|
| KBCA | - | Kew Bridge Conservation Area |
| KGCA | - | Kew Green Conservation Area |
| LB&CA | - | the Planning (Listed Building and Conservation Areas) Act 1990 |
| LBC | - | listed building consent |
| LBH | - | the Council of the London Borough of Hounslow |
| LPA | - | local planning authority |
| para | - | paragraph |
| m | - | metres |
| MOL | - | Metropolitan Open Land |
| PoE | - | Proof/s of Evidence |
| PPG | - | Planning Policy Guidance Note |
| PPS | - | Planning Policy Statement |
| PTAL | - | Public Transport Accessibility Level |
| RBGKCA | - | Royal Botanical Gardens Kew Conservation Area |
| RPG | - | Regional Planning Guidance |
| RSL | - | Registered Social Landlord |
| s38 | - | Section 38(6) of the Planning and Compulsory Purchase Act 2004 |
| s52 | - | Section 52 of the Town and Country Planning Act 1971 |
| s78 | - | Section 78 of the Town and Country Planning Act 1990 |
| s106 | - | Section 106 of the Town and Country Planning Act 1990 |
| SoCG | - | Statement of Common Ground |
| SGWL | - | St. George West London |
| SGA | - | The Strand on the Green Association |
| SotGCA | - | Strand on the Green Conservation Area |
| SPG | - | Supplementary Planning Guidance |
| sq m | - | square metres |
| TA | - | Transport Assessment |
| TfL | - | Transport for London |
| TLS | - | Thames Landscape Strategy |
| TRICS | - | Trip Rate Information and Computing System |
| UDP | - | London Borough of Hounslow Unitary Development Plan |
| VSC | - | Vertical Sky Component |
| WHS | - | World Heritage Site |
| WSP | - | WSP Developments Ltd acting for SGWL |

Appeal A: APP/F5540/A/05/1180177

Land at Kew Bridge Road/Kew Road, Brentford TW8 0EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by St. George West London (SGWL) against the decision of the Council of the London Borough of Hounslow (LBH).
- The application Ref 00657/P/P10, dated 4 April 2003, was refused by the Council by notice dated 22 March 2005.
- The development proposed (as revised)¹ is for a mixed use redevelopment of 238 residential units, (including 97 affordable units), 1,965 sq m of retail/commercial floorspace (class A1, A3, A4, D1 or B1 uses), 170 basement parking spaces and access from Kew Bridge Road, public piazza and improvements to Thames Path to provide new boardwalk and wetland/flood storage area.

Summary of Recommendation: the appeal should be refused.

Appeal B: APP/F5540/E/05/1180179

Slip Road adjacent to northwest side of Kew Bridge, Brentford TW8 0EB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by SGWL against LBH.
- The application Ref 00657/G/L2 is dated 4 April 2003.
- The works proposed are the demolition of a single storey toilet block.

Summary of Recommendation: listed building consent should be granted, subject to the conditions set out in the Recommendation below.

1. PROCEDURAL MATTERS

- 1.1 Full details of the agreed Appeal Scheme are included in the Statement of Common Ground (SoCG)² and revised drawings³. It was agreed at the Inquiry that this was the scheme considered and refused by LBH and that all interested parties had had adequate opportunity to consider and comment on the revisions. I have reached my recommendations on the basis of the revised scheme.
- 1.2 The previous appeals, Refs. APP/F5540/A/03/1120786 and APP/F5540/E/03/1121007, were withdrawn at the Inquiry by letter dated 4 July 2005⁴.
- 1.3 The Planning Application (Appeal A) was refused by LBH for the following reasons:
 1. The proposed development by virtue of its height, mass and detailed design, would fail to preserve and or enhance the character of the Kew Bridge Conservation Area in which it resides, and would also fail to preserve the character and or appearance of the adjoining Strand-on-the-Green, Kew Green (Richmond) Conservation Areas contrary to UDP Policies IMP.5.1; ENV-B.1.2; ENV-B.2.2 and the adopted Planning & Urban Design Brief for the site.

¹ the original application description was for: a mixed use redevelopment of 263 residential units, (including 80 affordable units), 2650 sq m of retail/commercial floorspace (class A1, A3 or B1), 198 basement parking spaces and access from Kew Bridge Road, public piazza and improvements to Thames Path to provide new boardwalk and wetland/flood storage area

² Document 8 in the Schedule of Inquiry Documents

³ Core Document (CD) 5

⁴ Document SGWL13

2. The proposed development, by virtue of its height and mass would have an adverse impact on the setting of the World Heritage Site at The Royal Botanic Gardens Kew, contrary to UDP Policies ENV-B.1.2 and ENV-B.2.8.
 3. The proposed development would be an overdevelopment of the site which would result in substandard levels of residential amenity within the development in terms of outdoor amenity, sunlight and daylight, contrary to UDP Policies ENV-B.1.1; H.4.1; H.4.2; H.4.4; H.4.5; and the adopted Planning & Urban Design Brief for the site.
 4. The proposed development would be an overdevelopment of the site which would result in unacceptable reduction in the residential amenity of neighbouring properties by virtue of the loss of sunlight and outlook, contrary to UDP Policies ENV-B.1.1 and ENV-B.1.2.
 5. The proposed development would have an adverse effect on the Thames riverside contrary to UDP Policies IMP.5.2; ENV-B.1.2; ENV-B.2.8; ENV-W.1.1; ENV-W.1.2; ENV-W.1.3; ENV-W.1.9; ENV-W.1.11; the principles of the Thames Landscape Strategy the 'Blue Ribbon Policies' to the London Plan and the adopted Planning and Urban Design Brief for the site.
 6. The proposed development would as a result of the level of traffic generated, and the traffic access and egress arrangements give rise to traffic conditions prejudicial to highway safety, contrary to UDP Policies T.1.1; T.1.2; T.4.3; T.4.4.
- 1.4 The Listed Building Consent (LBC) application (Appeal B) was not determined.
 - 1.5 Appeal A was recovered by the Secretary of State because it raises issues relating to residential development of 150 or more dwellings. Appeal B was recovered by the Secretary of State because the appeal is most efficiently and effectively decided with a planning appeal over which the Inspector has no jurisdiction.
 - 1.6 As well as detailing the appeal proposals, the SoCG provides a short description of the site and its location, planning history, policy context, and covers a number of issues of agreement and contention. There are separate agreed statements on daylight and sunlight⁵, and on highway matters⁶.
 - 1.7 At the Inquiry, the appellant submitted a Planning Obligation in the form of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (s106)⁷.
 - 1.8 A pre-Inquiry meeting was held on 19 May 2005⁸. As well as practical arrangements, it was confirmed that the latest, 238 unit scheme, was the one before the Inquiry and a provisional list of issues was agreed by all present.
 - 1.9 The Inquiry sat for 12 days on 28 – 30 June; 1, 5 and 6 July; 21 – 23, 27 and 29 – 30 September 2005. Accompanied site visits were made on 28 September, these took in other developments by St George and a river trip as well as the area around the site and all the conservation areas⁹. I made additional unaccompanied visits prior to the Inquiry and on 29 September 2005.

⁵ Document 10

⁶ Document 9

⁷ Document 7

⁸ Document 16

⁹ Document 15

- 1.10 In this report I include my descriptions of the site and surroundings, reference to details of the planning history, policy background, details of the planning and listed building consent applications, the gist of the cases made at the inquiry and in writing, my consideration of the suggested conditions and the s106 undertaking, and my conclusions and recommendations. Lists of appearances and documents are attached. Proofs of evidence (PoE) are included as documents but should not be relied upon as each witness's definitive case may have changed as a result of cross-examination.
- 1.11 A list of my re-worded conditions, if the Secretary of State is minded to grant permission, is attached to the report as Annex 1.
- 1.12 The appellant undertook a screening report and requested a screening opinion from the LBH, under The Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (EIA), on 13 February 2003. The LBH issued an opinion on 15 May 2003 to the effect that the applications did not require an Environmental Impact Assessment¹⁰. The reasons given for this were that the site area is below the indicative threshold of 5 ha; there are no other significant developments abutting the site; impacts of traffic generation can be covered within a Transport Impact Statement; there is no existing land use; and impacts are likely to be of local rather than strategic importance. In my opinion the EIA Regulations have therefore been satisfied. Although no EIA was requested the appellant submitted transport assessments and technical reports dealing with matters of ecology/nature conservation, flood protection, archaeology and ground remediation, as well as the urban design assessment¹¹.

2. BACKGROUND

The Site and Surroundings

- 2.1 Descriptions are found in some detail in the SoCG¹² as well as PoEs and appendices¹³. The following is a brief summary:
- 2.2 The M4, A406 North Circular Road, A205 South Circular Road and A315 Kew Bridge Road converge around the short stretch of Chiswick High Road which connects Kew Road, running over Kew Bridge, to Chiswick Roundabout. The appeal site occupies the area adjoining Kew Bridge between Kew Bridge Road and the River Thames. Kew Bridge railway station stands on the north-west side of Chiswick High Road and Kew Pier stands on the south bank of the river just east of Kew Bridge. To the west of Kew Bridge are the islands called the Brentford Aits. Gunnersbury underground station lies just east of Chiswick Roundabout. To the west of the appeal site is Brentford town centre; Kew Green and Kew Gardens lie just to the south of the river. Gunnersbury Park is just north of the M4.
- 2.3 The boundary for Appeal A includes the site of the former Plough Public House, a former office block called Kew Bridge House¹⁴, the highway alongside Kew Bridge which provides an access to the river, and the towpath and part of the river itself. The main part of the site is vacant and derelict. The site does not include the Waggon and Horses public

¹⁰ Questionnaire at CD7/4

¹¹ CD1/5 – CD1/10

¹² Document 8, section 3

¹³ In particular SGWL 25 and LBH 21 but also those for Rule 6 parties

¹⁴ but also known as Reed House; the site is sometimes referred to as the Scottish Widows site

house, which abuts the northwest corner of the site. There are a number of arches beneath Kew Bridge, some of which are occupied by businesses. One of the open arches allows the public footpath to continue under the bridge but via steps to maintain the flood prevention wall. The flood defence level is at 5.94m above ordnance datum (AOD).

- 2.4 The LBC application relates to a public toilet block of modern day construction and owned by LBH on the access road adjoining Kew Bridge. This is a concrete blockwork building with a flat roof built in the 1960s/1970s. A section of the Thames Path within the southern part of the site is an adopted footway known as The Hollows. The site lies within the Thames Policy Area as designated on the Proposals Map to the London Borough of Hounslow Unitary Development Plan (UDP).
- 2.5 It is common ground that the red line boundary to the appeal site surrounds about 0.85 hectares (ha). The Report to the Council's Sustainable Development Committee¹⁵ identifies the appeal site as having a gross planning area of 0.73 ha; while including the towpath, public footway and river gives 0.81 ha. The net site area is 0.63 ha.

Conservation Areas

- 2.6 The appeal site lies within Kew Bridge Conservation Area (KBCA). The KBCA boundary¹⁶ includes: the junction of Kew Road and Kew Bridge Road leading into the North Circular, and portions of the railway and the River Thames; about half of the bridge itself; the appeal site and adjoining Waggon and Horses public house; the Kew Bridge Steam Museum with its Campanile-style standpipe tower; the residential area between Green Dragon Lane and the railway line; the locally listed buildings fronting the north side of Kew Bridge Road, including the Express Tavern; and Kew Bridge railway station. The aerial view gives a good overall impression of the KBCA¹⁷. Descriptions and a brief history of the area are found in the report¹⁸ and the minutes¹⁹ as well as in evidence²⁰.
- 2.7 Adjacent to the KBCA, east of Kew Bridge, lies the Strand-on-the-Green Conservation Area (SotGCA). First designated in 1968, this was primarily to preserve its riverside and residential character and the settings of its listed buildings²¹.
- 2.8 Due south, on the opposite side of the Thames in the London Borough of Richmond-upon-Thames, are the Kew Green Conservation Area (KGCA) and the Royal Botanic Gardens Kew Conservation Area (RBGKCA), which includes a Grade I registered park and garden and is also a World Heritage Site (WHS). Details of the conservation areas south of the river were submitted by the London Borough of Richmond upon Thames²².

Listed Buildings

- 2.9 Nearby listed buildings of particular relevance include Kew Bridge itself, the Kew Bridge Steam Museum and Campanile, and Kew Bridge railway station building. The current Kew Bridge is built of granite and dates from 1903; it takes the form of 3 elliptical arches over the river with a series of small arches under the long approaches and is listed at

¹⁵ CD7/2 and CD7/3, dated 22 March

¹⁶ shown on LBH21 JWP appendices Map 2 and elsewhere

¹⁷ LBH21 JWP1

¹⁸ CD11/4a

¹⁹ CD11/4 Appendix 2

²⁰ SGWL25 and LBH21

²¹ SGWL25 paras 2.3.33 – 2.3.40 and LBH21 paras 78 – 81

²² appendices F and G to Document 4

Grade II. The Grade I and II Kew Bridge Pumping Station buildings and the Grade I Campanile, a decorated standpipe tower also part of the museum, are prominent features and early examples of the water industry. The Grade II station building was designed by Sir William Tite in 1850; it is currently in poor condition²³.

Other developments

- 2.10 Immediately to the west of the site is an office development called the Thameside Centre; an agreement under Section 52 of the Town and Country Planning Act 1971 (s52) allows access to the appeal site. Further west is Regatta Point, a residential conversion of a former telephone exchange. A site to the west of the Steam Museum has been identified for mixed residential and commercial redevelopment in the UDP²⁴. The former British Gas site, now known as Capital West and developed by Barratt Homes, comprises a series of buildings to a maximum 12 storeys while an extant outline planning permission was granted in 2001 on the Thames Water land for 353 residential units in a group of buildings up to 16 storeys. Beyond are the six 22 storey residential blocks at Green Dragon Lane.
- 2.11 To the east of the site stand the former Star & Garter Hotel²⁵ and Rivers House²⁶. Drawings PPA4(05)50C, PPA4(05)51C, PPA4(05)52A and PPA4(05)70A²⁷ show the agreed surveyed heights of surrounding buildings; a composite roof level plan and elevation from Kew Bridge Road showing the relative AOD heights is contained in Plan 2 to the SoCG.

Planning History

- 2.12 The office block known as Kew Bridge House, was demolished prior to 1989. Planning permission was granted in 1989 for 5,382 sq m of office space within a 6 storey building with a 3-storey element fronting Kew Bridge Road; this permission was not implemented. In 1991, planning permissions were granted for duplicate applications for the demolition of all existing buildings and the redevelopment of the site to provide 2 office buildings, a relocated public house, restaurant, boat house, boat store and workshops, Sea Scouts' accommodation, small craft workshop, improved pedestrian access with associated parking and vehicular access. These permissions were not implemented. In 1992, planning permissions were granted in respect of two sets of duplicate applications proposing 2 buildings for commercial use with open space in the southeast corner of the site. The second set of duplicate proposals entailed the relocation of the Waggon & Horses public house. None of the 1992 permissions was implemented.
- 2.13 The history of the current applications is detailed in the SoCG²⁸; drawings of the previous schemes are Core Documents (CD).

The Planning Application

- 2.14 The Appeal Scheme is for a mixed use development within a single building ranging from 1 to 3 storeys in height on the Thames frontage, stepping up to 7 and 8 storeys, plus a 2 storey penthouse, set back from the junction of Kew Bridge and along Kew Bridge

²³ JWP3 to LBH21

²⁴ Proposal Site M11

²⁵ converted to offices in 1984 – SGWL25 para 2.1.9

²⁶ a converted 8 storey office building with 9th storey added – LBH21 para 46

²⁷ referred to in Appendix 1 to the SoCG

²⁸ Section 2

Road. Commercial floorspace would be provided at ground floor level which could include a pub/restaurant unit. A public square of approximately 34 x 30m would be provided alongside Kew Bridge and the River Thames together with a 7m deep raised area and 30m long terrace to serve the pub/restaurant. The ground floor commercial uses could include Class D1 to provide, for example, a dental surgery or other health related facility. Residential flats would start on the 1st floor (Level 1 on the drawings), i.e. the second storey. Revised application drawings are found at CD5/1, drawing no. PPA4-05-70A shows the overall street context and the computer generated images (CGIs)²⁹ illustrate how the building might look from particular angles.

- 2.15 The form of the proposed building has been described as a ‘doughnut’ in that there would be a complete square of building enclosing a central courtyard. A further limb would extend towards the river. The whole site would be excavated to provide basement parking. Excavation would allow the building to extend closer to the river than the present flood limit while maintaining the current volume of flood storage areas³⁰. At the river end the excavated towpath would be replaced by a boardwalk at the level of the current towpath, but well above the proposed new ground level, which would become a new wetland ecological area. The existing access steps to the River Thames would be maintained as well as new level access to the Strand on the Green, if and when the bridge arch is secured, to enable access for wheelchairs, pushchairs and cyclists. The approximate width of the existing riverside path is 1.2m, and the minimum width of the proposed boardwalk would be 3m.
- 2.16 Most flats facing Kew Bridge would incorporate balconies as would many in the central courtyard. Many south facing flats would enjoy roof terraces as the building steps back. The north elevation to Kew Bridge Road would not have balconies. The north-west section of the building would be designated affordable housing. It was agreed in evidence that the distance from the proposed entrance to the affordable housing to the edge of Brentford town centre is 620m.
- 2.17 In detail, the Appeal Scheme would comprise 238 residential 1, 2 and 3 bedroom units. Of these 141 would be private residential units and 97 (or 41%) would be ‘affordable’ housing units. The proportion of affordable housing in terms of habitable rooms would be rather less. The affordable housing would comprise: 58 shared ownership units (23 x studios, 30 x 1 bed units and 5 x 2 bed units); and 39 rented units (22 x 1 bed units and 17 x 2 bed units). The affordable housing is shown on the drawing as a separate block with a separate entrance. It is common ground that the scheme would have a density of 781 habitable rooms per hectare (hrha) based on a site area of 0.81 ha or 1005 hrha based on 0.63 ha (excluding the highway areas, the towpath and the river).
- 2.18 The 1,965 sq m of ground floor commercial floorspace could accommodate A1, A3, A4, D1 or B1 class uses. Since the application was submitted, the Town & Country Planning (Use Classes) (Amendment) (England) Order 2005 has come into effect subdividing the former Class A3 into new Class A3 (Restaurants and cafes), A4 (Drinking Establishments) and A5 (Hot food takeaway) categories. The Appellant confirmed³¹ that a flexible permission is sought, including Class A3 and Class A4 uses but not Class A5 uses.

²⁹ SGWL4 & PC1 to SGWL24

³⁰ CD 1/8

³¹ SoCG para 2.1

2.19 The basement would accommodate 170 car parking spaces including 11 for people with disabilities. There would be 121 bicycle parking spaces comprising 89 secure basement cycle spaces and 32 dedicated spaces for the affordable units; there would be 10 motorcycle spaces. Vehicular access for most residents would use the gate controlled existing access onto Kew Bridge Road; there would be additional pedestrian access to Kew Bridge. Access to the affordable housing would be pedestrian only. Service access would be via the Thameside Centre, as provided for in the 1984 Section 52 Agreement (s52), which permits the appeal site owner free and unrestricted vehicular access over the service road.

The Listed Building Consent Application

2.20 The Listed Building Consent Appeal Scheme seeks the demolition of the existing single storey toilet block abutting Kew Bridge.

Planning Policy

2.21 It is common ground that relevant planning policy includes:

NATIONAL PLANNING GUIDANCE

- a PPS 1 - Creating Sustainable Communities (CD9/14)
- b PPG 3 - Housing (together with the associated amendments thereto) and the Draft revisions to PPG 3, Planning for Mixed Communities (January 2005) (CD9/7)
- c PPS 6 - Planning for Town Centres (March 2005) (CD 9/15)
- d PPG 13 - Transport (CD9/9)
- e PPG 15 - Planning and Historic Environment (CD9/10)
- f PPG 16 - Planning and Archaeology (CD9/11)
- g PPG 17 - Open Space, Sports and Recreation (CD9/12)
- h PPG 24 - Noise (CD9/13)

THE DEVELOPMENT PLAN³²

- a The London Plan (Spatial Development Strategy for London) February 2004³³
- b London Borough of Hounslow Adopted Unitary Development Plan (UDP) December 2003³⁴

SUPPLEMENTARY PLANNING GUIDANCE

- a Scottish Widows/Kew Bridge Site, Land Between Kew Bridge, Kew Bridge Road and the River Thames, Brentford - Planning & Urban Development Brief, adopted by LBH, September 2001 (CD8/2)
- b UDP – Supplementary Planning Guidance (SPG), February 1997 (CD8/4)
- c Accessible London: achieving an inclusive environment, The London Plan SPG, April 2004 (CD9/2)
- d Thames Strategy - Kew to Chelsea, June 2002 (CD8/3(b))
- e Thames Landscape Strategy – Hampton to Kew, June 1994 (CD8/3(a))

OTHER EXTANT DOCUMENTS

- a Royal Botanic Gardens Kew World Heritage Site Management Plan, November 2002 (CD11/1)

³² A full list of relevant development plan policies is included in Appendix 2 to the SoCG.

³³ CD9/1

³⁴ CD8/1

- b Kew Bridge Conservation Area – Designation Report 2003 (CD11/4)
- c Strand on the Green Conservation Area – Designation Report 1977 (CD11/5)
- d Kew Green Conservation Area – Designation Report 1988 (CD11/6)
- e Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, BRE, 1991 (CD13/1)

OTHER DOCUMENTS IN DRAFT

- a Draft Brentford Action Area Plan, April 2003 (CD 15/10)
- b London Plan – Draft SPG on Housing, December 2004 (CD 9/4)
- c London Plan – Draft SPG on Affordable Housing, July 2004 (CD 9/3)
- d London Plan – Draft SPG on Biodiversity 2004 (CD 9/6)
- e London Plan – Draft SPG on Sustainable Design and Construction, March 2005 (CD 9/5)
- f London Plan – Draft Strategic Views Framework, April 2005

The London Plan

2.22 The last of the Mayor’s six objectives is: *to make London a more attractive, well-designed and green city*. The key policy directions for achieving this include: *protect and enhance the quality of the townscape, through historic conservation and enhancing the public realm, open spaces and waterways; enhance world heritage assets, including World Heritage Sites; achieve the highest quality of urban design; re-use buildings and brownfield sites; and enhance the use and environment of the Thames and the Blue Ribbon Network*.

Policies of particular relevance include:

- 2.23 Policy 2A.1 – Sustainability criteria – including optimising the use of previously developed land; using a design-led approach to optimise the potential of sites; ensuring that development occurs in locations that are accessible, by public transport, walking and cycling, to town centres, employment, shops and services; and taking account of the impact development would have on London’s natural resources, environmental and cultural assets and the health of local people.
- 2.24 Policy 3A.1 seeks the maximum provision of additional housing. Policy 3A.6 suggests the definition of affordable housing as that designed to meet the needs of households whose incomes are not sufficient to allow them to access decent and appropriate housing in their borough. Affordable housing comprises social housing, intermediate housing and in some cases, low-cost market housing. Policy 3A.7 – Affordable housing targets – In setting targets boroughs should take account of the Mayor’s strategic target that 50% should be affordable and, within that, 70% should be social and 30% intermediate provision.
- 2.25 Chapter 4B states that *Good design is central to all the objectives of this plan*. Policy 4B.1 seeks, amongst other things, to ensure that developments: (bullet 1) maximise the potential of sites; (2) create or enhance the public realm; (3) provide or enhance a mix of uses; respect local context, character and communities; (4) are accessible, usable and permeable for all users; (7) respect local context, character and communities; (8) are practical and legible; (9) are attractive to look at and, where appropriate, inspire, excite and delight; (10) respect the natural environment; and (11) respect London’s built heritage. Policy 4B.2 seeks to promote world-class architecture and a public realm strategy to improve the look and feel of London’s streets and spaces. Policy 4B.3 aims for

development proposals which achieve the highest possible intensity of use compatible with local context, the design principles in Policy 4B.1 and with public transport capacity; density policies in UDPs should be inline with the density ranges in Table 4B.1.

- 2.26 Table 4B.1 differentiates between Urban locations (3 to 4 storeys) and Central locations (buildings of 4 to 6 storeys and above); and between sites with a Public Transport Accessibility Level (PTAL) of 2 or 3 from those of 4 or more. Subject to these criteria the appropriate residential density ranges for flats vary from 300 – 450 hrha or 650 – 1100 hrha.
- 2.27 Policies 4B.8 and 4B.9 refer to tall and large-scale buildings: supporting paragraph 4.54 explains that these policies should apply to all buildings that would be significantly taller than their surroundings and/or would have a significant impact on the skyline. Policy 4B.8 promotes tall buildings where they would create attractive landmarks enhancing London’s character. Policy 4B.9 expects all large-scale buildings to be of the highest quality design and meet criteria including that they should: (bullet 2) be suited to their wider context; (3) be attractive city elements as viewed from all angles; (4) illustrate exemplary standards of sustainable construction; (5) be sensitive to their micro-climates in terms of wind, sun, reflection and overshadowing; (6) pay particular attention, in residential environments, to privacy, amenity and overshadowing; (8) be appropriate to the transport capacity of the area; (9) provide high quality spaces; (10) contain a mix of uses with public access; and (11) relate positively to water spaces.
- 2.28 Chapter 4 sets out policies for the Blue Ribbon Network. Policy 4C.20 *Design – starting from the water* seeks a high quality of design for all waterside development which should reflect local character and meet criteria including that it should include a mix of uses appropriate to the water space, incorporate built form that has a human scale of interaction with the street, public spaces and waterside, provide pleasing views without causing undue harm to the cohesiveness of the water’s edge, relate successfully in terms of scale, materials, colour and richness of detail, not only to direct neighbours but also to buildings on the opposite bank and those seen in the same context.

The Unitary Development Plan (UDP)

Policies of particular relevance include:

- 2.29 Policy ENV-B.1.1 sets general criteria for all development and covers scale, height, massing, good urban design, adequate daylight and sunlight (by applying the Council’s adopted SPG), and promoting the use of previously developed land. ENV-B.1.2 is normally to refuse buildings which would significantly exceed the height of their surroundings in, or where they would result in significant harm to Metropolitan Open Land (MOL), residential areas, conservation areas, the Thames riverside and the setting of listed buildings. ENV-B.2.2 requires any development within or affecting a conservation area to preserve or enhance its character or appearance by respecting the character of the existing architecture in scale, design and materials. Policy ENV-B.2.8 seeks to protect local views and landmarks, including the Kew Bridge Pumping Station Tower (the Campanile), from immediate obstruction from high buildings and only permits development which would not adversely affect such views and landmarks. ENV-N.1.6 requires the open nature and special character of MOL to be respected.
- 2.30 Policy ENV-W.1.1 normally requires proposals within the Thames Policy Area as designated on the Proposals Map to: (i) respect the scale, mass, height, silhouette, skyline, layout, materials and colour of buildings adjacent to the River; (iii) treat the River as a

frontage to create an attractive and inviting environment with a compatible River bank edge; (iv) take account of the relationship with buildings and structures of particular sensitivity, including listed buildings and prominent landmarks and (v) foster good urban design and, wherever possible, open up views and create pedestrian routes, squares and open spaces which would allow safe and secure public access to and along the River. Paragraph 5.3 notes that the Thames Landscape Strategy – Hampton to Kew, June 1994, has been adopted as SPG. Policy ENV-W.1.3 seeks to protect important Thameside views, including the settings of the Former Metropolitan Water Board Pump House Tower (the Campanile within the Steam Museum) and Kew Bridge. Where appropriate, Policy ENV-W.1.9 seeks moorings and associated facilities (and access to them) as part of development proposals within the Thames Policy Area as well as a balance between the needs of active recreational activities and the passive enjoyment and nature conservation interests along some stretches of the River. Policy ENV-W.1.11 requires the maintenance and, where appropriate, enhancement of access opportunities to the foreshore subject to environmental and safety considerations.

- 2.31 Policy IMP.5.1 encourages high quality building, urban and landscape design to create a sense of place and identity throughout the Borough, especially in sensitive locations such as those close to or in areas of high townscape value, landmarks, strategic views and waterside frontages. IMP.5.2 seeks to enhance the status and vitality of the River Thames through other policies including those of the Thames Landscape Strategy.
- 2.32 Amongst other things, Policy H.2.1 aims to secure the highest achievable provision of affordable housing and a mix of housing types and sizes having regard to the specific local need. The 2001 Housing Needs Survey³⁵ identifies the greatest shortfall as for 1 bedroom and 3 bedroom housing; in percentage terms the greatest shortfall is for 4 bedroom units. UDP paragraph 8.11 identifies the Housing Needs Survey as material in determining a suitable mix of size.
- 2.33 The Council's standards and guidelines for daylight and sunlight and private amenity space are included at Appendices 1 and 3 and referred to in Policy H.4.1, which requires proposals to have regard to these. Policy H.4.2 sets residential density standards but also considers higher density proposals where these can be achieved within a high quality environment for predominantly non-family accommodation and are in town centre locations, areas of good public transport accessibility or in locations where there is no established residential character. Policy H.4.4 normally requires children's formal and informal play space is provided which is reasonably related to the scale of the proposed development (standards are found in Appendix 4). Policy H.4.5 promotes new community, health and other facilities when considering new housing development.
- 2.34 Policy T.1.1 seeks to integrate land use with public transport provision. T.1.2 aims for sustainable modes of transport and, if the proposals are not satisfactory, a travel plan and legal agreement to fund improvements to services or facilities for walking, cycling and/or public transport. Policy T.4.3 does not permit development if traffic movement directly associated with it would increase danger. T.4.4 considers the safety of drivers, passengers, cyclists and pedestrians and, where appropriate, seeks the provision of traffic management, calming and other measures to mitigate the effects of the development.
- 2.35 UDP Proposal M20, Kew Bridge Site, refers to 0.589ha of the appeal site. The Proposal is for *Mixed business and community use, or mixed business and residential use*. *Provision*

³⁵ CD8/6

of affordable housing should be in accordance with Policy H.2.1. The 'Comment' adds: Outstanding planning permission exists for 90,000 sq ft of office use with public house/restaurant and boathouse. This has now expired. Development of the site should be in accordance with the relevant planning brief, which was adopted in September 2001.

- 2.36 The Thames Landscape Strategy – Hampton to Kew, June 1994, has been adopted as SPG in the UDP. Policy Proposals 12.2 and 12.3 aim to protect visual links, including those between the Kew towpath and the Steam Museum tower (Campanile); and prevent high-rise buildings from intruding into the Brentford Waterfront massing.

*The Planning & Urban Design Brief (the Brief)*³⁶

- 2.37 The Brief comprises 7 pages of text plus a one page drawing of the Urban Design Objectives. The Brief was adopted as Proposal M20 of the UDP. The Brief included the Waggon and Horses public house which is not within the appeal site. The reason given for commissioning the study is given that *it is such an important site in terms of its location and potential impact*. The Brief stresses the need for reference to the SotGCA and its riverside views³⁷; it was written before the KBCA was designated. The evolution of the Brief is set out in the appellant's closing submission³⁸.

- 2.38 Objective criteria within the Brief include that any development should:

- take into account the heights of Kew Bridge, the Campanile and the residential buildings on the north side of Kew Bridge Road and should not dominate or overshadow them;
- cascade down towards the Thames, but not exceed 3 storeys in height along the Thames frontage;
- be at its maximum height along the Kew Bridge Road frontage and not significantly exceed the height of the adjoining buildings with a maximum of 8 storeys plus penthouse setback at its highest point. An interesting skyline will be an important feature;
- provide a pleasant and interesting building when viewed at street level and from all publicly accessible areas;
- make provision on site for the maximum reasonable proportion of permanently available affordable housing for local households unable to gain access to general market housing. UDP Policy H.2.1 (now adopted) expects 50% of all new dwellings to be affordable with 15% below market cost housing for key workers;
- regard residential density as of secondary importance after the merits of any scheme;
- provide a new public house;
- re-instate the former boat house.

³⁶ CD8/2

³⁷ para 3.9, illustrated on the *Urban Design Plan*

³⁸ SGWL 29

- 2.39 The brief as adopted includes a report entitled *Urban Design Framework*³⁹ by an urban design consultancy called Aukett Europe.

National Planning Guidance

- 2.40 National guidance has developed very strong policy directions in support of increasingly high standards of design, particularly in sensitive sites. Specifically, Planning Policy Statement 1 (PPS1): Delivering Sustainable Development sets out 12 government objectives for the planning system. Objective 5 includes that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by: protecting and enhancing the natural and historic environment; and ensuring high quality development through good and inclusive design.
- 2.41 Planning Policy Guidance 3 (PPG3): Housing advises that (paragraph 54) *Good design and layout of new development can help to achieve the Government's objectives of making the best use of previously-developed land and improving the quality and attractiveness of residential areas. In seeking to achieve these objectives, local planning authorities and developers should think imaginatively about designs and layouts which make more efficient use of land without compromising the quality of the environment.*
- 2.42 Planning Policy Guidance 15 (PPG15): Planning and the historic environment (paragraph 4.1) repeats the duty in s69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LB&CA) and advises that *conservation area designation is the main instrument available to authorities to give effect to conservation policies for a particular neighbourhood or area; and that (paragraph 4.17) Many conservation areas include gap sites, or buildings that make no positive contribution to, or indeed detract from, the character or appearance of the area; their replacement should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. What is important is not that new buildings should directly imitate earlier styles, but that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own.*
- 2.43 Planning Policy Statement 6 (PPS6): Planning for Town Centres sets expectations for new main town centre uses. The appellant has addressed these requirements in SGWL 19.

Other Matters Agreed between the Main Parties

- 2.44 Discussion took place during the Inquiry resulting in a revised and extended SoCG. Section 7 of the SoCG lists further areas of agreement; section 8 covers areas of disagreement. Of particular relevance, the main parties agreed that the site is brownfield within the Brentford Regeneration Area, and that the scheme would contribute to employment, affordable housing, the provision of a community facility, and maintain public access to the Kew Bridge archways and the Thames towpath. The accuracy of the CGIs for the Appeal Scheme is agreed.
- 2.45 A s106 obligation could secure benefits acceptable to the Council, including:
- financial contributions to highway improvements, pedestrian and cycle links, a river related community facility, improvements to an open space facility, local Controlled Parking Zone, additional primary and secondary school places, and improvements to Kew Bridge Station;

³⁹ an A3 size colour copy is at Document 13

- a travel Plan for the development with a car club and cycle hire club for new residents, and a car park management plan;
- creation of a new riverside ecological wetlands area, provision and maintenance of a boardwalk;
- provision of 97 units of affordable housing,

2.46 The degree of agreement on suggested conditions is reflected in the annotated list.

2.47 The Listed Building Appeal Scheme would enhance the setting of the listed Kew Bridge by demolishing the unsightly disused toilet block facility⁴⁰.

2.48 Issues of contention include the effects of the appeal scheme on: the KBCA, the WHS, levels of residential amenity within the site and for neighbours, the level of traffic generated and highway safety.

3. THE CASE FOR ST. GEORGE WEST LONDON LTD.

The material points are:

Listed Building Consent

3.1 The listed building consent (LBC) appeal is not controversial. In cross-examination⁴¹ demolition of the public lavatories was supported as a benefit to the listed building. There has been no independent objection to their demolition and no support for the contention that LBC should be dependent on approval of a satisfactory comprehensive scheme for redevelopment of the whole of the site. For the listed building appeal to succeed on its own a condition requiring satisfactory reinstatement would be appropriate. In the circumstances, it is submitted that the listed building appeal ought to be allowed in any event.

Planning Application

3.2 While the decision on the s78 appeal will depend on planning balance and judgment, it must be exercised within the appropriate legislative framework.

DEVELOPMENT PLAN

3.3 The decision should be determined in accordance with the development plan⁴² unless material considerations indicate otherwise⁴³. If there is a conflict between the London Plan and the UDP the London Plan should prevail, having been adopted more recently⁴⁴. Part 2 of the UDP sets out the authority's policies and proposals so as to be distinguishable from the rest of the plan⁴⁵, including the reasoned justification for those proposals. The UDP proposals include Proposal M20 for the appeal site to be developed for *mixed business and community use, or mixed business and residential use*. On

⁴⁰ Document 8 para 7.1.9

⁴¹ of Mr Warshaw

⁴² The development plan consists of the London Plan 2004 and the Hounslow UDP 2003

⁴³ as required by section 38(6) of the 2004 Act

⁴⁴ pursuant to section 38(5) of the 2004 Act

⁴⁵ in accordance with section 12(4) of the 1990 Act

balance, the reference under the column headed “comment”⁴⁶ that the *development of the site should be in accordance with the relevant planning brief, which was adopted in September 2001* should be treated as the supporting text for the Proposal, rather than a statutory part of the UDP. However, it endorses the Brief as being material and relevant to implementing the UDP Proposal for the site.

CONSERVATION AREAS

- 3.4 The duty on the decision maker with respect to land in a conservation area is to pay special attention to the desirability of preserving or enhancing the character or appearance of that area⁴⁷. It is relevant to distinguish the conservation area in which the site is located from development outside. The statutory obligation only applies to land within the conservation area. However, as a matter of policy, the statutory requirement applies⁴⁸ to development outside the conservation area but which *would affect its setting or views into or out of the area*⁴⁹. The statutory requirement should be applied to the conservation area as it exists with the appeal site in a vacant and derelict condition. The question is whether the proposed development would either not harm (preserve) the character or appearance of the area or enhance it. That should be judged by comparing the undeveloped site with completion of the proposed development. The existing character and appearance of the conservation area should be assessed in respect of the conservation area as a whole.
- 3.5 The same approach applies to the setting of or views into or out of a conservation area. The policy trigger does not alter the test to be applied: the question remains whether the proposed development would not harm (and thus maintain) or enhance the character or appearance of that conservation area. The question is not what would be the effect on the setting or the views into or out of the area, although that may be relevant in assessing the effect on the character or appearance of the area.
- 3.6 It would not be correct to assume development contemplated in the Brief as comprising the existing character or appearance of the area, although it may be material to the overall decision. Moreover it would be incorrect to elevate the requirement under s72⁵⁰ above that under s38(6)⁵¹. The weight to be placed on each is for the decision maker to determine so long as *special attention* has been applied as part of the overall decision.

LISTED BUILDINGS

- 3.7 The same general approach applies to the duty, in considering a proposed development which would affect a listed building or its setting, to have special regard to the desirability of preserving (not harming) the building or its setting or any features of special architectural historical interest which it possesses⁵². The primary issue here is the setting⁵³ of the relevant listed buildings, including Kew Bridge and those at the Steam Museum and Campanile.

⁴⁶ CD 8/1 p. 245

⁴⁷ under section 72 of the LB&CA

⁴⁸ as indicated in cross-examination

⁴⁹ para 4.14 of PPG15, CD9/10

⁵⁰ of the LB&CA

⁵¹ of the 2004 Act

⁵² under section 66 of the LBA

⁵³ Guidance is found in paras 2.16 and 2.17 of PPG15 on the extent of the setting of a listed building

THE BRIEF⁵⁴

- 3.8 The status of the Brief is that it is a material consideration, the weight to be attached to which is for the decision maker, subject to guidance in PPS12 and the former PPG12⁵⁵. The Brief can be taken as supplementing Proposal M20 in the development plan for mixed use development of the appeal site. Substantial weight should be given to SPG *which derives out of and is consistent with the development plan and has been prepared in the proper manner*⁵⁶. However, the particular background of the Brief does not precisely accord with that advice because of the Aukett report⁵⁷, which is appended to it, and reflects the advice sought after public consultation. It is for the Secretary of State and the Inspector to decide what weight is to be placed upon the Brief which has been subject to extensive public consultation, adopted as SPG and recorded as such within the UDP.
- 3.9 There is a distinction to be made between the main Brief and the appended Aukett report. The former accords with the advice in paragraph 3.15 of PPG12. That does not alter because, in considering responses, the authority took the advice of independent consultants.
- 3.10 The original Draft Planning Brief for consultation⁵⁸ included the Waggon & Horses public house; it proposed comprehensive mixed use development, with a limit of 3 storeys on the Thames frontage and 6 storeys maximum away from the river frontage. The development was, however, required to have pitched roofs, which would imply a greater overall height. The response⁵⁹ retained the height guidance along the Thames frontage, but reference to “massing” was added to the adjoining developments; the urban design objectives from *By Design*⁶⁰ were added. Aukett were then asked to advise whether a tall landmark building *in the order of 18 storeys* would be appropriate for the junction and to review the urban design objectives in the Draft Planning Brief⁶¹. Aukett concluded⁶² that a tall building would not be appropriate but that *a development of 8 storeys plus set back penthouse at the apex of the two roads would have been more in keeping*. It also comments that the *Urban Design Framework* recommends that the maximum height of development on this site is 8 storeys plus penthouse at the road junction stepping down to three storeys at the river side, and that is their overall conclusion. The second part of the report⁶³ contains detailed matters not previously the subject of consultation. Examples are the set backs along Kew Bridge Road, links to Kew Bridge Road itself and the freehand sketch illustrations of their particular comments. Those are precisely the kind of matters which should be the subject of public consultation, including the site owner or developer, before the advice is adopted as SPG.
- 3.11 The Brief was adopted taking into account the views in consultation, both those for and against that scale of development. It is SPG to which substantial weight should be

⁵⁴ The Planning & Urban Design Brief CD8/2. Its provisions are summarised in section 2 of this Report

⁵⁵ Paras 3.15-3.18

⁵⁶ PPG12 para 3.16

⁵⁷ Document 13

⁵⁸ LBH 21 JWD4 with the alternative pages supplied.

⁵⁹ LBH 21 JWD5.

⁶⁰ CD 11/8 p.15 para 4.8

⁶¹ CD8/2 p.2

⁶² CD8/2 p.9

⁶³ CD8/2 pp 10-12

attached. However the more detailed views expressed in the appended Aukett report were not subject to public consultation and so no more weight should be attached than that they reflect the views of independent architects asked to consider those aspects. That leaves the Aukett diagram, attached to the Brief, entitled *Urban Design Objectives* (referred to as the Urban Design Plan in para 11.1⁶⁴). It is not intended as primary advice but as a summary of the guidance in the main Brief and in the Aukett report; it should not be given more weight than that – in practice it is largely a summary of the Aukett insets and as such should be given little weight.

Issue 1: Whether or not the proposals would comply with the development plan, including the UDP and the London Plan, with national policy, the Council's adopted planning and urban design brief for the site and the Thames Landscape Strategy.

3.12 Starting with the development plan, the site is identified for regeneration and redevelopment in the UDP consistent with the policies in the London Plan. All appear to accept that redevelopment is to be supported as much needed and overdue and in the interests of the area as a whole.

THE LONDON PLAN

POLICY 2A.1

3.13 At the heart of the London Plan strategy is Policy 2A.1⁶⁵ for sustainability, which sets out relevant criteria. These include: (bullet 1) *optimising the use of previously developed land and vacant or under-used buildings*. The site has been vacant now for some 16 years, has the appearance of decay and abandonment at an important gateway location on the riverside. It should be a public imperative to secure redevelopment and regeneration of this site as a matter of priority. (2) *Using a design-led approach to optimise the potential of sites*. The development has been design led in discussion with the GLA, LBH officers and English Heritage and has their support. (3) *Ensuring that development occurs in locations that are currently or planned to be accessible by public transport, walking and cycling*. The site enjoys a high degree of accessibility in all those respects. (4) *Ensuring that development occurs in the locations that are accessible to town centres, employment, housing, shops and services*. The site is convenient to Brentford town centre and within walking distance⁶⁶ of housing, shops and services; it has large employment areas and other facilities close by. (5) *Ensuring that development takes accounts of the capacity of existing infrastructure including public transport, utilities and community infrastructure such as schools and hospitals*. There is no issue that this site enjoys the total range of infrastructure and that the appropriate capacity exists. (6) *Taking account of physical restraints on the development of land including for example flood risk*. This is not controversial between the principal parties and has been accepted by the Environment Agency. (7) *Taking account of the impact that the development will have on London's natural resources, environmental and cultural assets and the health of local people*. The proposals include the establishment of an extensive ecological area consistent with the objectives of the Thames Landscape Strategy and the Blue Ribbon Network policies in the London Plan; there is no issue here in respect of other environmental or public health aspects.

⁶⁴ ref. to para 4.9 is presumably to similar earlier draft to January 2001 master draft at JWD 6.

⁶⁵ p 38 CD9/1

⁶⁶ see Appendix IL1

POLICY 4B.3

- 3.14 Given that the site has been previously developed and is allocated for the purpose of mixed use development Policy 4B.3, for maximising the potential of sites, is particularly relevant. The approach, *to ensure that development proposals achieve the highest possible intensity of use* is subject to being compatible with 3 criteria. First is the local context which here includes: that it is a landmark site by a busy junction at the gateway to the borough; in an area where there has been substantial development permitted and supported⁶⁷; and includes buildings such as Rivers House, Regatta Point and the Thameside Centre as well as nearby sites with permissions.
- 3.15 Second, the design principles in Policy 4B.1⁶⁸ including: enhancing, and indeed creating, the public realm of the public square, the provision of ground floor shops and community uses, the creation of a landmark building and appropriate enclosure at the junction, the provision of the boardwalks, in place of the grim and potentially unsafe existing ramp and narrow towpath, and a mix of uses. The site would be accessible, useable and permeable for all users; the proposals are sustainable, durable and adaptable; they would make a major contribution to safety for occupants and passers by; they would respect the local context, character and communities in the sense referred to above; they are practical and, in architectural terms, legible. While appearance involves subjective judgement, the proposals have been accepted as a “quality townscape” with “a contemporary and sensitive elevational treatment” by the strategic authority and supported as such⁶⁹. They would respect and indeed enhance the natural environment and respect the built heritage. Third is public transport capacity. In that respect there is no objection.
- 3.16 Thus the presumption is in favour of achieving “the highest possible intensity of use” subject to those considerations. Importantly the policy does not impose limits. The density guidance in the supporting text identifies the minimum not the maximum densities⁷⁰. The policy in the third sentence is to refuse permission for proposals which would under use the potential of the site. That is the policy approach which boroughs are to develop in their UDPs.
- 3.17 For the purposes of mixed use development, the SPG⁷¹ gives advice on mixed use development and that the appropriate basis is plot ratio rather than habitable rooms per hectare. Accordingly the primary approach should be to look at minimum plot ratios rather than table 4B.1 which is for pure residential development. However even if this was a pure residential development, then it would be wrong to interpret the figures at 4B.1 as involving any maximum density. They are density ranges to support the policy approach in policy 4B.3 in looking to see whether permission should be refused as representing under-use of the potential of sites. The minimum is indeed the range proposed but it is as a minimum to secure the objectives of the policy and not in any way to impose a limit.

POLICY 3A.1

- 3.18 The strategic objective is to provide *the maximum provision of additional housing in London towards achieving an output of 30,000 additional homes per year from all*

⁶⁷ SoCG para 3.6; LBH 21 JW PoE para 46

⁶⁸ summarised in section 2

⁶⁹ SGWL 11 letters dated 23rd June 2004 and 21st January 2005

⁷⁰ Confirmed by GLA in letter dated 23rd June 2004 SGWL 11

⁷¹ CD9/4.

*sources*⁷². Included in the strategy for West London⁷³ is to *maximise the number of additional homes, including affordable housing, by exceeding housing provision targets set out in this plan and secure mixed and balanced communities*. This is reinforced by the advice in the Housing Provision, Draft SPG⁷⁴ that the highest reasonable delivery of housing should be secured. It is the strategic objective in this area to maximise provision of additional housing, particularly on previously developed land and as part of a mixed use development; this is an important consideration for this site.

POLICIES 4B.8 AND 4B.9

3.19 At a strategic level the proposals would not constitute a tall building under Policy 4B.8. That is not to be confused with the requirement for reference to the Mayor of development in accordance with the 2000 Order⁷⁵ which, as explained in Circular 01/00, includes developments which “may” raise issues of strategic importance. Whether policy 4B.8 applies has to be determined in its context. Paragraph 4.54 suggests that the policy would apply if the building is *significantly taller than its surrounding and/or has a significant impact on the skyline*. The proposed building would not be significantly taller than its surroundings as referred to above or have a significant impact in that context on the skyline. As to policy 4B.9 for large scale buildings, this should be assessed against what is proposed and its context. In a strategic sense the building would not have a greater impact than other building types because of additional visibility or the generation of intensive movement and activity⁷⁶. However, if these policies do apply then, for reasons dealt with elsewhere, there would not be conflict with the policy requirements including that for the quality of design.

BLUE RIBBON NETWORK

3.20 The Blue Ribbon Network principles,⁷⁷ which include Policy 4C.17 for protecting and improving access, support the proposals. Policy 4C.20⁷⁸ deals with *Design – starting from the water*. The general principles, that all development should reflect local character and meet general principles of good urban design and improve the quality of the built environment, underpin the approach in the Brief. The specific requirements set out are equally met, in particular: (bullet 1) the development would include *a mix of use appropriate to the water space, including public uses and open spaces to ensure an inclusive, accessible and active water side and ground level frontage*. Equally it would (2) *integrate into the public realm especially in relation to walking and cycling routes and borough open space strategies*. Public art would be provided and clear signage information and lighting can be included. The proposals would *incorporate built form that has a human scale of interaction with the street, public spaces and water side and integrates existing communities and places; recognise the opportunity to provide landmarks that are of significance along the waterways; and would in particular provide orientation points and pleasing views without causing harm to the cohesiveness of the water’s edge*.

⁷² p 54

⁷³ p 258 under policy 5D.1

⁷⁴ CD 9/4, Dec. 2004, paras 2.1-4 and 2.10

⁷⁵ LBH8.

⁷⁶ para 4.57

⁷⁷ p193 and following

⁷⁸ CD 9/1 p209

- 3.21 The London Borough of Richmond is satisfied with the treatment on the water frontage⁷⁹, particularly the alignment with the Thameside Centre, and the relationship between what is proposed on the waterside and the adjoining development has been demonstrated with some care⁸⁰; both would be compatible with the Thameside Centre (albeit not providing the same extent of building mass to the water frontage bearing in mind that the 3 storey built element would occupy less than one third of the site frontage to the site).⁸¹ The proposals would open up and improve the opportunities for seeing the land based arches to the listed bridge and would afford the opportunity for enjoying views of the bridge from the public square and the two boardwalks. The issue of flood risk has been addressed and agreed with the Environment Agency; the requirements of Policy 4C.20 are reflected in the Brief and fully articulated in the appeal proposals.
- 3.22 Policy 4C.25 deals with the Thames Policy Area and indicates⁸² that the Thames strategies⁸³ constitute appraisals of the river for this purpose but *will need updating taking account of the London Plan*. That is of some importance bearing in mind the importance of housing provision and maximising development potential.
- 3.23 Taken overall, subject to consideration of the conservation area and listed buildings issues (see below), the development would accord with and support the strategies in the London Plan; thus under Section 38(6) permission ought to be forthcoming in the absence of any overriding reason to the contrary.

UDP

- 3.24 Policies IMP.2.1 and IMP.3.1⁸⁴ promote regeneration and the site is specifically referred to in paragraph 2.6. Paragraph 2.19 makes particular reference to the importance of reversing the problems of social decline, dereliction and under utilised sites, particularly along the riverside. Policies ENV-B.1.2 and 3 address high buildings or structures. Again the test is whether it is a building which *significantly exceeds the height of its surroundings*. For the reasons set out above that is not the case; in any event the approach should now be assessed in the context of the London Plan as it is more recent.
- 3.25 Policy H.4.2⁸⁵ deals with residential density. However, insofar as it conflicts with the London Plan, it has been overtaken by it⁸⁶. The policy accords with the Brief in that density is a tool of secondary importance after taking account of the particular requirements and merits of the scheme⁸⁷. Moreover, the policy specifically provides that higher densities will be considered in areas of good public transport accessibility where it is for predominantly non-family accommodation. In practice the proposed development would be predominantly non-family accommodation. It is in an area of good public transport accessibility. The proposals would therefore accord with the provisions of the UDP and, taken overall, with the development plan for the purposes of section 38(6).

⁷⁹ some 16m from high-water mark to the building frontage and 11m from the front of the board walk.

⁸⁰ By Mr Crossley

⁸¹ The three storey built element would be 19 m wide leaving a distance of 9m to the west and 34 m to the east open. – see SGWL 19

⁸² CD9/1 para 4.131

⁸³ CD8.3a/b.

⁸⁴ CD8.1 pages 38 and 45

⁸⁵ p 155

⁸⁶ having regard to section 38(5) of the 2004 Act

⁸⁷ CD8/2 paras 4.2/5

THE BRIEF⁸⁸

- 3.26 As set out above, the Brief should be given substantial weight so far as the written text is concerned. It is significant that the authority regards this as *an important and prominent landmark site*⁸⁹ and *the first major site travelling into the borough over Kew Bridge*. That is reflected in its description as an *important gateway*⁹⁰ to the borough. The identification of the three important frontages⁹¹ is reflected in the design approach. First, Kew Bridge Road and the junction with Kew Bridge where *the development should be at its maximum height*⁹². Second the rising flank of the listed Kew Bridge and Strand on the Green and third the façade facing the River Thames. Thus the general approach of a development which addresses the different townscape contexts is supported by the adopted Brief.
- 3.27 The second quality required is that of a landmark development to frame the junction and provide appropriate urban edge. Reference to tall buildings is in the context that heights⁹³ should not *significantly exceed* the height of the adjoining buildings (presumably Rivers House and Regatta Point) with 8 storeys plus penthouse. It is common ground that the proposals would be comparable in height with Rivers House and Regatta Point.
- 3.28 Paragraph 3.4 deals with the *Urban Design Objectives*. The proposals would fully and appropriately respond to those objectives providing a sense of place in terms of character, providing distinction between the public and private spaces with continuity, providing an attractive and successful outdoor area, and providing for ease of movement to reach and move through⁹⁴. Providing legibility particularly with a clear image onto the junction and urban edge but with a lively frontage with public uses on the ground floor and equally with an approach to the riverside that is open with public spaces, viewing areas and means for circulation in the form of a boardwalk which would make a major contribution in its own right. A development that would enable change between uses to take place and incorporates the arches with benefit for their use and occupation as part of the proposals in conjunction with the public square. It would also be a development with variety and choice, both in terms of the non-residential elements, the public realm and the private courtyards for the proposed residential development.
- 3.29 The development would take account of the Brief in respect of Kew Bridge, the steam museum⁹⁵ and the residential buildings on the north side of Kew Bridge Road, in particular having regard to the advice in para 3.6 of the heights along Kew Bridge Road and the relationship between that and the Thames river front.⁹⁶

⁸⁸ CD8/2

⁸⁹ para 1.1

⁹⁰ para 3.1

⁹¹ para 3.2

⁹² para 3.6

⁹³ para 3.6

⁹⁴ The Inspector will have seen Charter Quay and Putney Wharf on the site visits.

⁹⁵ Steam museum height of 25.050 m – see SG22.

⁹⁶ The relevant dimensions are set out in SG19 and SG 22 and also in the SCG – at the nearest point the Green Dragon Court dwellings are over 28 m away with an AOD at roof level of 19.36 to ridge and 16.97 to eaves in comparison to 22.28 M AOD at the five storey element of the proposed building. The development does rise to 8 storey AOD of 30.85 at the junction but at that point the dwellings on the north side are in excess of 36 m away and in any event the nearest property is the adjoining semi-detached pair which is materially taller. In any event that relationship was one which was expressly endorsed in the adopted brief.

- 3.30 As to the guidance in paragraph 3.7, the development would not only be of a high standard of architecture and quality of materials, but also respectful of its riverside location. It would draw together the built form with the open spaces to create the sense of place, experience at street level and publicly accessible areas referred to.
- 3.31 The officers of the GLA discussed the evolution of the design, culminating in the application now subject of this appeal. It was recognised as making an important contribution to meeting local and strategic housing need but importantly, in the letter of the 23rd June 2004⁹⁷, expressly sought to be put before the Inspector and FSS, the development is described as creating a quality townscape, complimenting the existing townscape and enhancing the river front, being an architectural style that would sit very comfortably next to Kew Bridge and neighbouring waterfront developments. The density was considered appropriate, noting that the GLA is keen to maximise the potential of sites. That judgement is reinforced by the designs now before this appeal following amendments in discussion with EH and the GLA. In a letter dated 21st January 2005⁹⁸ the GLA did not believe the reduction from 245 dwellings to 238 was justified. In the same strategic context⁹⁹, TfL expressly supported the principle of high density development on this location in that it was well served by public transport.
- 3.32 The position of EH is clearly recorded in correspondence. They were involved both in the evolution of the Brief and in the designation of the conservation area¹⁰⁰. In discussions, it would have had in mind both the background to the Brief and the conservation area designation. The letter¹⁰¹ from Mr. Dunn¹⁰² is important and makes a number of points. First, EH has been closely involved in the revised proposals. That accords with advice at national, strategic and local level. EH welcomed the changes allowing for a *better balance of vertical and horizontal features and a more satisfactory roof line*¹⁰³. Second it welcomed the choice of materials. Third it noted the designs at the corner offering more public space at street level. Fourth, in terms of the character of the new Kew Bridge conservation area and other heritage assets, the new designs represented a *great improvement on the earlier scheme* and it anticipated that previous reservations would be satisfactorily resolved. Notwithstanding its concern about the height allowed under the development brief¹⁰⁴, it hoped that the quality of the overall and detailed design and the choice and quality of facing materials in the amended scheme would offer scope to mitigate the concern over height.
- 3.33 In the final letter¹⁰⁵ EH welcomed the further revisions which it stated addressed many of their previous concerns including provision of a greater degree of modelling of the principal elevations, a better balance of vertical and horizontal features and the refinement of the choice of materials and that they now, in the context of the approved Brief,

⁹⁷ SGWL11

⁹⁸ SGWL11 Signed by Giles Dolphin the head of Planning Decisions

⁹⁹ CD7/2 para 6.11.

¹⁰⁰ on 4 July 2004

¹⁰¹ Document LBH 21 JWD 6-11. 22 October 2004

¹⁰² the Historic Buildings and Area Inspector

¹⁰³ This may be contrasted with Mr Warshaw's criticism that the design was fundamentally and inappropriately horizontal in composition.

¹⁰⁴ However they supported six storeys with three storeys at the riverside (JWD 6-11 letter dated 17th Sept 2001 – contrast Mr Warshaw's view that the development should be as low as possible and three storeys limited to the height of the bridge – he in any event did not support the brief.

¹⁰⁵ dated 18 January 2005 LBH 21 JWD 11

considered the proposals to be acceptable. The EH view is reinforced by the professional officers who recommended the proposals¹⁰⁶. While scrutiny of views expressed by professional officers was properly not encouraged during the Inquiry, it remains highly material that their independent judgment accorded with that of the GLA and EH who reached the same conclusion that in architectural and conservation and listed building terms the proposals were appropriate and acceptable.

- 3.34 The development would include landscaping, seating areas and public spaces on the riverside¹⁰⁷. It would provide a footpath, cycle path and open space¹⁰⁸. It would amply meet the important objective¹⁰⁹ of securing safety by design¹¹⁰. The proposals would provide the lively river front with a variety of uses¹¹¹ to encourage the public to the waterside location unlike the site in its existing condition¹¹².
- 3.35 While LBH agreed with the more detailed comments from Aukett, without public consultation, they represent a view of how the development could be developed by those architects. Nonetheless, there is a good degree of compliance with their approach.

AUKETT REPORT

- 3.36 As to the *Urban Design Objectives* in the Aukett report, the proposed scheme does depart from individual points such as *align the existing set backs along Kew Bridge Road to provide continuity of elevation*¹¹³. The suggestion is that the frontage of the development should be drawn back so it aligns with the Waggon & Horses public house even though the site of the pub itself was part of the Brief. However, that would detract from the containment of Kew Bridge Road and not make proper use of this important site. In terms of the overall frontages along Kew Bridge Road there would be a reasonable relationship in the extended street frontage¹¹⁴, albeit with individual set backs for the Waggon & Horses and part of the Thameside Centre¹¹⁵. There would not be blank facades facing the public realm in the sense of parts facing onto the street, facing onto the public elements of the development and particularly the public square. In all those cases there is no blankness of façade. The criticism only addressed the point where the development would adjoin the remaining part of the Brief site, that is the site of the present Waggon & Horses public house. The street scene to the east would be unaffected with the view framed by Rivers House and the Star and Garter¹¹⁶.
- 3.37 Another point of difference is in ease of movement from Kew Bridge Road through the western part of the site. However, that would be incompatible with the proper segregation of servicing and residential circulation. Aukett's suggestion was probably for a commercial proposal rather than residential development. The practicalities of this advice should normally have been the subject of public consultation. Otherwise, the general

¹⁰⁶ CD7/2

¹⁰⁷ para 3.10

¹⁰⁸ para 3.11

¹⁰⁹ para 3.12

¹¹⁰ para 3.13

¹¹¹ para 4.9

¹¹² Mr Warshaw in Xx said that it was “potentially unsafe and certainly unattractive.”

¹¹³ p 11

¹¹⁴ See PC 1.4.8

¹¹⁵ The set backs for the pub was to provide parking and access and that for the Thameside Centre access but the street frontage is restored at Regatta Point.

¹¹⁶ see PC 1.1.6

principles expressed by Aukett are consistent with what is proposed including an active frontage and a defined edge along the north and eastern parts of the development site.

- 3.38 The first part of the Aukett report considers a tall (18 storey) building. The study of views and the dashed outline is introduced solely for that purpose¹¹⁷. It illustrates an overall development height of 14 storeys, the upper 7 storeys as a tower. This is essentially a block model for illustrative purposes and a more refined architectural approach would be possible. It would be a misunderstanding to assert that the non-tower 7-storey element reflects a conclusion as to what would be appropriate as an individual development without the tower. That is itself described later as being a development of 8 storeys plus set back penthouse. Moreover, it can be seen that the tower project included the Waggon and Horses site¹¹⁸. Equally, the arrangement of storeys reducing in height from north to south, as shown in the Strand on the Green view, is nothing more than to illustrate a possible 14 storey development to see whether or not it would be compatible. In fact the proposed development from that angle was not considered by the authors of this study as being incompatible or harmful in any event. Their view is that it does not contribute anything and thus does not outweigh the criticisms they make of the effect of a tower development from other points of view.
- 3.39 Thus comparison of the images shown in this part of the Aukett report against what is proposed in the appeal development is not material to the decision in this case and should not be regarded as forming part of the Brief for that purpose. Overall, the proposed development would accord with the Brief (as distinct from the Aukett report) and that should be a highly material consideration along with the views of the consultees who support the proposed development.

Issue 2: The effect of the proposals on the character and appearance of the area including the Kew Bridge Conservation Area, Strand on the Green Conservation Area, conservation areas in the London Borough of Richmond, World Heritage site and the Thames Riverside

KEW BRIDGE CONSERVATION AREA (KBCA)

- 3.40 A particular point¹¹⁹ is the effect of the designation of the KBCA¹²⁰ on the advice in the Brief¹²¹. The conservation area had originally been proposed on 12 September 2002¹²², including the appeal site¹²³ for mixed business or community use or mixed business or residential use. The report drew specific attention to the junction forming *an important entrance into the borough* and as a *place where many roads meet creating vistas, focal points and landmark buildings*. In the light of consultation¹²⁴, including EH, the character of the conservation area was described as: *industrial in nature but also important for the landmark qualities of a place forming the junction of four historic roads and a river crossing*. The other reasons for designation included that it would only be through designation that the locally listed buildings to the north could be preserved from demolition.

¹¹⁷ p 6

¹¹⁸ see pp 7 and 8

¹¹⁹ pursuant to section 72 of the Act on the KBCA

¹²⁰ on the 6th July 2004 CD11/4.

¹²¹ adopted in September 2001

¹²² LBH 21 JWD3.

¹²³ referred to at para 2.8

¹²⁴ summarised in the report dated 6th July 2004 CD 11/4

- 3.41 There is no suggestion in the report that the Brief would be overtaken or comprise an inappropriate approach to development; indeed, it can be seen that the Brief is compatible with the test for conservation area development. The identification of the landmark character at the junction is reflected in the Brief¹²⁵, as are requirements for the elevation onto Kew Bridge Road¹²⁶, the relationship with Kew Bridge¹²⁷, the Steam Museum and Campanile tower and the buildings on the north side of Kew Bridge Road. The architectural advice¹²⁸ is consistent as is the requirement to complement and not impinge upon the character of neighbouring listed and locally listed buildings¹²⁹. The three elements identified¹³⁰ are embodied in the Brief, that is the Steam Museum with its industrial heritage, the locally listed buildings to the north of Kew Bridge Road and the landmark quality at the junction. In principle there is nothing in the KBCA designation which is inconsistent or incompatible with or requiring a re-appraisal of the Brief. The Brief remains highly material as part of, and within the context of, the conservation area designation and s72 of the LB&CA.
- 3.42 While EH supported the KBCA designation, it did not suggest that the Brief had been overtaken by its designation or that the s72 considerations should not be assessed within that context. At no point did the conservation and architectural officers¹³¹ suggest that the KBCA designation overtook or was inconsistent with the Brief or that a revision to the Brief was required. The same applies to the GLA. Furthermore, there has never been any suggestion by LBH that the Brief should now be amended in the light of the KBCA designation. On the contrary, that designation proceeded against the background of the adoption of the Brief for the site and indeed active redevelopment proposals. This was not simply overlooked. The overwhelming probability is that in each case the responsible officer concluded that the advice in the Brief was in line with the KBCA designation. Thus, in considering whether or not there would be harm or enhancement to either the appearance or character of the conservation area, the advice in the Brief is a highly material consideration.
- 3.43 The effect of the proposals on the KBCA, and on views around it, is described in detail in the evidence.¹³² Indeed, as the LBH officers, the GLA and EH concluded, the character of the KBCA would not only not be harmed, but would be enhanced in the following respects:
- The steam museum would be respected and there would be no harm to its setting; it lies on the other side of the Kew Bridge Road and removed from the development; the development on the Kew Bridge Road frontage of the site reduces from that accepted within the Brief to 5 storeys with a set back at the western point of the development, its overall height is entirely consistent with the heights of the Steam Museum buildings.
 - The area of local listed buildings on the north side of Kew Bridge Road at the landmark junction were considered expressly as part of the Brief; insofar as the proposals accord with the advice in the Brief, that reflects the conclusions following consultation as part

¹²⁵ paragraphs 1.1, 3.1 and 3.3

¹²⁶ Para 3.2

¹²⁷ Para 3.5

¹²⁸ at paras 3.7 and 3.8

¹²⁹ para 3.9

¹³⁰ para 6.5 of the report CD11/4

¹³¹ in their report CD7/2

¹³² MR Crossley's PoE Ch 5 & 6; Mr Quarme's PoE Ch 4& 5

of the Brief process and is entirely compatible with preserving the character of that part of the conservation area to the north west of the junction.

- The requirement for a landmark treatment at this junction is realised as part of the development evolving with the benefit of the advice and support of the responsible authorities, the officers and EH; it would bring considerable townscape benefit at this important gateway location, described as *extremely degraded*¹³³, *the worst public realm nightmare*¹³⁴ and as a negative influence and more graphically as *the mess created by the junction*.
- The bridge itself in the same context would be respected with the development opening up into the square and the boardwalks and ecological area beside the river with the removal of the unfortunate lavatory block which presently detracts from this side of the bridge.
- Character is not just physical form and appearance, it embraces use. Here the development would include the introduction of commercial uses and activity on the frontages to Kew Bridge Road and Kew Bridge together with the opening up of the river front, the boardwalks, the square, the community and commercial activities, including restaurants, public houses, shops and other public facilities in place of the present derelict unattractive site. There has been no challenge to the firm conclusion that in this respect there would be enhancement.

3.44 As to scale, the design approach uses brick materials and domestic scale elements sitting on the commercial base¹³⁵. The treatment of the balconies, linked vertically with the canopy over set between the colonnades repeated through the four panel bay, reflects Regency domestic architecture. That then changes to a larger more civic scale at the junction with the rotunda. The river front, at the suggestion of the architectural and conservation officer, adopts a more modern expression of industrial or warehouse architecture – graphically described as *a hint or a memory*¹³⁶ – which is *stripped down, simple and utilitarian*, the basic honesty of the design is in keeping with the conservation area but a modern reinterpretation¹³⁷. It is high quality and successful.

THE STRAND ON THE GREEN CONSERVATION AREA (SOTGCA)

3.45 The approach to be taken to the SotGCA is not under s72 of the LBA but with paragraph 4.14 of PPG15. The appellant accepts that the views from the SotGCA would be affected by the proposed development in that it would be seen. The question is therefore whether there would be harm to the character or appearance of that conservation area from the

¹³³ by Mr Warshaw

¹³⁴ LBH 21 JWD PoE para 17

¹³⁵ Mr Crossley's explanation

¹³⁶ by Mr Quarme

¹³⁷ Later Mr Quarme said "it is the language of architecture from the industrial heritage of the area not a pastiche but stripped down to the bare form with utilitarian measure as in the 19th century appropriate to this approach." As he explained, he particularly supported the approach commended by the conservation and architectural officer of LBH and what he described as the basic honesty of PC's approach in keeping with the character. Later he was asked in cross-examination about this and he explained that it was responding to the character and that was why the officer's suggestion was the correct approach. It was not a pastiche warehouse but a very simply stripped-down architecture typical of a warehouse and distinct from what he described as the Campanile hammed-up style. It had a simple honesty which represented an architectural approach of high quality and appropriate to this area.

proposed development. If the conclusion is that the conservation area would not be harmed the requirement is satisfied.

- 3.46 The SotGCA does not have an industrial or landmark quality. It is a residential area lying to the east of Kew Bridge. It is not some isolated village conservation area surrounded by green fields. Its character is informed by its neighbours and by the industrial and commercial skyline of Brentford including buildings both within and outside the KBCA. Of course the immediate setting is Kew Bridge itself. In all those respects the character of the SotGCA would not be harmed by the proposed development. In any event there would be no effect on the appearance of the SotGCA because the views within the Strand on the Green as such would not be affected by the proposed development.
- 3.47 Dealing specifically with Viewpoint 3¹³⁸, the site was in any event proposed to be developed in accordance with the Brief, albeit with a tall tower¹³⁹. If the conclusion is reached that the architectural approach, and in particular the treatment of scale and the articulation of the different aspects of the building, is indeed an informed and high quality architectural approach reflecting the character of the area there would be no harm to the character of the SotGCA. Evidence¹⁴⁰ summarising the character of the conservation area identifies the bridge as creating a clear visual physical break when viewed from that part of the SotGCA along the riverside. In any event large scale buildings appear above the bridge and create the skyline from the conservation area. The impact of the new development on the setting of the SotGCA would be neutral. In addition there would be enhancement through the regenerative effect of the new development with benefits both environmentally and socially on the SotGCA.
- 3.48 Viewpoint 2¹⁴¹, not identified by Aukett but within the SotGCA where it abuts the landmark junction, is also part of the conservation area where Rivers House is immediately to the north. While there would no doubt be a change in the view, neither the appearance nor the character of the conservation area would be harmed by development within the adjoining conservation area at this point.

KEW GREEN CONSERVATION AREA (KGCA)

- 3.49 The same analysis¹⁴² applies to the KGCA. The historic core is the Green and that would not be affected in terms of either its character or its appearance. If there were any view of the top of the proposed rotunda from any point on the Green, that would be in the context of an urban setting where views of urban development beyond are not alien or harmful. Concerning that part of the conservation area beside the river, there has always been an industrial and commercial appearance on the other side of the river and the character and appearance of the KGCA has to be seen in that respect. It properly includes the Thameside Centre, Regatta Point and other developments and, in due course, other committed developments. Again the Brief expressly took into account the effects on the KGCA¹⁴³. The impact of the proposed development would be consistent with the character and appearance of the historic industrial appearance of the Brentford side of the

¹³⁸ LBH 21 JWB14.

¹³⁹ Aukett's (p 7) concluded that their postulated 14 storey tower development would not itself be harmful.

¹⁴⁰ Mr Quarme's PoE paras 5.34 to 5.37

¹⁴¹ LBH 21 JWP13.

¹⁴² Mr Quarme's PoE paras 5.3.8 to 5.3.11 of his proof

¹⁴³ paragraphs 3.8, 3.9

Thames¹⁴⁴ and would not introduce an architectural element or development that was either inconsistent or incongruous. The effect of the proposals on any views out of the conservation area would be in the context of a backdrop similar to that which currently exists.

WORLD HERITAGE SITE (WHS)

- 3.50 The WHS was designated in 2004. While non statutory, as a matter of policy¹⁴⁵ its inclusion highlights the understanding of international importance of the site as a key material consideration; policies should protect the interests for which the WHS was designated, developments which would affect the site or its setting should be carefully scrutinised. The London Plan¹⁴⁶ provides that the Mayor will work with relevant boroughs, EH and site owners to prepare management plans for the WHS and that UDPs and management plans should protect their historic significance, safeguard and, where appropriate, enhance their settings.
- 3.51 The starting point is the value of the gardens as a WHS and would the proposed development harm it. The interests for which it was designated are identified in the ICOMOS report¹⁴⁷. The draft management plan¹⁴⁸ and the proposed designation of the WHS¹⁴⁹ summarises the interests of the gardens for which it was designated¹⁵⁰. The implication for LBH was the proposed buffer zone¹⁵¹. The identified purpose of the buffer zone is to ensure consideration of proposals so as to protect the WHS from *unsympathetic or otherwise intrusive development being built close to or overlooking the WHS* or from development that might affect the backdrop of *key vistas or significant views through inappropriate siting, height or scale*.
- 3.52 In that context there is simply no question of the proposed development offending those principles either by overlooking or intruding into the WHS. It is common ground that the gardens do not include the towpath which has been considered as part of the conservation area. It is of note that in designation it was recognised that Kew Gardens was not isolated from its surroundings. Indeed it was recognised¹⁵² that the tower blocks opposite did intrude on Kew at several points and that permission had been granted for a further 16 storey block following the proposal for designation¹⁵³. There is no comparison with the proposals. The Brief addressed the effect on the gardens¹⁵⁴. The appropriate approach is set out in the LBH report¹⁵⁵, that is whether it would be incompatible with the primary aim of safeguarding the outstanding universal value of the WHS. That is similar to the approach in the Brief.
- 3.53 There would be no effect in terms of harm or otherwise on the relevant interests of the WHS or indeed its setting. For those who do approach Kew Gardens from the north the

¹⁴⁴ Mr Quarme's PoE para 5.3.10

¹⁴⁵ PPG15 paragraphs 2.2.2/2.3

¹⁴⁶ Policy 4B.13 CD9/1

¹⁴⁷ CD11/3 criteria (ii), (iii), (iv) and (vi)

¹⁴⁸ CD11/1 approved in November 2002

¹⁴⁹ CD11/4(b) considered by LBH 24 October 2002

¹⁵⁰ paras 1.4 and 1.5

¹⁵¹ paragraphs 5.1 to 5.3

¹⁵² CD11.3 p109

¹⁵³ The Ferry Lane development has a different relationship again with the WHS

¹⁵⁴ para 2.1, 3.2, 3.8 and 3.9

¹⁵⁵ CD11/4b 5.3

proposed development would bring some enhancement by replacing the present derelict and vacant site with a development respecting its context and reflecting the required landmark qualities at the junction.

THAMES LANDSCAPE STRATEGY (TLS)¹⁵⁶

- 3.54 The London Plan recognises that the TLS requires updating. Plan 6¹⁵⁷ identifies the appeal site at Brentford as industrial/utility, reflecting the photographic and map evidence produced¹⁵⁸. It is in contrast to the character of the areas to the south of the river. Page 162 sets out the Landscape Character Reach with vista lines. The site at that time was vacant. There are no vista lines crossing the appeal site. The relevant part of the river frontage is described as *the industrial Brentford river frontage, though much run down, still retains significant elements of its dockland past. On the Surrey bank by contrast the history of royal ownership has safeguarded the green spaces at Kew Green and Botanic Gardens, the two banks are effectively separated.* Reference is then made to the industrial character of this area. It continues *The yellow brick tower of the steam museum still rises over the area as a reminder of the energy of the industrial past. The surviving industrial character is best appreciated from the water or the Kew towpath.* Page 164 describes development as it then was including what is now Rivers House as *the flat roofed office block in bright blue and white on the Strand on the Green side of the bridge jars on the scene.* The *robust dockside of Brentford* is contrasted with the elegance of Kew Green.
- 3.55 Comparing the policy proposals¹⁵⁹ with the analysis¹⁶⁰ draws attention to the intrusive office block comprising Rivers House. Policy 12.1 is to conserve the industrial character and scale of the Grand Union Canal and Brentford water front contrasting with the thick trees of the Ait and the Royal Botanic Gardens (RBG). The architectural approach to the proposals would respect that character, albeit for a residential and mixed use development. Policy 12.2 seeks protection of visual links; these would be respected. Policy 12.3 proposes *To prevent any further flat roofed high rise buildings from intruding into the Brentford water front massing.* It is not accepted in any way that what is proposed would be a high rise building. However the question of pitched or flat roofing was the subject of consideration as part of the Brief. The original requirement for pitched roofs was omitted from the adopted brief in the light of public consultation. Having regard to the implications for overall height and the ability to maximise the use of the site, the approach in the adopted Brief would accord entirely with the updated policy in the London Plan.
- 3.56 The second part of policy 12.3 refers back to Rivers House. The proposal that it should be replaced with a lower building with a form, massing and materials complementing the surrounding townscape, may have been something reflecting the character or appearance of the SotGCA of which it forms part. However it is not relevant to the appeal site which has been considered expressly in the context of the Brief. Thus, taken overall, the advice in the TLS for Hampton to Kew, so far as it is up to date and relevant, is entirely reflected as part of the proposed development. The strategy Kew to Chelsea is of limited relevance to the present proposals¹⁶¹. The one point to which attention has been drawn is the

¹⁵⁶ CD8/3A

¹⁵⁷ p 31

¹⁵⁸ by Messrs Crossley and Quarme

¹⁵⁹ p 170

¹⁶⁰ p 171

¹⁶¹ CD3/B.

reference¹⁶² to *important local prospects* including the view from Chiswick Bridge. However, the implications of the development from there would be entirely insignificant and not harmful in any way.

3.57 In conclusion, there would be no harm to either the character or appearance of the area but significant benefit in respect of the long overdue regeneration of this derelict and vacant site, forming as it does an important local gateway to the borough and Brentford.

Issue 3 Whether the proposals would preserve the special architectural and historic interests of the adjacent listed buildings or their settings

3.58 The direct effect on Kew Bridge as a listed building would be the removal of the public lavatories which would be entirely beneficial. As above, there would be no harm to the setting in terms of the views and enjoyment of the bridge as a listed building; indeed the proposed square and the boardwalks would open up the opportunity for views and enhance enjoyment from across the river compared with the position with the boathouse in place. So far as enjoyment of the views from the bridge as part of the enjoyment of the listed building, this largely concerns the design and architectural matters which have been considered above. It was expressly the subject of consideration in the Brief¹⁶³.

3.59 The relationship with the Steam Museum is considered above. Insofar as the proposed development accords with the advice in the Brief there would be no adverse effect on the setting of the Steam Museum. There is no identified or protected view of the campanile that would be obstructed. It is envisaged that the site would be redeveloped and so the relationship with the listed buildings would not be adversely affected. The effect on listed buildings formed no part of the reasons for refusal.

Issue 4 Living conditions of future residents and existing neighbours

OUTDOOR AMENITY SPACE

3.60 If the development would be appropriate in the context of policy and the Brief, the suggested rejection having regard to standards as to provision of private amenity space should be approached with some caution. The over arching policy in the UDP¹⁶⁴ seeks only that regard should be had to the standards and that they should be applied flexibly. The standards were adopted in February 1997¹⁶⁵. Since that time there have been major changes in national and strategic policy including in particular PPG3 and the London Plan.

3.61 In any event the standards are to be applied flexibly¹⁶⁶ to take into account individual circumstances. The standards themselves¹⁶⁷ are only proposed to be applied “normally”. They take no account of balconies or terraces or other amenity areas or whether the development would be family or non family accommodation. Those issues are material as this development would include generous provision of balconies and terraces, be predominantly non-family and include substantial integral public open space and facilities. The issue is whether the accommodation provided would be so deficient as to make it unacceptable. Against that background, it is accepted that the provision would be some

¹⁶² p 3.33

¹⁶³ paras 3.1, 3.5, 3.9

¹⁶⁴ CD8/1 8.4.1

¹⁶⁵ CD8/4

¹⁶⁶ p 2

¹⁶⁷ p 34

6,387 sq m¹⁶⁸ of which 4,822 sq m would be roof gardens¹⁶⁹. Including the proposed public square, the total increases to 7,138 sq m, well in excess of the standard relied upon.

3.62 In respect of the affordable units, the provision would be 25% of the basic requirement of 2,425 sq m, comprising some 650 sq m; for the private units the requirement would be 3,735 sq m and 945 sq m would be provided. The balconies and terraces would provide 2,514 sq m. Overall the crude deficiency on these standards or guidelines should not constitute a ground for concluding that the much needed accommodation would be unacceptable.

Other factors to be taken into account would include:

- the proposals would be predominantly non-family accommodation, albeit including some 3 bedroom private units;
- the location includes significant public open areas and facilities both internal and external and is well connected to the towpath and other public facilities;
- there is an abundance of open space and amenity areas in the vicinity¹⁷⁰, quite apart from the riverside quality of this site enjoying views over and across the River Thames with Kew Pier giving access to recreational opportunities along and on the river itself;
- as part of the s106, there would be a contribution of some £25,000 for the improvement of Waterman's Park or other equivalent open space.

Sunlight and Daylight

EXISTING RESIDENTS

3.63 There is no suggested impact in respect of sunlight or overshadowing. As to daylight, Policy ENV-B.1.1 of the UDP equally applies in this context. Moreover, the British Research Establishment Report: *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*, 1991, (the BRE Guide)¹⁷¹ makes clear that it is not to be applied as planning policy¹⁷²: *The advice given here is not mandatory and this document should not be seen as an instrument of planning policy. Its aim is to help rather than to constrain the designer. Although it gives numerical guidelines, this should be interpreted flexibly because natural lighting is only one of many factors in site layout and design. In special circumstances a developer or planning authority may wish to use different target values. Specifically, in terms of daylight to existing residences¹⁷³, it advises that numerical values given here are purely advisory. Different criteria may be used, based on the requirements of daylighting in an area viewed against other site layout constraints.*

3.64 The SoCG summarises the agreed Vertical Sky Component (VSC) results. The conclusion¹⁷⁴ is that while the existing occupants would notice a change in the amount of daylight available, it would not be material. The numerical value¹⁷⁵ indicates that *the*

¹⁶⁸ SGWL19, including the additional 227 sq m that could be required by condition

¹⁶⁹ a provision particularly supported by the GLA

¹⁷⁰ SGWL16

¹⁷¹ CD13/1 Para 3.1

¹⁷² CD13/1 p 1

¹⁷³ p 4, para 2.2

¹⁷⁴ of Mr Webb

¹⁷⁵ indicated in the BRE guidelines p 5 of CD13/1

occupants of the existing building will notice a reduction in the amount of skylight. That says nothing about whether the residual daylight is acceptable. Second, the site is being judged against the cleared site, including the Waggon & Horses, but without regard either to the pre-existing office development or indeed the Brief proposing that the development should be at its highest along Kew Bridge Road. It is no surprise that development in accordance with the Brief would have a *noticeable* effect on the daylight received. The effect of development which would accord with the brief on daylighting to properties opposite should not constitute a valid objection.

PROPOSED OCCUPANTS

Sunlight

3.65 The position on sunlight is set out in the SoCG¹⁷⁶ which shows that a large proportion of the proposed flats would have windows facing south, east or west and enjoy open views across the River Thames or other areas. While the categories are to be assessed from the BRE report¹⁷⁷, there has to be a degree of common sense over interpretation. There can be no effective distinction between properties facing 1% either side of a particular compass point. Equally across London as a whole, consistent with making the best use of urban land, it is inevitable that there will be flats facing north and indeed it may be thought that there is some advantage in the choice whether or not to have direct exposure to the sun in that way. The overall provision is entirely satisfactory. As to the courtyard, as set out in the SoCG¹⁷⁸, this would include 24 flats facing north. Of the remainder, those facing south would comply¹⁷⁹, as would a substantial number facing east and some of those facing west. The overall position in the courtyard would be acceptable with a reasonable proportion of the flats enjoying a good level of sunlight.

Daylight

3.66 It is agreed that the Average Daylight Factor (ADF) method is appropriate; this reflects layout and treatment of furnishings, wall coverings and other factors. The suggested non-compliance with the BRE Guide is restricted to values in a few of the flats on the basis of their present indicated layout. Flats 142 and 144¹⁸⁰ would be marginally lower than the standard¹⁸¹ and 158 would be 0.04 below the standard, which is insignificant. Flats 142 and 144 have a layout where the living room is particularly long and would include the kitchen. It could meet the standards by simply separating the kitchen.

3.67 However, the result also reflects the assumption¹⁸², as scaled from the submitted plans, that 25% of the window opening would be lost to glazing bars. That could be controlled by condition, should daylight be of concern, so that the levels required under the standard are met. With the proposed condition all the flats would comply. The transmittance value of 0.8 is one advised by the BRE Guide¹⁸³. Given the sensitivity of this calculation¹⁸⁴ that is the appropriate approach. In fact the difference between the two transmittance values of

¹⁷⁶ para 5.13

¹⁷⁷ under comments at p 10

¹⁷⁸ para 5.16

¹⁷⁹ with the advice on p 11 of the BRE

¹⁸⁰ Using Dr Littlefair's measurements

¹⁸¹ on table F of the SoCG

¹⁸² made by Dr Littlefair

¹⁸³ p 58 Appendix C

¹⁸⁴ in accordance with the conclusion of the Inspector at Imperial Wharf

0.68 and 0.88 makes little difference to the end results. Similarly as to the maintenance factor the advice at page 23 paragraph 15 in BS8206¹⁸⁵ is not appropriate for domestic buildings; there is no justification for applying an additional penalty for windows with a balcony above¹⁸⁶. Overall the proposed daylighting would be at least adequate.

- 3.68 Finally, the bedroom of unit 142, under the entrance arch, would be deficient. However, to forego the opportunity of an additional affordable unit because the bedroom would generally require artificial light would be unjustified. There is no overriding disbenefit bearing in mind the advantage of making the best use of this land and in meeting strategic and local needs for housing, including affordable units. If a contrary view is taken, then the alternative layout could be required by condition.

Overshadowing

- 3.69 This arose in two contexts. First the internal courtyard: applying the BRE advice¹⁸⁷ the courtyard should be regarded as akin to a front garden, not somewhere people would go to enjoy the sunshine or sit out. There is ample opportunity for that elsewhere in the development. In any event, although not complying with the notional standards within the BRE, during the summer time it would have a good enjoyment of sunshine¹⁸⁸. Second was the suggested overshadowing of the main square. In terms of permanent shadow, only 6.25% of the public open space would be subject to permanent shadow¹⁸⁹, but also from the modelling illustrated¹⁹⁰ it can be seen that until late afternoon, a substantial part of the square would remain sunlit in summer or indeed spring or autumn. There would indeed be some amenity value in having some parts of this open square in shade as part of the overall public experience and enjoyment. There is nothing in the overshadowing point.

Outlook

- 3.70 This is not part of the reasons for refusal. Insofar as it is relevant, it is suggested to be relevant to the properties at Green Dragon Court¹⁹¹. These are some 28 to 38 m away across a busy main road and behind the front garden and hedge. Moreover, the road itself is lit and a bus route. The overall relationship in height¹⁹² is satisfactory and in accordance with the advice in the Brief.

Issue 5 The effect of traffic generated on highway safety and the free flow of traffic

- 3.71 Both the LBH consultants and their officers, together with TfL, were content with the proposals and no objection was raised. This is a member led objection without any technical support at the time.

ACCESS

¹⁸⁵ SGWL 28 PD13/2

¹⁸⁶ Dr Littlefair PoE p 6

¹⁸⁷ p 12 para 3.3,

¹⁸⁸ JW Appendix 3 drawing 1347/100

¹⁸⁹ Appendix 4 of JW

¹⁹⁰ drawings 1347/100 - 102 in Appendix 3

¹⁹¹ SGWL19

¹⁹² illustrated on SGWL19

- 3.72 The generation figures as set out¹⁹³ are the latest and best information. The Transport Assessment (TA) was based on the agreed 2002 scoping report using the 1999 survey material. Since then more recent and relevant information has become available as part of Trip Rate Information and Computing System (TRICS) 2003. That has been agreed¹⁹⁴ and used in other comparable LBH developments. There has been no objective reason advanced why one should ignore more up to date and relevant information to assess traffic generation. In the circumstances, any peak hour generation would be insignificant so far as the residential development is concerned. Moreover, it is apparent that the survey information included the total vehicle trip generation from the development. It has been consistently part of the proposal that all servicing traffic would be from the service access and not through the courtyard access. It reflects the sustainability credentials of the proposal that the modal share of total trips for car drivers would be as low as 4%.
- 3.73 The access arrangements have been subject to no less than three safety audits. In all cases the assessments concluded that the proposals were safe and satisfactory. On the points raised¹⁹⁵, the first is the proposition that the carriageway width outside the access for westbound traffic should be increased to some 6 m¹⁹⁶. That is based on TD42/95 for trunk roads subject only to the national speed limit. It must be inappropriate for an urban junction in the context of traffic management and other measures. Moreover, it would be contrary to overall strategic and UDP policies¹⁹⁷ to introduce excessive carriageway area. However it is open to the highway authority to provide a carriageway of that kind. The highway arrangements are no part of this application. The only question is whether access can be safely provided¹⁹⁸.
- 3.74 So far as visibility is concerned, the appropriate standards for this access have been applied, having regard to the surveyed speed requirements. There is ample visibility, as can be seen on site; it would be possible to see traffic that would be emerging and waiting for the appropriate gap as part of the traffic light phasing. Although not part of the reason for refusal, capacity was raised. The London Plan and UDP¹⁹⁹ do not seek to provide additional capacity, however the relevant junctions have been tested on the basis of the model provided by TfL and shown to work. There is no evidence to the contrary. The improvements suggested for the Ealing Road junction have now been carried out on behalf of the authority. There is no evidence to support any objection in this respect.

U-TURNING

- 3.75 The distribution modelling²⁰⁰ shows at most 26.5% seeking to go east from the access – that demonstrates the small number of vehicles involved. It is agreed that it may be appropriate to ban U-turning movements in Kew Bridge Road if that proves to be a problem. There is nothing unusual about that. It is commonplace. There is no evidence

¹⁹³ Mr Liddell PoE

¹⁹⁴ as stated in Mr Liddell PoE

¹⁹⁵ Mr Martin agreed that the points raised in para 5.4 of his proof could be resolved which included the carriageway width. The only point which was not capable of resolution was the issue of u-turning.

¹⁹⁶ it is not contested that 5.5 m can be accommodated without interfering with the existing footway

¹⁹⁷ Policy T4.2 which seeks not to provide capacity for private vehicular movements

¹⁹⁸ It is for this reason that a condition requiring a 6 m carriageway would be unreasonable (quite apart from the absence of justification) – there is no decision by the highway authority to carry out the work and no indication as to what conclusion it would reach in this respect. The provision of the proposed accesses would properly be required as part of the development.

¹⁹⁹ Policy T4.2

²⁰⁰ IL app 9

of any particular safety hazard in this respect. LBH now has powers of direct enforcement including camera supervision in the light of the present pilot study²⁰¹. There is no sound case to support the objection.

- 3.76 In contrast to the safety points, there would be substantial transportation benefits. First, through the use of this highly sustainable and accessible site in the manner proposed as tested by TfL. Second, in the contributions made to the proposed junction improvements and cycle and pedestrian crossings, both at Ealing Road and at Kew Bridge Road; in respect of the connections under Kew Bridge itself as part of the towpath; and in the improvements to Kew Bridge station. Overall the conclusion should be that there would be no adverse effect in terms of safety or capacity but significant advantage having regard to the matters set out above.

HOUSING DENSITY

- 3.77 The plot ratios²⁰² are entirely consistent with the figures advised in the London Plan for mixed use or commercial development of a site of this kind. In terms of the overall effect of development, it is inappropriate to exclude the public square in considering the effect of development from the point of view of massing or activity.
- 3.78 So far as the residential standards in the London Plan are concerned, Table 4B.1 is not directly applicable nor does it provide any maximum figure for development on the site. However, in applying the table this is a site within 10 minutes walking distance of a town centre. The relevance of the town centre is that it provides a range of facilities for residential development (assuming it is not to have its own supporting facilities as mixed use development). At 640 metres, as agreed, the town centre at Brentford is plainly within 10 minutes. The PTAL level should be assessed in the light of the methods at the time the London Plan was adopted²⁰³, and showing the development on the cusp between PTAL 3 and 4, depending upon which part of the site one is looking at. The approach taken on the subsequent document from TfL²⁰⁴ is one based upon the contracted levels of bus provision rather than the commercial level supported by demand for the service. Any understanding of public transport accessibility should not be limited to what is required as a minimum, but what is in fact supported and provided as part of the commercial service in accordance with the published timetables²⁰⁵.
- 3.79 Bus provision is determined by market demand subject to public subsidy. There is no suggestion that any of these services are not viable. Indeed the services provided and timetabled exceed the minimum agreed with TfL demonstrating the viability of what is a high level of bus provision. TfL supports the high intensity of the site development having regard to its good accessibility. In all these circumstances SGWL accepts that a proper characterisation of this location, if it was a purely residential development, would be between urban and central somewhere between 450 and 1100 habitable rooms per hectare (hrha). However, as the UDP and the Brief indicate, density figures of this kind

²⁰¹ While not a party, there is no suggestion that they are not supportive of the concept.

²⁰² See SG21 3.1:1-3.5:1

²⁰³ that is the method enclosed with SotGA2

²⁰⁴ LBH13

²⁰⁵ There was a confusion in XX between what is a timetabled service (which Mr Liddell has taken into account) and the minimum contracted service which is a matter of agreement with TfL.

must take second place to the overriding objective of making full use of previously developed land in the urban area and the quality of design that is achieved²⁰⁶.

AFFORDABLE HOUSING

3.80 The full background of this is set out in the paper SGWL19. It is not the subject of objection by LBH. The context for provision is under the London Plan Policy 3A.7²⁰⁷ for a strategic target of 50% across the city to be provided from all potential sources of supply, including local authority developments, developments by Registered Social Landlords (RSLs) and the like. The particular provision is in the context of Policy 3A.8 which looks for negotiation of affordable housing in individual private residential mixed schemes. What is required in that policy is *the maximum reasonable amount of affordable housing* having regard to the targets adopted and *the need to encourage rather than restrain residential development* as well as the individual circumstances of the site. It is apparent²⁰⁸ that the figure of 40% was agreed and accepted by the GLA, by the relevant officers of the LBH, by the housing corporation and supported by the relevant RSL²⁰⁹ in the context of all the relevant considerations.

METROPOLITAN OPEN LAND (MOL)

3.81 The MOL²¹⁰ is the river and does not include the adjoining land or the tow path. In any event, even if the towpath was included, the proposed development would not conflict with the relevant policy ENV-N.1.6. On the contrary it would be development that was of an open nature and in accord with the Thames character by providing important ecological areas; it would be within the identified uses in that policy for (iii) open area recreational facilities and (iv) nature conservation, so no breach would arise. The policy refers to development on areas near the MOL boundary, and the question is whether the development would detract from the open air aspect or visual amenities of the MOL, in other words the river. That has been addressed as part of the Brief and there are no grounds for asserting a breach in that respect.

THE BOAT CLUB

3.82 The requirement in the Brief for reinstatement of the “boat club” in addition to the provision of river related recreational uses and activities, which would be fully provided, has to be considered on its terms. The previous boat club²¹¹ has in fact been accommodated elsewhere and there is no evidence that it wishes, or has wished, to take accommodation on the appeal site. In any event it is a private club and there has been no identifiable reason why it should be required to have special provision as part of this scheme. The letter from the Amateur Rowing Association²¹² does not in fact identify any proposal by that club to come back onto the site and none has been made to the appellants or expressly to the Inquiry.

3.83 If one looks at the broader planning consideration of provision for some form of boat club which would form part of what might be regarded as river related recreational use or

²⁰⁶ In reality the provision would include Gunnersbury station with rail and tube and the new service 272 - the walking distance to Gunnersbury was given by Mr Basri as 10.25 minutes

²⁰⁷ p 64

²⁰⁸ paper SGWL19

²⁰⁹ Notting Hill Housing Trust

²¹⁰ as designated on the 1996 proposals map and carried forward into the 2003 UDP

²¹¹ the former Horseferry Rowing Club

²¹² Document 14 dated 16 June 2005

activity, then the Kayak Club, for which the Inquiry has specific evidence²¹³, both through the steering group²¹⁴ set up by LBH and the material submitted by the club to this Inquiry. There was no distinction between one form of boat club or another in the Brief. It will be material in the context of Circular 05/2005 as a recreational use related to the river. It is facilitated as part of the proposals and would have access over the necessary areas within the proposed development. There is no suggestion that it requires a separate slipway - there is already one to the east of the bridge.

PPS6

3.84 The matters are set out in SGWL19. It forms no part of the objection on behalf of the authority or otherwise. The UDP was adopted in the context of current up to date ministerial statements including the requirement for need to be demonstrated for town centre uses not to be located within the town centre. In that context this site was both promoted as part of the Brief and confirmed as part of the UDP as a specific allocation for mixed use development. In this context, the policies in PPS6 would be satisfied.

Conclusion

3.85 In conclusion, this is a previously-developed derelict site of vacant land within the urban area and part of an area for regeneration. It is subject to an adopted Brief with which the proposals comply in all relevant respects. Development would bring with it a wide range of planning benefits including the introduction of a mixed use development on this highly accessible riverside site, the provision of a new river side path and public square, a wetlands area together with a further public boardwalk and terrace, the opening up of a level-access link under Kew Bridge accessible to all, highway improvements and other benefits. It would make a major contribution to the strategic and local housing needs in London. It is a site that has stood derelict and vacant for far too long to the disbenefit of the area and the public generally. In accordance with views expressed by the strategic authority, by the officers of the local authority, by EH and by independent assessment²¹⁵, it is appropriate that planning permission and listed building consent should now be granted and that the appeals should be allowed.

4. THE CASE FOR THE COUNCIL OF THE LONDON BOROUGH OF HOUNSLOW

The material points are:

The weight to be attributed to the Brief

4.1 The appellant contends that the proposals has proper regard to the Brief²¹⁶, that the KBCA designation was in line with the Brief²¹⁷, that neither the KBCA nor the WHS designation detract from the Brief or the weight to be given to it²¹⁸, and that the Brief was formulated against the test of preserving or enhancing the character and appearance of the area²¹⁹. In

²¹³ SGWL15 Chiswick Boat Club 24th June 2005

²¹⁴ Supported by LBH, Ealing and Sport England

²¹⁵ on behalf of Mr Quarne

²¹⁶ Mr Crossley in XX

²¹⁷ Mr Quarne's Proof of Evidence (PoE) para 2.3.9

²¹⁸ Mr Dickinson's PoE para. 5.26

²¹⁹ Mr Dickinson's PoE para. 5.28

opening²²⁰ it was suggested that the KBCA designation would not have led to any material difference to the Brief.

- 4.2 There are three fundamental problems with the appellant's reliance upon the Brief. First, as a matter of fact, during the Brief's formulation the appeal site did not lie in a conservation area and the Brief does not address the statutory duty or the policy requirements of preserving or enhancing the character or appearance of a conservation area other than in respect of those adjoining²²¹.
- 4.3 Second, the Brief is not part of the development plan for the purposes of section 38(6) of the 2004 Act. The fact that it is mentioned under the comments column in the Proposals Schedule²²² does not make it a policy of the plan. The appellant suggests²²³ that it be regarded as lower case text and therefore part of the plan. In fact²²⁴ the Proposals Schedule along with the Proposals Map show the areas covered by specific policies, and include proposals for specific sites, and the Brief can be no more than SPG. As PPG12 advises²²⁵ – SPG does not form part of the plan²²⁶. The new formalisation of the process for preparing and approving Supplementary Planning Documents in PPS12 should ensure that the failure to properly consult the public does not occur again.
- 4.4 Third, there was a failure to properly consult the public, including EH, on the emerging brief, and on Aukett's contribution in particular. The extent to which Aukett knew of the responses, particularly from EH, on the June 1999 Draft Brief is therefore unknown.
- 4.5 The June 1999 Draft Brief²²⁷ suggested that the design take into account the Urban Design Plan: that showed development with a building of a *maximum 3 storeys* along the historic building line to Kew Bridge Road save for a landmark building at the corner to respond to the junction of *maximum 8 storeys*. Development along the river was to be set back and again a *maximum 3 storeys* was suggested.
- 4.6 By January 2001 a master draft review document²²⁸ was produced by officers with a change so that away from the river frontage the development should not significantly exceed the adjoining Kew campus and Regatta Point development (i.e. 6 storeys maximum) but consideration could be given to a marginally higher building of quality and character. There is no evidence that this version was ever endorsed by members or seen by the public as part of a consultation exercise. No urban design plan was attached to it.
- 4.7 Aukett were apparently instructed to prepare a document which they referred to as an *Urban Design Framework* in August 2001,²²⁹ which again was not the subject of any public consultation. The following month the Council adopted the Brief attached to which was the previously unseen *Urban Design Framework*. In these circumstances the Brief does not merit the significant weight attributed to it by the appellant.

²²⁰ Para 11 SG1

²²¹ Para 3.9 of CD 8/2

²²² P.245 CD8/1

²²³ Mr Dickinson in chief

²²⁴ as 1.12 of the plan advises p.12

²²⁵ the opening sentence in para in 3.15

²²⁶ CD9/8a, para 2.5

²²⁷ LBH 21 appendix JWD4

²²⁸ LBH 21 appendix JWD5

²²⁹ Document 13

- 4.8 Part of the adopted Brief also included an Aukett plan entitled *Urban Design Objectives*²³⁰. This plan did not contemplate a doughnut form of development. It envisaged maintaining the historic setback, links with the river – physical and visual on both the Kew Bridge frontage and also adjacent to the Waggon and Horses. It envisaged a less dense form of development and more open aspect to the river and a good setback from the listed bridge which could be occupied by riverside activities and uses. Contrary to the appellant’s evidence²³¹ the proposed scheme does not accord with the Brief. In particular the proposals utterly fail to meet the objectives with regard to scale, permeability, public realm and landmark quality.
- 4.9 In evidence²³² the appellant’s position moved from “the proposal complies with the Brief” to “there is some difference with the Aukett sketches and the proposal” but that “the Aukett sketches do not comply with the text”²³³. It is artificial to divide the Brief between the Aukett work and that text drawn up by officers. All formed part of the SPG adopted by the LBH following the decision of the Council in September 2001²³⁴. It is wrong to suggest that substantial weight be given to the text and yet limited, if any, weight be given to the Aukett work. The Council’s decision to adopt was on the basis of the totality of the information placed before it. In truth the Brief should never have attracted full weight in the first place and in any event it now has to be considered in the context of the later designations of the KBCA, and the WHS.
- 4.10 The text of the Brief calls for a balanced mixed-use development but in land use terms the proposals are residential led²³⁵. They would greatly exceed the specified maximum plot ratio of 1:1²³⁶. In fact the agreed plot ratio is at least 3.1:1²³⁷.
- 4.11 The Brief specifies that a public house should be provided,²³⁸ but it may not be. It requires the former boat club to be reinstated but there will be no on site provision; rather an arch, beyond the site, outside the control of the appellant and accessed only from Strand on the Green, may or may not be made available. The Council cannot ensure its provision through the s106²³⁹. No uses of any kind are being promoted adjoining the arches. The submitted plans do not show replacement moorings for boats much less a landing stage to encourage such uses (although a condition ensuring replacement moorings is now accepted).
- 4.12 In opening the appellant was careful only to suggest accord with the Brief in terms of form and design²⁴⁰. Even so, to claim that compliance with *a maximum of 8 storeys plus penthouse setback and not exceeding 3 storeys along the Thames* is to deny and ignore not only the *Urban Design Objectives*²⁴¹ attached to the brief, but also the accompanying

²³⁰ dated 3 August 2001, colour version at LBH 21 appendix JWD6

²³¹ Mr Crossley’s evidence

²³² Mr Dickinson’s PoE 8.06

²³³ XX to Mr.Ormsby

²³⁴ SGWL 6

²³⁵ CD8/2 Para 4.2

²³⁶ CD8/2 Para 4.3

²³⁷ SGWL21

²³⁸ CD8/2 Para 4.7

²³⁹ Schedule E of s106

²⁴⁰ Para 12 SG1

²⁴¹ LBH 21 appendix JWD6

text²⁴², and Aukett's amplification of the design guidelines contained in the set of diagrams to the *Urban Design Framework*, was eventually acknowledged²⁴³.

Issue 2 The effect of the proposals on the character and appearance of the area including: the Kew Bridge Conservation Area; Strand on the Green Conservation Area; conservation areas within the London Borough of Richmond; the World Heritage Site at Kew; and the Thames Riverside

4.13 In order to assess the effect of the proposals on the character and appearance of the various conservation areas it is necessary to first define their special interest by reference to their historical development and the qualities of the buildings and objects within them.

4.14 The Council's evidence²⁴⁴ provides the most detailed assessment of the KBCA, including the history of the listed bridge, the Kew Bridge Steam Museum, the railway and, of course, the river. The tower aside, as the appellant recognises²⁴⁵, the KBCA is characterised by a considerable number of low domestic-scale buildings – cottages, shops and villas for the industrial work force. In addition, the remaining public house, again small scale, serves to remind one of the needs of those not just living and working in the area but also of those passing along Kew Bridge Road and over Kew Bridge itself. The industrial heritage of the area is not to be confused nor should it connote images of industrial scale buildings on the appeal site.

4.15 The maps supplied by both relevant witnesses show:

- the historic building line, which has for many years afforded uninterrupted views of the Star & Garter from Kew Bridge Road, also provides space on the approach to the busy junction as the roads converge. The appellant's efforts to rely solely on the 1865 Ordnance Survey (OS) map in re-examination is misplaced when regard is had to later events;
- the southern part of the appeal site has remained very largely open, occupied by small scale buildings, mainly boat houses (OS 1935 and 1960). Since its listing Kew Bridge has enjoyed an open aspect on its west side. The 4 storey office building²⁴⁶, Kew Bridge House, only came as far towards the river as a point just before the steps and included a 3 story element (OS 1960);
- the appeal site has been assembled from a series of separate plots with buildings of differing scale and uses but none as gargantuan as that proposed;
- historically the southern part of the site has provided a home for uses which have a functional link with the river.

4.16 In marked contrast to the character and appearance of the KBCA, the rationale behind the proposed development appears to be the series of obtrusive modern buildings which are not physically within the KBCA, and which are not a positive influence upon them.

²⁴² CD8/2 Para 3.6

²⁴³ Mr. Dickenson XX

²⁴⁴ Mr Warshaw's PoE Para 71-77

²⁴⁵ Mr Quarme 2.3.6

²⁴⁶ LBH 21 appendix JWP23

Evidence²⁴⁷ suggests that the character of the area is largely defined by modern buildings confirmed as²⁴⁸ Rivers House, Brentford Towers, Thameside Business Centre and Regatta Point. It is agreed²⁴⁹ that none of these are positive elements and none are neutral; they all connote negative influences on not just KBCA but also SotGCA and KGCA.

IMPACT ASSESSED FROM VIEWPOINTS

- 4.17 The CGI of the proposals from Viewpoint 1 at the edge of the KBCA looking towards the public realm illustrates the gargantuan bulk of the scheme²⁵⁰. It would comprise much larger elements than the other historic buildings – whether those in the KBCA proper, including the listed station building and those beyond stretching into Kew Bridge Road, or indeed those in the SotGCA namely the Star and Garter. The small trees shown on the layout plans will have no real impact in such a street scene given the scale of the building in relation to them, indeed they would be smaller than the self sown trees on site²⁵¹.
- 4.18 From Viewpoint 12²⁵², again within the KBCA, the setback of the historic building line helped to frame views of the Star and Garter. From this viewpoint the proposals would present a façade rising up to 13.7m²⁵³ with no fenestration above ground floor level. Not only would the building cut off the historic view of the Star and Garter²⁵⁴, it would offer a largely blank façade as the arrival point for those living in the affordable element of the scheme. Views from the SotGCA²⁵⁵ emphasise the importance of the Grade I Campanile rising up above and contrasting with the more domestic scaled buildings, whether they be in the SotGCA or the KBCA. From Viewpoint 2 the Campanile would be obliterated²⁵⁶. Views of the landmark Campanile would be denuded and other lower listed buildings within the group would be obscured. The proposals would dominate when seen from the most prominent river viewpoint within SotGCA. Far from acting as a gateway landmark, the proposals would diminish the landmark status of the Campanile and rise above Kew Bridge in an unprecedented manner. None of the Brentford Towers, Rivers House or Vantage West – which all rise above the Grade II bridge in various viewpoints – should act as a precedent.
- 4.19 From the towpath within the KGCA²⁵⁷ the CGI again demonstrates the dominating effect from the opposite river bank. The picturesque quality and charm of the river bank would be lost. Unlike the 4 and 5 storey Thameside Centre, which comprises five distinct buildings and roof forms set at an angle, from the river and towpath the proposal would read as a large, dominating urban building. In short, the proposals would not preserve or enhance the character or appearance of any of the relevant conservation areas.

THAMES RIVERSIDE

²⁴⁷ Mr Crossley PoE 5.2.3

²⁴⁸ Mr Crossley in XX

²⁴⁹ In Mr Quarme's PoE paras 2.3.14 re Vantage West, 2.3.16 re Rivers House, 2.3.21 re Thameside Centre and 2.3.24 re Brent Towers and in XX

²⁵⁰ LBH 21 JWP12 Viewpoint 1 compares with PC 1.1.1 and PC 3.3.2

²⁵¹ Mr Warshaw PoE para 53

²⁵² LBH 21 JWP 22 Viewpoint 12

²⁵³ LBH 12

²⁵⁴ Mr Eversden's cross examination

²⁵⁵ LBH 21 JWP13 Viewpoint 2 and JWP14 Viewpoint 3

²⁵⁶ Mr Warshaw's PoE para 54

²⁵⁷ Viewpoint 8, JWP19 (PC 1.2.4)

4.20 The Thames Landscape Strategy (TLS), Hampton to Kew²⁵⁸ makes reference to the 6 tower blocks *dominating many of the views from the Royal Botanic Gardens and the river itself*²⁵⁹. The frontage of houseboats and trees is said to reduce the impact of new office developments – this is agreed to be a reference to Thameside House. Rivers House is agreed to be the bright blue and white building referred to as jarring on the scene. In terms of describing the views across the river from Kew Green, the Steam Museum, Kew Bridge itself, the houseboats and the willows of Brentford Aits are described as making a *fine view*²⁶⁰. These fine views would be compromised by the appeal scheme. Moreover Policy Proposal 12.2, which speaks of protecting the visual links between the Kew towpath and the Steam Museum tower, would also be compromised. Policy Proposal 12.3 is aimed at preventing further high rise buildings from intruding into the Brentford waterfront massing. The proposal is plainly at odds with these sentiments. The TLS has nothing positive to say about the large buildings which the appellant considers to be so important to its urban design approach.

THE WORLD HERITAGE SITE (WHS)

4.21 The WHS adds another layer to the conservation area designation already enjoyed by the Royal Botanical Gardens²⁶¹. The buffer zone, within which the appeal site lies, straddles not only the KBCA, but also the SotGCA and KGCA. Whilst no statutory controls follow from this designation, it nevertheless highlights the outstanding international importance of the Kew Gardens. Whilst the impact of the proposal will be less due to the distance compared to the more immediate KBCA, SotGCA and KGCA, the WHS designation reinforces its significance. As Map 4.1 demonstrates, the development will impact on a significant view from Kew Bridge across to the Gardens²⁶².

Issue 3 Whether the proposals would preserve the special architectural and historic interest of the adjacent listed buildings or their settings

4.22 Whilst the reasons for refusal do not raise concerns specifically with regard to the listed buildings, the Museum including a number of the buildings within the complex, the Bridge, the Station and their settings are all key components in the KBCA; they are positive elements. The concerns raised with regard to the KBCA are particularly pertinent in the context of the setting of the listed structure of Kew Bridge and the Campanile. The setting of a listed building should not be interpreted too narrowly²⁶³, a bulky building might affect the setting from some distance away and there is no dispute that the proposals will affect the settings of the bridge and the Campanile. Views of these magnificent structures will, if consent is granted, be diminished by the domineering presence of the proposal looming closer to the bridge than anything seen over the last centuries.

Issue 4 The living conditions of future residents and existing neighbours with regard to: outdoor amenity space; sunlight and daylight; outlook

4.23 Of the 238 units proposed, 138 would have two bedrooms or more. Two bedroom units are regarded as being capable of family occupation for the purposes of planning policy. 58% of the units would therefore be capable of being used as family accommodation.

²⁵⁸ CD 8/3a

²⁵⁹ Landscape character Reach No.12 p 163

²⁶⁰ p164

²⁶¹ Appendix I to the evidence of the Council of the London Borough of Richmond

²⁶² P 21 RBGK written reps

²⁶³ As para 2.17 of PPG15 advises

- 4.24 As PPS1 makes clear: ²⁶⁴ *Planning authorities should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces ... Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. Planning authorities should prepare robust policies on design and access... Key objectives should include ensuring that developments ...optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments).*
- 4.25 The proposals would pay scant regard for the needs of residents for amenity space. The appellant regards this as largely unnecessary in a location close to Kew Green and Kew Gardens. PPS1 does not support such an approach. The Council's SPG does not support such an approach²⁶⁵ but provides a minimum standard which should normally be adhered to. For flatted development communal space is required; the bigger the flatted development, the more important it is that amenity space should be provided. The SPG throws up a requirement for 6160 sq m of communal space; 2425 sq m of which is required for the affordable housing element and 3735 sq m for private housing.²⁶⁶
- 4.26 In respect of the affordable housing element, only 200 sq m would be provided at ground floor level in an area sandwiched between the cycle storage and bins which also acts as a conduit between the gate off Kew Bridge Road and the entrance into the affordable housing block. The rest, 223 sq m as originally proposed and the extra 227 sq m suggested in SGWL19, would be at a high level. As accepted²⁶⁷, none of these areas would afford any really usable play space. Nor in reality, would they act as areas where people could sit outside or indeed enjoy as part of their outlook or visual amenity. Nor as accepted, would the public square offer any visual amenity to those residents who do not benefit from views over it. None of the residents of the affordable units would enjoy that privilege; they would not even be aware of it from their accommodation. Nor could the courtyard, comprising the pedestrian and vehicular entrance to the private and commercial units and to the basement car and cycle storage areas, offer any usable play or sitting out space. Whatever it offers would in any event be dark and gloomy for most of the year.
- 4.27 At best, 623 sq m of 'affordable' communal space could be provided and in reality this would be unlikely to be useful amenity space. Even if it were, the scheme would still only provide about ¼ of the communal space required. The private accommodation would be afforded 945 sq m of communal space, mostly at very high levels. Although some residents would have private balconies, the majority of the space would be part of the rather exclusive penthouses facing onto the Thames.
- 4.28 On a conservative basis, 238 units, the majority of which can accommodate 2 plus people, would generate at least 500 people, yet no real amenity space would be provided. This is an objective indicator which suggests the scheme really does comprise simply too much development. Self evidently it would fail to provide adequate usable private amenity space. Nor is the prospect of an urban square, accessible by the public, apparently to be maintained by the occupiers through the control of the developer, sufficient to offset the

²⁶⁴ PPS1 para 34 and 36

²⁶⁵ CD8/4 P 34

²⁶⁶ figures agreed in Dickinson XX

²⁶⁷ Mr Dickinson in XX

deficiency. One third of the urban square would in fact be part of the public highway. There is as yet no design scheme for the landscaping or treatment of that square such is the importance the appellant attaches to it. The provision of amenity space is mean in the extreme and geared largely to the private purchasers. This is not the hallmark of good or inclusive design. This militates against granting permission.

SUNLIGHT AND DAYLIGHT

- 4.29 In the context of sunlight and daylight, the appeal site is unconstrained by neighbouring buildings. The proposed development should therefore meet the BRE Guide and British Standard²⁶⁸. Such a development would be a hallmark of good design. The converse must also be true. As the BRE Guide advises²⁶⁹: *people like sunlight*²⁷⁰ and it can have a therapeutic effect. The main requirement for sunlight is in living rooms and of course the site layout is the main factor in achieving this. No real effort has been made to orient living rooms to face south. Even with a random arrangement, 60 living rooms would be expected to face in each direction. In fact there are more facing north than south.
- 4.30 106 dwellings (44.5% of the scheme) would have no main window wall facing within 90 degrees of due south²⁷¹. The BRE Guide advises²⁷² that such dwellings are likely to be perceived as insufficiently sunlit. The appellant suggests only 66 dwellings clearly face north and that in any event it cannot accurately be predicted, from the information currently available, whether units face 1° south or north of east or west²⁷³. This is in stark contrast to the suggestion made²⁷⁴ that in fact the courtyard had been deliberately skewed so as to avoid the need to test the annual probable sunlight hours, in accordance with the advice in the BRE Guide.
- 4.31 Access to sunlight is enhanced if new buildings overshadow others as little as possible. Opening the courtyard to the south – as has been done at Imperial Wharf²⁷⁵ – would be one way to improve access to sunlight for those in flats onto the courtyard. In the appeal proposals too little sunlight would enter the courtyard²⁷⁶. The arm of development to the west of the square would overshadow the public square in the afternoons and evenings. There is nothing to have prevented sensible steps being taken so as to maximise sunlight. This is another indicator of a poor design which seeks to cram too much onto the site.
- 4.32 With regard to internal daylight, it is agreed that the ADF method is the correct method for assessing the internal daylight potential for the Appeal Scheme. However, the appellant insists on using a transmittance value of 0.8²⁷⁷ while accepting that today's building regulations would not permit the development to be constructed using glazing with such a poor transmittance value²⁷⁸ and not disputing the Council's note on the subject²⁷⁹. The

²⁶⁸ accepted by Mr Webb in XX

²⁶⁹ CD13/1 under the heading New Development on p 9

²⁷⁰ CD13/1 para 3.1

²⁷¹ Dr Littlefair's assessment is on the basis of the application drawings

²⁷² CD13/1 P 10

²⁷³ Paras 5-14 daylight/sunlight SoCG

²⁷⁴ in cross examination

²⁷⁵ and included on the accompanied site visits

²⁷⁶ Figure 2 of Dr Littlefair's evidence

²⁷⁷ Mr Webb PoE

²⁷⁸ Mr Webb XX

²⁷⁹ LBH2

appellant relies upon the Decision at Imperial Wharf²⁸⁰ to justify this unrealistic approach which reduces the number of units that otherwise would not comply with the BRE Guide on ADF. In circumstances where the building regulations require windows with a higher transmittance value, there is no reasonable basis for continuing to use a transmittance value which, as accepted in cross examination²⁸¹, produces an artificially high ADF.

- 4.33 The other principal difference between the parties' ADF calculations is the size of the windows to be used. The net area of glass would be 2.88 sq m as the Council put forward²⁸². Eventually the appellant's witness accepted in the note submitted to the inquiry²⁸³ that his figures had not been done on a net glazing basis.
- 4.34 The preferred approach to the ADF values demonstrate – excluding balconies with a maintenance factor,²⁸⁴ – that only 4 windows would meet the ADF value of 1.5, namely flats 5, 6, 7 and 173. Even excluding the maintenance factor, again only the same 4 flats would meet the ADF²⁸⁵.
- 4.35 With regard to the impact of the development on neighbouring properties, it is agreed that the VCS calculation is the correct methodology to employ. Of the 50 windows tested²⁸⁶ on the ground, first and second floors of 10-15 Green Dragon Lane, 21 windows would fail to achieve the recommended 27% or more and all would also be less than 0.8 times the existing VSC values.
- 4.36 There is no justification for the failure to pay proper regard to the living conditions of the occupiers of Green Dragon Lane. The situation is compounded by the immobility of some of these residents²⁸⁷. Evidence shows²⁸⁸ that moving the development back by 4m and lowering it by a similar distance would ensure that existing residents continue to enjoy levels of daylight recommended by the BRE Guide. The consequences of the proposals, on the other hand, would be a serious infringement which would be noticeable to these existing residents. This is another factor which militates against the grant of permission. Such a failure has all the hallmarks of poor and un-neighbourly development. It is exactly what the Brief was seeking to avoid when advising that development of the appeal site should not dominate or overshadow²⁸⁹ the properties opposite.

THE EFFECT OF TRAFFIC GENERATED ON HIGHWAY SAFETY AND THE FREE FLOW OF TRAFFIC

- 4.37 The proposed pick-up/drop-off and servicing facilities are described in the appellant's third Transport Assessment (TA)²⁹⁰. The courtyard would be a drop off area, with two bays where vehicles could park without obstructing vehicle flows. Vehicles up to the size of a transit van²⁹¹ would use this area to collect and drop off. The TA refers to studies²⁹²

²⁸⁰ CD15/9

²⁸¹ Mr Webb XX

²⁸² Dr Littlefair's PoE

²⁸³ Mr Webb, SGWL23

²⁸⁴ SoCG Appendix 6, Table B

²⁸⁵ SoCG Appendix 6, Table D

²⁸⁶ On the basis of Dr Littlefair's results

²⁸⁷ as described by Dr Littlefair

²⁸⁸ Dr Littlefair PoE

²⁸⁹ CD8/2 para 3.5

²⁹⁰ CD5/5 para 5.5.1

²⁹¹ WSP confirmed

²⁹² carried out by WSP

which indicate that 75-80% of servicing for the type and scale of development would be by light goods vehicles and only 20-25% of servicing would be expected to be by larger vehicles. The service vehicles over the size of a transit type van, including refuse collection vehicles, would access the site from the adjacent office development known as Thameside. The reason that the TA identified the quantum of servicing within the courtyard is because only one loading bay would be provided for the whole development from the Thameside service corridor.

- 4.38 This TA has never been withdrawn. Nowhere is it explicitly stated that the single service bay would be the only bay for all servicing vehicles to all parts of the development. The adequacy of such provision is not demonstrated much less proven. The picture painted in cross examination ²⁹³ contradicts the TA but it was accepted that transit vans will be physically able to access the courtyard. Instead it was suggested that the scheme will be managed so as to preclude them from doing so. This would rely upon an unwritten travel plan. In the face of criticism as to the level of amenity offered by the courtyard, the appellant now seeks to convey the impression that vehicular access to the courtyard would be limited and that indeed transit vans would be excluded. However, unless the prohibition is physically and legally controlled such a claim cannot be relied upon. It would not be achieved either through the s106 or the conditions. The Council would not support such a prohibition on the basis of the TA submitted with the application and the provision of a single bay. This suggestion should carry no weight.
- 4.39 Evidence on trip generation focused on residential trip rates. Despite reliance on the November 2004 TA at the time of this application for 238 units, it was argued in evidence that the previous rates should be substituted for a mere 37 two-way peak hour trips to and from the scheme and that these were *car driver* trips. Later it was suggested that the figure of 37 included all service and delivery vehicle, but with no explicit reference in evidence to this very late change it should attract little if any weight. To assume that no vehicular traffic associated with the commercial floorspace would enter or exit the courtyard is equally unrealistic and the figure of 37 two way trips in each peak hour should be regarded with extreme caution.
- 4.40 The issue concerning the left in, left out and right hand in access appear to be entirely avoidable. The section 52 agreement ²⁹⁴ to what is now the Thameside Centre ensures that the appeal site could be accessed via the service road provided. The proposed access cannot facilitate all movements because of its proximity to the junction with Kew Bridge. The concerns ²⁹⁵ about the inadequacy of the 5.5m carriageway have prompted the appellant to provide drawing no. ACC/02 ²⁹⁶. The Council accepts that a 6m carriageway width can be accommodated and urge that it be provided through the medium of the Grampian condition suggested. An additional concern anticipates rear end shunts caused by confusion between those turning right into the appeal site and those turning right to go over Kew Bridge.
- 4.41 The remaining concerns stem from the inability to accommodate right turns out of the development. The prospect of residents, workers and visitors needing to leave the courtyard and travel east, either to go over the river or up to Chiswick/M4 is real. The detour all the way down to Ealing Road and round to the A4 would act as an incentive to

²⁹³ Mr Liddell XX

²⁹⁴ LBH 16, Clause 8 and clause 9

²⁹⁵ articulated by Mr Martin

²⁹⁶ WSP drawing 'Widening Option' SGWL 17

undertake U-turns. The road layout to the west does not physically inhibit U-turns. Such manoeuvres present an added unnecessary and unwarranted risk. The Council have not resolved to implement a ban and even if they did, unless this could be effectively policed, it would not eliminate the risk.

- 4.42 The introduction of the access into Kew Bridge Road would also give rise to the need for even more street furniture in the KBCA. To raise public awareness of a right hand turning lane, in an attempt to avoid the “*shunting*” would require an island. Railings would also be required to inhibit pedestrians from crossing the road. This would reinforce the negative and intrusive nature of the existing street furniture in the KBCA.

HOUSING DENSITY

- 4.43 In assessing the density of the scheme (against UDP Policy H.4.2) it is appropriate to use the net area as defined at paragraph 8.31, that is the net area of the site plus the area of half the width of the highway adjoining the longest boundary, up to a maximum of 6m. The appellant’s figure of 781 hr/ha is based on 0.81ha site. It is unclear why this calculation should include the area within the red line which includes the towpath and part of the river. Such a calculation is contrary to paragraph 8.31 which states any adjoining river or open space should be excluded. The figure of 781 hr/ha is therefore artificially low for the methodology adopted in the UDP. Nevertheless this is an objective indicator of the extent of the development. Even by the standards of Rivers House and Regatta Point, relied upon in an urban design context, with their densities of 395 hr/ha and 288 hr/ha²⁹⁷ the proposal is well over twice their density. Plainly the scheme fails to comply with Policy H.4.2 of the UDP (although it is recognised that in the context of density the London Plan should take precedence).
- 4.44 London Plan Policy 4B.3 requires Boroughs to adopt the residential ranges in Table 4B.1. Strategic referrals to the Mayor will be refused if, taking into account context and potential transport capacity, the potential of the site is underused. Applying the density matrix of the London Plan involves applying the same approach to net residential areas as in Annex C to PPG3²⁹⁸. Self evidently this requires excluding the public square²⁹⁹. Applying the proper methodology against the matrix in Table 4B.1 the density of the scheme would be 1091 hr/ha. In considering the density ranges indicated in Table 4B.1 a judgment needs to be made in respect of location, PTAL and setting. This location straddles a suburban setting as evidenced by the 2/3 storey development in neighbouring Strand on the Green and Green Dragon Lane. While there is 4 storey development opposite and at the adjacent Thameside Centre, the appeal site is plainly on an arterial route in outer London not in a central setting.
- 4.45 Another component in Table 4B.1 is the accessibility index. In assessing the PTAL it is necessary to apply the correct methodology. Transport for London (TfL) – an organisation within the umbrella of the Mayor – is the custodian of the PTAL methodology for the purposes of the London Plan. In April 2003 the appellant accepted a PTAL calculation of 3³⁰⁰ excluding Gunnersbury Station and the H91 bus. Over the months the appellant’s PTAL calculations seem to have see-sawed, rising to PTAL 4³⁰¹ in

²⁹⁷ Mr Eversden XX of Mr Dickenson

²⁹⁸ Para 4.48

²⁹⁹ Accepted by Mr Dickenson in XX

³⁰⁰ CD1/5 Table 3, p 5

³⁰¹ CD 5/5 Table 4.1 p.15

November 2004, including H91 and Gunnersbury Mainline, on the basis of assessed walking distances of 600m and 920m respectively. The calculations at IL1³⁰² exclude H91 and Gunnersbury Station. Confusingly, and as was relied upon in re-examination; the text³⁰³ refers to the nearest H91 bus stop on the basis that it is within the 640m PTAL threshold. The last, and preferred PTAL³⁰⁴ calculation, demonstrates that a PTAL of 4 is only achieved by including H91 and the actual bus frequencies as opposed to the contractual frequencies³⁰⁵. To include the H91 bus, which is now accepted to be beyond the 600 metre threshold, would be a misapplication of the PTAL methodology. The appellant is clinging to an artificially high PTAL. The letter from TfL³⁰⁶ confirms the Mayor's position that the PTAL calculation is in fact 3.

Issue 1 Whether the proposals would comply with the development plan, including the LBH's UDP, the London Plan, national policy; the Council's adopted Planning and Urban Design Brief for the site; and the Thames Landscape Strategy

UDP

- 4.46 The proposals would significantly exceed the height of the surrounding buildings and so fail to accord with Policy ENV-B.1.2³⁰⁷; they would fail to preserve or enhance the character or appearance of the conservation areas and adversely affect the landmark Campanile and views from Stand on the Green³⁰⁸, contrary to Policies ENV-B.2.2³⁰⁹ and ENV-B.2.8.
- 4.47 The appeal site is within the Thames Policy Area as designated on the Proposals Map 3. With regard to the Thames Riverside, the development would not respect local scale, would urbanise the river edge and fail to properly take account of the sensitivity of the site to listed buildings and so conflict with Policy ENV-W.1.1. Whilst a square would be provided, the design would result in it being overshadowed, and hardly foster the good design required.
- 4.48 The requirement for replacement moorings and related services, which could be controlled by conditions, would ensure compliance with Policy ENV-W.1.9³¹⁰. However, Policy ENV-W.1.11 requires the maintenance and, where appropriate, enhancement of access opportunities to the foreshore. Had a boat club been provided on site, with provision for access to the river as envisaged in the brief, compliance with this policy would have been secured. As it is, there would be no enhancement.
- 4.49 The extant Proposals Map suggests that the towpath is included in the MOL. Whatever the position, the site is near the MOL and the engineering works required to reclaim parts of the appeal site to accommodate the underground car park would destroy the picturesque quality of the river. In that sense, even if the proposals would facilitate recreation and

³⁰² Mr Liddell's rebuttal SGWL27

³⁰³ Mr Liddell's rebuttal, s3, para 2.1.2, bullet 4

³⁰⁴ SGWL17

³⁰⁵ LBH13 p 3

³⁰⁶ LBH4

³⁰⁷ UDP p85

³⁰⁸ See Table Env 13.1 on pages 93 & 94 of CD8/1

³⁰⁹ UDP p90

³¹⁰ UDP p103

exercise, they would not comply with ENV-N.1.6³¹¹ as they would detract from the open nature and special character of the area.

- 4.50 The proposals, for a sensitive location, would fail to create a high quality building with its own sense of place and identity and as such would be contrary to Policy IMP.5.1.
- 4.51 Policy H.4.1³¹² requires that regard should be had to the Council's standards and guidelines for daylight and sunlight and private amenity space. Although it is suggested that the standards will be applied flexibly, the failure to provide sufficient private amenity space is indefensible. The fact that the densest part of this already very dense development – i.e. the affordable housing element – is where there is the biggest deficit in private amenity space renders the scheme all the more unacceptable. No private balconies or terraces are afforded to these residents. No private sitting out areas, readily accessible to all, would be provided. There would be no useable play space for families and children despite the fact that 58% of the flats would be of 2 or more bedrooms, contrary to Policy H.4.4. These problems would be compounded by the fact that the only ground floor private area is a thoroughfare. To sanction this would not be a flexible application of the standards.
- 4.52 Plainly the density in Policy H.4.2 would be well exceeded. The policy anticipates higher densities being achieved but for predominantly non-family accommodation in town centre locations where there is no established residential character and the proposals conform to H.4.1. This proposal enjoys none of these attributes.
- 4.53 The inadequacy of the definition in the s106³¹³ means that the affordable housing, as required by H.2.1, would not necessarily be occupied by households identified as being in local need. This would also mean that the proposal fails to accord with Policy 3A.6³¹⁴, particularly the definition of intermediate housing³¹⁵. It would also be contrary to the Mayor's draft SPG on affordable housing³¹⁶.
- 4.54 The concerns which arise with regard to the means of access give rise to breaches of Policies T1.2, T4.3 and T4.4³¹⁷.

LONDON PLAN

- 4.55 With respect to the London Plan the proposal fails to comply with Policy 4B.1³¹⁸, particularly with regard to the fourth, seventh, eighth, ninth, tenth and eleventh unnumbered bullet points. It would not be the world class architecture the Mayor seeks to promote in Policy 4B.2. As a result of that policy breach, together with the failure to respect local context, the proposal would also be contrary to 4B.3. Equally importantly, a scheme of half the current density would still be compatible with Policy 4B.3³¹⁹.

³¹¹ UDP p68

³¹² UDP p154

³¹³ Schedule A, para 5

³¹⁴ of the London Plan, CD9/1 p60

³¹⁵ p61 para 3.26

³¹⁶ CD9/3, para 3.4

³¹⁷ UDP p 203

³¹⁸ CD9/1 p173

³¹⁹ CD9/1 p176

- 4.56 On the basis of paragraph 4.54, the scheme attracts and fails the policy imperatives set in Policy 4B.8³²⁰. It would be significantly taller than its surroundings and would have a significant impact on the skyline – that is self evident from the computer generated images³²¹. Equally, it would be a large scale and intensively used building and accordingly, quite separate from 4B.8, would need to accord with Policy 4B.9. The proposals would fail to comply with unnumbered criteria two, three, five, six, nine and eleven. In fact the proposals were originally referred to the Mayor although there is no formal Stage 1 report in respect of the latest scheme.
- 4.57 Given the river context, Policy 4C.20³²² is also pertinent. The proposal would not be of the human scale contemplated nor would it provide a landmark providing pleasing views without harming the cohesiveness of the water's edge. The picturesque quality of this stretch of the Thames would be lost. In this context the appeal proposals need to be distinguished from the Thameside Centre, which comprises five separate buildings, and provides physical as well as visual permeability.
- 4.58 In terms of national policy, the proposals fail to comply with the requirement in PPG15 with respect to conservation areas and the settings of listed buildings. In design terms there is a failure to provide the high quality design which is now the subject of so much emphasis³²³. PPG3 and the policy objective to make best use of brown field land provision of housing is not to be taken as overriding PPG15 considerations. Indeed the opposite is plain from the text of PPG3 at paragraph 54.
- 4.59 No doubt the appellant will rely on the 'on balance' recommendation of the Council's officers and the support of EH. The latter is entirely tempered by the use of the words *in the context of the approved Planning Brief*³²⁴. However, the Brief and the urban design objectives set at that time predate the conservation area. They should not and must not be allowed to blur let alone override conservation area considerations.
- 4.60 The appellant's case is almost entirely based on the background of mistakes of the 1960s. There is no warrant for repeating these mistakes. Little or no thought has been given to the conservation case despite the site's location surrounded as it is by conservation areas and teeming with heritage of the highest calibre. The river, lying so close by and so central to the historic setting has not been fully understood or appreciated. The proposals are contrary to the development plan and national policy. The planning appeal should be dismissed.
- 4.61 The Council did not present any evidence objecting to the Listed Building Consent appeal.

³²⁰ CD9/1 p181

³²¹ eg SGWL4

³²² CD9/1 p209

³²³ PPG15, paras 33-35

³²⁴ LBH21, JW 6-11, letter dated 18 January 2005

5. THE CASES FOR THE RULE 6 PARTIES³²⁵

The material points are:

The Strand on the Green Association (SGA)

- 5.1 The SGA is an association of local residents; it was founded in 1959. Three witnesses appeared for the SGA³²⁶. The Strand on the Green Conservation Area (SotGCA) was the first to be established in Hounslow, in 1968, and includes two small riverside parks and 30 listed properties. The evidence is limited to the effects the proposals would have on the character and appearance of the SotGCA, the settings of its listed buildings, the Thames riverside and the obstruction of historic local views and landmarks as a result of the proposed massive over-development and excessive height. The SGA is also concerned with the failure to re-instate the former boat club or to improve other amenities and the adverse implication for road safety; and set out conflicts with planning policy³²⁷.
- 5.2 Measured against the Brief, the UDP and the London Plan, the proposed density would be significantly higher than recommended in the ranges or maximum density set out in each and every one of these documents. The proposed height and number of storeys would similarly exceed those stipulated or recommended.
- 5.3 The Kew Bridge Conservation Area has now been established. All the surrounding buildings are of modest scale. The proposals would conflict with policy requirements for the conservation area as they would fail to respect local context or communities or preserve or enhance local social, physical, cultural, historical or environmental characteristics.
- 5.4 The proposals would not be attractive in views and would fail to provide an interesting skyline, respect privacy or relate positively to water spaces. They would obscure local views, including those of the Kew Museum standpipe tower, a Grade I listed building, which has historically been prominent as shown in the historical photograph from 1944³²⁸. In particular, from the Strand on the Green the standpipe tower would be almost totally blocked from view.
- 5.5 The appellant over-estimates public transport (the PTAL is 3) which is below average³²⁹. As a result, traffic would spill into neighbouring streets requiring controlled parking to the detriment of existing residents. The access proposal would pose a significant risk to highway safety.
- 5.6 For centuries the area around the appeal site has been characterised by open space on either side of the north bank of the bridge. Part of the importance of the bridge, the third on this site, is the prominence it is given by the open space on either side. Activity associated with the area has been boating access to and from the Thames; this pre-dates

³²⁵ under Rule 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000

³²⁶ First, its Chairman John Ormsby. Second, Nigel Moore, a representative of a Stakeholders Forum to the Mayor's Waterways Steering Group responsible for advising the Mayor of London on the content of the waterside policies in the London Plan; the role of this, and two other groups, has been defined in the London Plan (Annex 5.9). Third, Paul Velluet, former Assistant Regional Director in the London Region of EH, heading the Central and West London Team, until November 2004

³²⁷ Mr Ormsby's proof of evidence

³²⁸ at SGA 7.7

³²⁹ SGA5 E-mail from Will Steadman to John Ormsby: the Public Transport Accessibility Index (PTAI) is 14.72 which translates to a PTAL of 3; a PTAI of 15 would translate to a PTAL of 4.

any of the bridges at this point. Until recently the appeal site included an elegant boathouse³³⁰ with landing stage which was cleared when a previous permission was granted to re-develop the site.

- 5.7 The central, positive, aim of the Blue Ribbon Network (BRN) policies of the London Plan is to ensure that all development alongside the capital's waterways prioritises uses and activities that need such a location. The placing of the BRN policies within the section 4 cross-cutting policies of the London Plan emphasises that special consideration and weight must be given to these policies when the location demands it. The location of this appeal site does demand it.
- 5.8 Section 4C of the London Plan deals with the Blue Ribbon Network. Paragraph 4.74 states that *The Mayor has a visionary approach to the BRN, taking the water as the starting point for decision-making*. The policies list six principles:
- To enable and support uses and activities which require a waterside location. Despite the site Brief calling for re-instatement, the proposals do not provide for a boat club, two boat houses and landing stage having been previously demolished; the offer to support off-site canoe club storage within TfL premises nearby does not address the requirements of the Brief or the BRN. At best this aims to mitigate against the failure to provide facilities on site.
 - To protect and enhance the BRN as part of the public realm contributing to a safe and healthy network of open space. Instead of contributing positively to open space the proposals would fill in half the flood plain with the positioning, height and bulk of buildings producing an enclosure between bridge and buildings and removing much of the feeling of open space.
 - To exploit the potential for water-borne transport, leisure, tourism and waterway support industries. These considerations are simply not addressed at all.
 - To ensure the BRN is accessible to all. Public access already exists as a rare sylvan pathway. These special characteristics would be destroyed. While providing access for stationary viewing the historic access to and from the river would be lost.
 - This objective ties in with Objective 4. The replacement path would be much more difficult for cyclists.
 - To protect and enhance the biodiversity and landscape value of the BRN to make London a more attractive, well-designed and green city. The proposed new habitat would replace the existing long-established habitat and attempt to mitigate against this loss. Furthermore the hard paving would encourage water to run directly into the Thames and increase flood risk.
- 5.9 House boats would be completely exposed, close to the front of the building and subject to noise from people and cycles clattering along the boardwalk.
- 5.10 With regard to EH³³¹, evidence sought to clarify the official EH position up until November 2004 and to distinguish the overall EH concerns over height from its detailed comments in the context of the Brief³³².

³³⁰ photograph in Mr Moore's proof – Document SGA1

³³¹ Mr Velluets's PoE, SGA6

London Forum of Amenity & Civic Societies (LFACS)

- 5.11 The LFACS³³³ is an association of over 130 resident, civic and amenity groups throughout Greater London. The LFACS was closely involved in the examination in public of the London Plan. Evidence³³⁴ concentrates on the effects of the proposals on the character and appearance of the area, on listed buildings and their settings and metropolitan open land; living conditions for new and existing residents; traffic; and the boat club and waterway usage. It makes extensive references to the Brief, policy on tall buildings, and the housing density which might be appropriate.
- 5.12 Residents and their elected representatives had expected, for several years, a building which conformed to the words in the Aukett appendix which defined the objectives of the Brief for the site. In particular, they expected a building set back from Kew Bridge Road and Kew Bridge. That would reduce a building's impact, even if it was eight storeys at its north elevation plus two at the road junction corner. Due consideration should be given to that appendix, as embraced by the recent UDP, despite the legal challenge raised on its status.
- 5.13 The loss of views of the landmark Grade I water tower and harm to the views within and out of the KBCA and into and out of the SotGCA and the KGCA, would be contrary to PPG15. This is reinforced by the pictures, photo simulations and evidence.
- 5.14 Attention was drawn to the requirements of London Plan Policies 4C.3, 4C.7 and associated paragraphs for avoiding development into river water space and setting it back from flood defences. For these reasons the proposed development should be not allowed; development should take into account the inter-tidal foreshore water space areas. The building density would be far in excess of the range of "appropriate" density for the site which is itself restricted by transport accessibility³³⁵.
- 5.15 If maximising the building footprint is allowed, with boundary overhang, then distances to its neighbours and streets would be reduced and the impact would be considerable. Account must be taken of the plea by the Green Dragon Lane Residents Association for consideration of the changes for residents in flats there and their concern at the adverse effects of the building in its proposed form and footprint on the lives of people living on the north side of Kew Bridge Road, some of which could be avoided.
- 5.16 The adverse quality of life and amenities of the proposed building's residents should be considered with low light levels in the inner court well. Also the effect of overlooking from terraces to balconies, other roof areas and into the garden court for affordable housing occupiers. Amenity groups are concerned about the conditions for future residents.
- 5.17 Extending the building perimeter to the maximum footprint would rule out options for adjacent road widening, road safety improvements and enlarging the road space of the main traffic intersection and junction of the A315 and A205. That would be contrary to sustainability principles. 'Safe routes to school' are high on LBH's environmental agenda. The same consideration should be given to safe routes to play space for any development on this site.

³³² EH correspondence at SGA4, LBH JW6-11 and Document 3

³³³ of which Mr Eversden is Chairman

³³⁴ Mr Eversden's

³³⁵ London Plan paragraphs 4.45 and 4.46 and Table 4B.1

- 5.18 A further traffic related concern was raised³³⁶ over what would happen should a vehicle, perhaps a delivery van or visitor, turn in towards the courtyard but be refused entry at the security gates as reversing back out onto Kew Bridge Road would create a further significant hazard.
- 5.19 The LFACS concluded that the proposals would be excessive in terms of height, bulk, density and proximity to the river; would harm the quality of life of residents; and destroy the natural habitat of The Hollows.

5.20 Brentford Community Council (BCC)

- 5.21 Two witnesses appeared for the BCC³³⁷. The BCC is not opposed to the redevelopment of the site for mixed commercial and residential purposes. It opposes the current proposals as failing to meet the Brief which itself exceeds the level of development which would be appropriate for this site. The scale and height would significantly harm the conservation areas, listed buildings and Thames riverside. There would be adverse implications for road safety and parking. There would be insufficient affordable housing provision, particularly for families, and the proposals would lack suitable amenity and play space.
- 5.22 Measured against the TLS the proposed development would conflict with Policies LC1, LC6, LC9, NC3, NC4, RL11 and Proposal Policy 12.3 in that, respectively, it would not conserve the unique character of the Thames landscape; fail to provide a mooring or jetty, natural riverside walk or a riverside pub; fail to provide a boat club; replace a natural water edge with an artificial board walk; remove willows and the natural embankment; fail to encourage boats of all sorts; provide a flat-roofed high-rise building which would intrude into the Brentford waterfront massing where there was only a three-storey building before.
- 5.23 Brentford has recently seen a spate of new housing completions on 3 sites and permissions have been granted for 8 more sites³³⁸. 5 further applications have been registered. The total potential development is for 5,755 new homes. If all these were built the population of Brentford could rise by 12,661 or 63%. It is likely that Brentford alone could meet the Borough's housing targets for the next few years. This population increase will require further health, traffic, police, educational, recreational and social infrastructure. Of all these sites the BCC considers that this site is the most sensitive to environmental and conservation issues.
- 5.24 The consequences of the proposed excessive residential density would include development which would be out of scale, not respect the character of the KBCA, lack privacy, create some flats in almost permanent shadow, provide limited space for landscaping, no natural landscaping to the river frontage, lack amenity or play space, and harm the environment for existing residents. The proposals would not provide a cycle route across the site which could avoid the Kew Bridge junction.
- 5.25 UDP Policy H.2.1 seeks 50% affordable housing. The BCC and GLA have requested a full mix including family housing. The proposals would offer roughly 40% which would be non-family housing and segregated from the rest of the site. The affordable housing would face north, have no river view, limited family size accommodation (which would

³³⁶ in Mr Eversden's cross examination of Mr Liddell

³³⁷ its Chairman Denis Browne and Rowan Moore, Director of the Architecture Foundation and architectural critic for the Evening Standard

³³⁸ Map 2 CD 15/10

not encourage people to stay in the area) and be socially divided with a separate gated entrance and no way of walking across the site to the public square.

- 5.26 The proposals would not be a high quality design³³⁹. The site is unique, on one of the most distinctive and beautiful stretches of the Thames, and where the context includes some fine and unusual buildings as well as some poor ones. The proposed development would be significantly larger than most of its immediate neighbours; where there are large buildings these are mostly destructive of the area's qualities and should not be taken as precedents. While contrasting scales are not always damaging, larger buildings make architectural skill more important, both because they are more prominent and because of the problems they bring with them. These include problems for open spaces within and around the site and the relationship with buildings of different scale. On most sites there is a point where a proposal can be too large even for the most skilled architect to overcome the negative effects of sheer size. This may well be the case here; certainly the architects have not demonstrated otherwise.
- 5.27 The negative effects of scale on this building would include the cliff-like north elevation, the cramped courtyard, north-facing living accommodation with a view only into the courtyard, the obtrusive effect of the building as a whole, and the lack of any relationship with its neighbours. Attempts to mitigate the scale, for example by a reduction to three storeys in a narrow strip on the river frontage, are unconvincing; the overall effect would be of a large and dominating building.
- 5.28 The poor quality of drawings offer little protection against a low standard of execution and do not indicate care on the part of the architects either for design quality or the effect on its context. They do not inspire confidence. There is little design coherence. Rather, the design appears as an ill-connected and cosmetic series of attempts to disguise the building's bulk. Other questionable elements include north facing balconies, planting where there would be little or no sunlight and awkward geometry within some flat layouts.
- 5.29 This is a unique site requiring a distinctive response. The proposed design is of a generic kind. Distinctiveness does not imply mimicry but should show evidence that surroundings have been considered. There is little evidence of that here.

The Kew Society (KS)

- 5.30 Its evidence³⁴⁰ concentrates on the riverside landscape³⁴¹. This has been recognised as of value through a number of policies formed to preserve it including the TLS, the BRN policies of the London Plan and various UDP policies. While the developers understandably want future residents to enjoy views of the riverside, and so propose to build as many windows, balconies and terraces as possible close to the foreshore, every view out is somebody else's view in.
- 5.31 The riverside currently consists of a 2m wide asphalt path with a 2m mud bank into the river and is known as 'The Hollows'. It is not under formal management but is a natural response to its current use and includes nine major willow trees which are pruned from time to time. It is not special but is typical. Replacing it with a boardwalk, a concrete face and a public square would be a loss to those who use it and view it from across the river. The KS raised 4 main concerns:

³³⁹ The opinion expressed in Rowan Moore's PoE, SGA10

³⁴⁰ Mr Woodman's PoE

³⁴¹ with a cover sheet depicting willows being pollarded along the banks of the Thames

- The Thames floods. The existing flood line at 5.94m above ordnance datum (AOD) cuts across the site. The proposals would develop within this flood plain and seek to replace the flood capacity by excavating and removing the towpath and foreshore.
- Part of The Hollows would be replaced by a wetlands habitat. At present the foreshore comprises a blend of mud and stones with the occasional clump of rushes. The proposed wetland would be quite different.
- The appellants are responsible for another wetland at Charter Quays in Kingston; it is not a success. No analysis has been offered in relation to the tides the wetland habitat would experience. It could be fairly dry for days at a stretch in which case it is likely to be invaded by water tolerant weeds such as docks. It may also be a place where rubbish would gather, either dropped from the boardwalk or washed up by the tide. The wetland would require long-term maintenance, which would be difficult to enforce, and is an admission that the habitat would not be a natural one.
- The boardwalk would provide a viewing platform for the river in front of the concrete defence wall. The wall has been designed to withstand impact. It is not evident that the boardwalk has. While it could be strengthened this would have further implications not shown, not least for the wetland habitat and its maintenance. Small boats could also get caught up underneath.

5.32 The Kew Society also highlighted concerns over daylight, sunlight and overshadowing, and amenity space already covered by LBH's case.

West London River Group (WRLG)

5.33 The WRLG comprises riparian amenity societies and other community groups whose areas of interest are on or near both sides of the River Thames between Kew Bridge and Chelsea³⁴². While concerned about many aspects of the proposals the WRLG concentrated its evidence on the river and river-related objections to the scheme, including the effects on the character and appearance of the area, as seen from the river, the riverside walk, its landscape, uses and views.

5.34 The WRLG suggested that the drawings contain too many ambiguities, errors and discrepancies for them to provide a reliable basis for a Decision. Overlays illustrate these concerns which are detailed in WRLG3. The current proposals are too big and too near the river. Possible lift shafts and safe netting around roof terraces would exacerbate this. Again overlays try to illustrate this point with further reference to what WRLG take to be the existing Environment Agency flood defence contour and the 4 storey building line. Recent developments by St George at Putney Wharf and Charter Quay have failed to abide by planning conditions in respect of the river. At Putney Wharf the slope into the river has been rebuilt such that it is no longer possible to get boat trailers across.

5.35 The proposals do not start from the water as required by the London Plan³⁴³, they make no provision for river uses or river-related uses or facilities. Initially there would have been no provision for mooring piles or services for houseboats, although this has now been addressed. Several other suggestions for items to be included in a s106 undertaking have not been followed up. No boatclub, landing stage or river access, in its proper sense, is proposed. The suggested support for the Kayak Club would be entirely outside the appeal

³⁴² The WRLG was represented by Mr Makower

³⁴³ Policy 4C.20

site. WRLG also passed on concerns expressed by the current business occupiers of the arches.

- 5.36 By excavating and removing the entire riverside walk and all its trees along the width of the site, the proposals would encroach massively into the public realm; overlay WRLG3/20 illustrates this. The layout of the proposed public open space would fail to acknowledge the resources which the river offers. The so-called 'wetlands habitat' would substitute the current bio-diversity with a tidal trap for flotsam and jetsam.
- 5.37 The replacement boardwalk would in fact be a footbridge; it would not compensate for the loss of the towpath. Although not yet detailed, the boardwalk would either be an unsafe hazard for small boats with no protection against being drawn under or else so heavily engineered as to be an eyesore. This matter is too important to be left to a condition.
- 5.38 WRLG continues to welcome the redevelopment of this site. However, the current proposals are not yet the imaginative, sustainable, community-oriented and river-friendly scheme that this prominent and important river and riverside site deserves; they are not good enough. Consequently the proposals would conflict with the BRN policies of the London Plan, the TLS, relevant UDP policies and the site's adopted Brief. Policy details are set out in WRLG2.

6. THE CASES FOR OTHER INTERESTED PERSONS

- 6.1 Councillor Paul Lynch chairs the Chiswick Area committee. His statement covered four topics. First he emphasised that views terminated by the Campanile are greatly valued by residents and visitors. Second that the proposals would not meet parking standards and that any current spare parking capacity on Strand-on-the-Green will soon disappear with a new Controlled Parking Zone (CPZ) in an adjoining area. A high density residential scheme will also make the difficult Kew Bridge Junction much worse. Third, the development would not have its own play space while it is surrounded by dangerous roads and a hazardous river. Finally, the outlook, and so custom, for the Express Tavern and Strand Café would be affected.
- 6.2 Councillor Ruth Cadbury is one of three elected representatives for Brentford Ward. She emphasised concerns for the effects on the KBCA and WHS; overdevelopment resulting in substandard levels of residential amenity within the development in terms of outdoor amenity, sunlight and daylight, and unacceptable reduction in amenity of neighbouring properties; adverse effects of the Thames riverside; increased traffic and access arrangements; the effects of proposed commercial uses on the economically vulnerable retail outlets in Brentford Town Centre; the lack of a replacement for the Rowing Club and floating landing stage and so little provision in respect of community benefit, also the opportunity to return the Victorian drinking fountain, measures should be put in place to ensure reasonable public enjoyment of the proposed square. Finally the level of informed opposition the proposals have generated should be noted.
- 6.3 Margaret Ball read her letter dated 15 May 2005, as annotated, with a wide range of concerns. These echo objections covered elsewhere.

London Borough of Richmond upon Thames

- 6.4 Paul Freer appeared for the Council of the London Borough of Richmond upon Thames to answer any questions on their statement and to supply a map of places within that Borough from which the Inspector should view the site.
- 6.5 Its Statement of Case draws attention to the London Plan Policies 3D.7, 3D.9, 4B.1, 4B.10 and 4C.20, to the TLS and the adopted Richmond upon Thames UDP as material considerations. Its concerns are particularly focussed on views from the towpath on the Surrey bank³⁴⁴, which is within the KGCA, MOL, and the setting of Kew Bridge – both a listed building and a ‘landmark’ in the Richmond UDP.

7. WRITTEN REPRESENTATIONS (Red folders)

- 7.1 A large number of written representations were received by the Planning Inspectorate, many are duplicate letters but many were not. Most representations covered matters dealt with in detail by the Council or Rule 6 parties. Additional points were made by the following parties:

English Heritage (EH)

- 7.2 The Historic Buildings and Monuments Commission for England (now known as EH) has been involved in extensive consultations over the appeal site from before the appellant owned it. EH reserved the right to appear at the Inquiry but in the event no current representative attended³⁴⁵.
- 7.3 Its letter to the Planning Inspectorate, dated 8 September 2003³⁴⁶, requested that the appeal schemes at that time should be dismissed in line with previous advice, and included copies of earlier correspondence from Charles Velluet³⁴⁷ whose letter of 5 June 2003 had welcomed the development of the site but considered that the scheme as submitted would have excessive height and bulk and fail to either relate satisfactorily to its immediate urban and riverside settings or provide for the effective protection or enhancement of the settings of the various listed buildings or the conservation areas. In reaching this view he noted that the heights would exceed those laid down as maxima in the Council’s adopted Brief. Many other details were also questioned at that time.
- 7.4 Subsequently Charles Velluet left EH. His personal views are reported as part of the case for the SGA.

Greater London Authority (GLA)

- 7.5 The GLA forwarded a report dated 18 February 2004 into the original 263 unit scheme. The report identifies the application as referable under Category 1C of the Schedule of the Order 2000 which could allow the Mayor to direct the Council to refuse permission. The report welcomes the increase in affordable housing provision from 30% to 40% but notes that there is no supporting information to indicate why the London Plan target of 50%

³⁴⁴ Proposals Map in Appendix G to the adopted Richmond upon Thames UDP

³⁴⁵ but also see LBH JW 6-11 and the evidence of Charles Velluet for the SGA

³⁴⁶ from the Historic Buildings and Areas Inspector, Michael Dunn

³⁴⁷ at the time when he was the Assistant Regional Director, Central and West London Team and Regional Architect, London Region

cannot be achieved on this site, given the likely value of the development. The report calls for a full justification before the application is referred back to the Mayor, indicating that 50% affordable housing should be achievable. Within the affordable housing provision the London Plan recommends that a guide of 70:30 social rented: intermediate housing is followed. At that time the supporting information indicated a 60:40 split without justification. Similarly around 77% would be one bedroom or studio units compared with larger private units. Again there is no justification for this. The entrance into the affordable flats via a narrow alleyway is not desirable and should be redesigned.

7.6 The GLA refers to the possibilities for landscaping to benefit biodiversity, such as vegetated roofs, and sustainable design and construction. It requested supporting information regarding the energy, waste and water strategy for the development and how renewable/sustainable approaches to these issues would be incorporated.

7.7 Many of the GLA's comments are covered elsewhere³⁴⁸.

Transport for London (TfL)

7.8 Given the likely impact of the development on the bus network TfL expects to see a s106 agreement to provide a funding pool for planned improvements to pedestrian links to public transport nodes and to encourage prospective occupiers to use public transport. This would mitigate against danger to pedestrians and cyclists from increased use of the proposed access. Its letter dated 19 May 2005³⁴⁹ confirms that it has no objection to the development on highway grounds but seeks a condition to control the access details.

7.9 TfL's latest letter to the Inspectorate dated 27 June 2005 confirms that using the agreed methodology the site has a PTAL of 3. Subsequent correspondence has been covered by witnesses for the main parties³⁵⁰.

Royal Botanic Gardens, Kew (RBG)

7.10 Its representations set out the importance of the gardens which have been designated as a World Heritage Site (WHS). While having no statutory status, the WHS Management Plan aims to sustain and conserve the outstanding universal values of the WHS, including the protection and enhancement of its setting. The Plan also defines a 'buffer zone' of areas key to the protection of significant views in and out of Kew. Map 4.2 shows the buffer zone cutting across the appeal site while Map 4.1 identifies significant views in and out, including a significant view towards Kew Gardens from the north end of Kew Bridge and views out from the north end of Kew Gardens across the site.

7.11 In particular the RBG contends that without any tree screening, unlike other recent developments along the Brentford riverbank, the proposals would dominate the riverside and contribute to a sense of encroachment and creeping urbanisation of the riverside. This would be particularly apparent at night when light pollution would have a major impact on the character of the river landscape; this would not be mitigated by tree screening.

³⁴⁸ particularly by the appellant at para 3.31

³⁴⁹ Document 3 (Red folder)

³⁵⁰ SGWL20

Other Representations

- 7.12 **The Brentford Waterside Forum** represents a variety of organisations and individuals concerned about the water frontages of Brentford. It wrote to object on 5 counts including the removal of mature trees; the flood plain arrangement - which it believes will silt up and act as a catchment area for debris; the lack of a boathouse and sea cadet facility; the position of the open space – shaded from the afternoon sun by the western wing of the scheme but which could be inviting and warm if the scheme were set back; and the overall height compared with the Thameside Centre. It did not object to development of the site, only to the degree of encroachment close to the river.
- 7.13 **Kew Productions** runs a business under one of the Kew Bridge arches. Its concerns include the loss of toilet facilities which it rents from LBH, loss of parking and disruption to deliveries from construction work.
- 7.14 **The Hollows Association**³⁵¹ wrote initially to raise concerns also voiced by others and later to highlight the need for slip-road access to houseboats in the event of an emergency.
- 7.15 **The Amateur Rowing Association (ARA)**³⁵² wrote to make clear that there is certainly a demand for a boathouse at the site following the relocation of the Horseferry Rowing Club. While there are boathouses near Chiswick and Barnes Bridge there are currently no facilities to serve the communities of Brentford and Isleworth; both these are areas which LBH and the ARA are targeting as they include pockets of deprivation and low participation in sport. In addition there is a clear demand for boat storage space with the stretch of water above Kew Bridge without a boathouse until Eel Pie Island at Twickenham.
- 7.16 **The West Chiswick and Gunnersbury Society** wrote to advise that it considers the current 238 scheme to be only a very minor amendment to the earlier schemes and that consequently its previous objections still apply.
- 7.17 **Historic Royal Palaces** is responsible for Kew Palace and wrote to support the views of the RBG regarding the effect of the proposals on the setting of the palace.

8. CONDITIONS AND PLANNING OBLIGATION

CONDITIONS

Appeal A – Planning Application

- 8.1 Suggested conditions, with reasons and as amended by both main parties³⁵³, were discussed at the Inquiry. My suggested conditions, should the FSS be minded to allow the appeals, are attached at Annex 1. Most of my suggestions follow those of the main parties, including numbering, and for the same reasons, except for minor wording and to accord with Circular 11/95. My reasons for varying other conditions are as set out below.
- 8.2 To allow flexibility in the phasing of construction, condition 17 should be omitted; its requirements can reasonably be incorporated within condition 3. LBH suggested that

³⁵¹ Document 11

³⁵² Document 14

³⁵³ Document 17

details of the form of construction be required by condition 4 but, with no evidence that for new building work, as against repairs to historic buildings, this would substantially affect appearance, this would be unnecessary. Clause (v) to condition 7 would be covered by advertisement regulations and so is unnecessary.

- 8.3 Amongst other things, condition 9 is necessary to prevent too bland a streetscene; too much frontage given over to B1 uses would hinder this aim. About a quarter, or 2 bays, is likely to have limited impact and this would equate to around 14m of frontage at most. Reference to Kew Bridge Road could be misinterpreted as permitting B1 uses along Kew Road as well and should be omitted. To allow flexibility of control in an area subject to market forces, variation should be permitted by agreement.
- 8.4 Suggested condition 10 aims to reduce noise from the commercial uses. However, apart from controls already available through the building regulations, this would be impractical. Condition 19 would be necessary to alleviate flooding concerns. To deal with railings which might not be on the boundary, reference to them would be more appropriate in condition 21 than 20. Suggested condition 26 would be covered by condition 30.
- 8.5 While condition 31 would control the details of the proposed boardwalk it would not necessarily overcome the contradictory requirements of being light and robust. Condition 32 would repeat condition 18 and is unnecessary. By agreement, condition 35 should be omitted. Overall heights are shown as AOD on the drawings; to safeguard against variation beyond industry standard work tolerances before construction is very far advanced, condition 37 should control the ground floor slab levels.
- 8.6 The LBH demonstrated, and the SGWL witness³⁵⁴ acknowledged, that as shown on the drawings the daylight to some of the windows to the courtyard would be below the minimum recommended in the BRE Guide. This could be rectified by a condition controlling the minimum glazed areas. However, the implications of such a condition on the overall appearance of the building and on energy efficiency were not examined in evidence. If higher values of daylight are achieved by higher glass transmittance values and larger net areas of glass then this would run counter to the requirements of the building regulations and planning policy aiming for more energy efficient accommodation. In the absence of full information on the knock-on effects of increased glazing, condition 38 should allow flexibility by being subject to the LPA's approval.
- 8.7 Daylight to some windows would also fall below the minimum on account of some of the balconies to units on the floor above. Condition 39 would require these to be removed and, while this would also remove the amenity value of the balconies to occupiers above, on balance this should be imposed.
- 8.8 If the proposals are to proceed then efforts should be made to reduce the risk to highway safety. One possibility would be to widen the westbound carriageway of Kew Bridge Road alongside the site access from 5.5m to 6m, as shown on WSP Widening Option ACC/02³⁵⁵, to provide more space for vehicles to pass and to avoid each other. While this would do nothing to alleviate concerns surrounding U-turns, nonetheless it would reduce the risk of accidents to some degree. As the widening option would require works within

³⁵⁴ Mr Webb in SGWL23

³⁵⁵ SGWL 17

the highway, outside the appeals site, the ‘Grampian’ (or negatively-worded) condition 40 would be appropriate.

- 8.9 A condition was suggested to prohibit safety netting to the proposed roof terraces. However, as netting would not be permitted development and planning permission would be required in any event, such a condition would be unnecessary.

Appeal B – Listed Building Consent

- 8.10 As well as a time limit for the consent³⁵⁶, to preserve the exposed face of the bridge a condition should require any damage to be made good³⁵⁷. To accord with advice in PPG15³⁵⁸ demolition should not usually proceed until redevelopment is assured. However, in this case the element that would be demolished is of no special interest and such a condition would not be appropriate. It was suggested that for the listed building appeal to succeed on its own a condition requiring reinstatement of the toilet facilities would be appropriate. However, while I accept that this would be desirable, in terms of the special architectural and historic interest of the listed building, the need for toilet facilities is not relevant. Consequently a condition requiring re-instatement would not meet the advice in PPG15 and should not be attached. I am informed that in any event the toilets belong to the LBH and not the appellants.

S106 OBLIGATION³⁵⁹

- 8.11 Planning obligations (under s106) are intended to make acceptable development which would otherwise be unacceptable in planning terms. Policy requires³⁶⁰ that planning obligations are only sought where they meet *all* of the following tests: (i) relevant to planning; (ii) necessary to make the proposed development acceptable in planning terms; (iii) directly related to the proposed development; (iv) fairly and reasonably related in scale and kind to the proposed development; and (v) reasonable in all other respects.

- 8.12 The unilateral undertaking³⁶¹ submitted includes a series of Schedules:

Schedule A: Affordable Housing

- 8.13 Schedule A requires SGWL to invite one or more Registered Social Landlord (RSL) to negotiate terms on which SGWL would build and lease the Affordable Housing Provision – defined as 97 units, or nearly 41% of the total number of units. The mix within the 97 units is intended (subject to Schedule A provisions) to be 39 rented and 58 RSL Equity Share Units (part rent, part purchase under an arrangement with a RSL). The provisions would not permit more than 75% of the private flats to be occupied until a contract has been entered into but with the caveat that grant funding must be available. If not, the housing would either all be RSL Equity Share Units, or built and made available for sale at a price discounted by 25% from the Open Market Value (to be determined by a surveyor appointed jointly by SGWL and LBH), or SGWL would continue its endeavours to find an RSL.

³⁵⁶ Section 18 of the LB&CA

³⁵⁷ Section 17(b) of the LB&CA

³⁵⁸ Annex B.5

³⁵⁹ Document 7

³⁶⁰ Circular 05/2005, para B5

³⁶¹ Document 7

- 8.14 Securing affordable housing is required by the London Plan³⁶², the UDP³⁶³ and the Brief. Both the London Plan and the Brief seek 50% permanently available on-site affordable housing. The London Plan and the UDP require an adequate mix of rented and shared equity housing. Given the likely prices for the flats, LBH was concerned that there should be a cap on the discounted price related to household earnings rather than a % discount on market value. The draft SPG to the London Plan³⁶⁴ defines intermediate provision as that with a purchase price of no greater than 3.5 times income.

Schedule B: Highways and Transportation

- 8.15 This schedule would fund 3 separate improvements. First, to the Kew Bridge/Kew Bridge Road junction. The purpose of these contributions would be to offset any increased risk to highway safety that might occur as a result of the development, particularly for pedestrians and cyclists as identified by TfL. The junction is extremely busy. Proportionally, the development would add little to the traffic at the junction. The improvements would not overcome all the existing problems at the junction but would help, particularly for pedestrians and cyclists. The contribution to improvements would appear to be proportionate.
- 8.16 Second, to Kew Bridge Station. The improvements would assist users of the railway. SGWL argued that a significant proportion of occupants would use public transport. Insofar as the items listed are deficient, and more people would use the station, the contribution could overcome foreseeable difficulties. It was suggested that the s106 should include restoration of the station building but this would not be directly related to the proposed development.
- 8.17 Third, to fund a study to determine whether a controlled parking zone (CPZ) should be introduced in the vicinity. Although the extent is disputed, the proposed flats would be likely to increase demand for parking spaces in the vicinity. At present on street parking is widespread and not often unavailable. If the proposals were to lead to saturation of on-street parking then a CPZ, restricted to existing residents but excluding the future occupiers of the proposed development, might maintain the availability of parking for existing residents.

Schedule C: Education

- 8.18 The contribution offered would be to fund additional places at secondary school within a two mile radius subject to there being an objective and proven need for additional places. On this basis the contribution would be directly related to the proposed development.

Schedule D: Riverside and Public Access

- 8.19 The Schedule would provide contributions and public access. The contributions would fund pedestrian priority and parking controls to the highway alongside Kew Bridge and fund access for those with disabilities between the appeal site and the Strand on the Green by means of a level link via Bridge Arch No.4³⁶⁵. Should the latter not be available, the same value of contribution could be used to fund a study into alternative access arrangements.

³⁶² Policy 3A.7

³⁶³ Policy H.2.1

³⁶⁴ CD 9/3 para 3.4

³⁶⁵ Plan 1 to the s106

- 8.20 The public access provisions would make the public square and boardwalks (insofar as these areas are not already adopted highway) and the areas of the appeal site behind the back edges of the pavements available to the public at all times except in certain circumstances; the provisions would also provide for maintenance. While access could be enforced through this undertaking, it is not evident to what extent maintenance costs could be pursued by LBH against SGWL after completion as any management company might be a different entity to the development company.
- 8.21 Schedule D would create public open space and should provide the interest and encouragement for pedestrian movement to the river. The Brief also sets certain expectations for public access, including for those with disabilities or pushchairs, and the s106 provisions would address this.

Schedule E: Boat Club

- 8.22 The Brief requires the former boat club to be re-instated. The proposals would not achieve this. Instead, Schedule E offers a contribution towards assisting the Chiswick Pier Canoe Club, or another river related group, to set up within Bridge Arch No.5, or for the same value of contribution to be used for some other initiative within Brentford or Chiswick. While related to the use of river, exactly what the offer would achieve is uncertain, would be quite different to that envisaged in the Brief, and would not be on the appeal site. No new provision would be made for river access, nor for improvement to either the existing steps adjoining Kew Bridge within the appeal site, nor to the slipway just to the east of the bridge.

Schedule F: Children's Play Area

- 8.23 A contribution would be made available towards new play equipment at Waterman's Park or elsewhere. Alternatively, the Schedule states that the contribution could be used for improved access to Waterman's Park (as currently the towpath does not extend all the way). However, the definition of the Children's Play Area Notice refers only to equipment which would seem to exclude the latter option. The UDP³⁶⁶ requires children's play space to be provided as part of a development of this size. No on site provision would be offered. The provision would be at some distance and, without improvements to the access to Waterman's Park, would involve walking along a pavement next to a busy road.

Schedule G: Car and Cycle Club

- 8.24 Two electrically powered cars and 6 bicycles would be obtained by SGWL and made available on the site at a charge. In the context of 238 flats the provision would appear modest; *made available* is not defined.

Schedule H: Public Art

- 8.25 The proposed contribution would be to secure Public Art Works in accord with the policies in the London Plan and UDP³⁶⁷. The extent of the appellants' control over the choice of the art work would be different depending on whether or not it was to be installed on site.

³⁶⁶ Policies IMP.6.1 and H.4.4

³⁶⁷ London Plan Policy 4D.4 and UDP Policies IMP.6.1 and ENV-B.1.6

9. INSPECTOR'S CONCLUSIONS

References in square brackets [N] refer to earlier paragraphs in this report.

From the written evidence, from the submissions at the Inquiry and from my site visits I have reached the following conclusions.

9.1 The main considerations before the FSS are (as set out at the Pre-Inquiry Meeting):

Issue 1 Whether or not the proposals would comply with the development plan, including the London Borough of Hounslow Unitary Development Plan (UDP) and the London Plan; with national policy; the Council's adopted Planning and Urban Design Brief for the site (the Brief), and the Thames Landscape Strategy (TLS).

Issue 2 The effect of the proposals on the character and appearance of the area including:

- Kew Bridge Conservation Area (KBCA);
- Strand-on-the-Green Conservation Area (SotGCA);
- Conservation Areas within the London Borough of Richmond;
- the World Heritage Site (WHS) at Kew;
- the Thames Riverside.

Issue 3 Whether the proposals would preserve the special architectural and historic interest of the adjacent listed buildings or their settings.

Issue 4 The living conditions of future residents and existing neighbours with regard to:

- outdoor amenity space;
- sunlight and daylight;
- outlook.

Issue 5 The effect of traffic generated on highway safety and the free flow of traffic.

9.2 Other concerns include:

- Housing Density;
- Affordable Housing;
- Metropolitan Open Land (MOL);
- The Boat Club;
- Advice in PPS6.

Appeal A – Planning Application

9.3 Before turning to substantive matters, I refer to WRLG’s complaint [5.35] that the drawings contain too many ambiguities, errors and discrepancies for them to provide a reliable basis for a Decision. I do not agree. I accept that there were a number of shortcomings in the application drawings, as identified by the WRLG, that these are unfortunate and run counter to advice in PPG15 on applications within conservation areas [2.42]. However, taking into account drawings submitted at a later stage and subject to conditions, these deficiencies are not so substantial as to prevent the overall development proposals being assessed and controlled.

Issue 1 Compliance with Policy

THE DEVELOPMENT PLAN

9.4 The development plan emphasises the need to maximise the use of suitable sites for housing [2.24,2.32]. The proposals would provide housing at well above the required minimum density. The appellant claims support in particular from London Plan Policy 4B.3 which aims to achieve the highest possible intensity of use [2.25] [3.14]. There are similar UDP policies [2.32] but as the London Plan is the more up-to-date it carries more weight. In principle, the benefit of providing a large number of dwellings warrants considerable weight in favour of the proposals. However, these policies together with government advice, in PPG3 in particular [2.41], are conditional on development not causing significant other harm. I shall therefore consider the other issues before returning to assess the proposals against the development plan as a whole, and other policy matters.

PLANNING AND URBAN DESIGN BRIEF

9.5 The main text of the Brief was subject to publicity, consultation, response and a resolution to adopt in accordance with the contemporaneous advice in paragraph 3.15 of PPG12. It is therefore SPG to which substantial weight should be attached. However, the more detailed views expressed in the appended Aukett report were not subject to public consultation; accordingly no more weight should be attached to the report other than that it reflects the views of independent urban design consultants asked to consider those aspects.

9.6 All the same, the report does illustrate one way in which the site could satisfactorily be developed in order to meet the written requirements of the Brief. The report does not illustrate the only way to satisfy the Brief but is one interpretation. The report should not constrain the imagination of other architects who may be able to find alternative ways to develop the site that would be better or, on balance, at least as good. Nonetheless, the report serves as a useful ‘yardstick’ for what could be achieved and by which to measure other proposals. Consequently, it is reasonable to compare proposals with the schematic solution illustrated in the report and, if proposals do not measure up to the quality anticipated in the report, it is quite proper for proposals to be criticised for that reason.

9.7 While I note that the Brief may have been considered when the KBCA designation was arrived at, nonetheless, the Brief does not address the statutory duty or the policy requirements of preserving or enhancing the character or appearance of this conservation area. It cannot be assumed that meeting the requirements of the Brief would meet the statutory duty for the KBCA.

THE THAMES LANDSCAPE STRATEGY (TLS)

- 9.8 The TLS provides useful descriptions of the landscape characteristics of the river and identifies important views [2.36][4.20]. While dated, most of its important requirements are echoed by more recent policy elsewhere and in the UDP in particular [2.30].

Issue 2 Character and Appearance

KEW BRIDGE CONSERVATION AREA (KBCA)

- 9.9 The site is within the KBCA. The duty on the decision maker with respect to land in a conservation area is to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The appeal site is vacant and derelict. There are views across the site. The Brief provides an expectation that the site will be developed [2.37-2.39]. Development should allow an enhancement of the derelict condition; on the other hand, it is likely to restrict some views. The assessment in this case is a balance between any visual improvements (enhancement) and any detractions or loss of views (failure to preserve); these should be measured against the special architectural and historic interest whose character or appearance merits the conservation area designation.
- 9.10 The KBCA is described above [2.6] where I have also referred to the documents leading to designation. Consultation was extensive and took account of objections from SGWL. The name for the KBCA appears to come from the key listed buildings in the conservation area: the bridge, the Steam Museum and the station, all of which are called after Kew Bridge.
- 9.11 Historically, Kew Bridge is only the latest in a series at this well established and important crossing point [2.6] and road transport is a dominant factor. The bridge is also at points of access to the river, both the slipway and steps on the north side and Kew Pier to the south. The railway station marks quite a separate transport development. The Steam Museum encapsulates the early history of the water industry. The bridge dominates the KBCA south of Kew Bridge Road; the Steam Museum, and its Campanile in particular, dominate the area west of Green Dragon Lane. The remaining third of the KBCA is characterised by the two-storey domestic scale of the public houses, residential buildings and railway station building to the north-east. The aerial view gives a good overall impression of the KBCA and illustrates how the boundaries are influenced by the transport routes of the railway, Kew Bridge Road and the bridge itself. Vegetation is limited, but includes the informal river edge. Further details of the existing character and appearance are set out above, in the SoCG and in evidence [2.6].
- 9.12 From the above, therefore, the overall character and appearance of the KBCA is not singular but is derived from the inter-relationship between its three main parts (each including a listed building): Kew Bridge, the Steam Museum and Campanile, and the domestic scale buildings leading up to and including the railway station building. While influenced by industry, be it water, rail, the river crossing and access, or past industry which no longer survives, I assess the enduring characteristics of the KBCA as the settings of the listed structures, together with the road, rail and river patterns which connect them.
- 9.13 Views into the KBCA tend to focus on the bridge and the tower. Those looking out are predominantly of tall or bulky nearby buildings, including Rivers House, the Thameside Centre and Regatta Point. More distant views out incorporate the Brentford Towers and Vantage West to the north in contrast with the river and tree cover in the foreground to Kew Gardens to the south. While these tall buildings make up part of the surroundings to

the KBCA setting, they are not within it, nor do they represent examples of good design which should be followed as a precedent for the appeal site. [2.25][2.29]

- 9.14 The proposals are described in detail above [2.14-2.19]. Evidence from all parties looked at the effects of the proposals from various directions [3.43-3.44][4.17-4.19][5.4][5.13][5.26][5.30][5.33]. The main impact on public areas within the KBCA would be as shown on the application drawings and on the true elevations in their context (drawing no. PPA4-05-70A in particular), and as interpreted in respective viewpoints in the computer generated images (CGIs). The modelling of the upper floors is complicated and it is necessary to compare floor plans with elevations to understand the full effect of the proposed set backs from the street. From a distance the set backs would be less evident and the overall height would be more apparent. In line with the evidence presented to me I have therefore considered the effect of the proposals from a series of angles before concluding on its effect on the KBCA as a whole.

The proposals would stand in their contexts as follows:

- 9.15 From the west, most of the proposed building would be concealed from public view by the Thameside Centre. The most northerly part, however, would project onto Kew Bridge Road (drawing no. PPA4-05-03E). Here the 5-storey section, rising quickly to 7 and then 8 storeys, would abut the 2-storey Waggon and Horses public house. Although the outline of the pub is not shown on the drawing, most of the proposed west elevation would be seen when looking east along Kew Bridge Road.
- 9.16 The north elevation would rise quickly from west to east although part of the 8th storey (7th floor) and a sliver of the 7th storey (6th floor) would be set back towards the western side. Drawing no. PPA4-05-70A shows the overall street context, remembering that only Kew Bridge and the public house are within the KBCA. Although a north elevation, the comparison with Regatta Point (having a similar overall height and width) is instructive when considering the proposal from the south – Viewpoint 7 (JWP18 in LBH21) extends the context beyond that shown in Camera-03 (SGWL4a).
- 9.17 Seen from the north-east, the highest element of the building, its penthouse would face the road junction. The penthouse would be set back so that the predominant image would be of the 8 storey element wrapping around the corner.
- 9.18 The massing of the eastern façade would echo that of the north elevation, first with 8 and then 7 storeys, extending most of the distance from the junction to the river. After a short gap, with only 6 storeys, the block would recede to the west to complete the courtyard before projecting south again towards the river at 6 storeys, eventually reducing to 3 just short of the wetlands habitat. Drawing no. PPA4-05-07A, with the overall street context, shows the immediate east elevation in full, and the section of the proposals nearest the river in outline. This elevation is useful in illustrating the relative scales of the proposed building compared with the bridge, the Campanile and the first of the buildings along the north side of Kew Bridge Road, within the KBCA. This drawing also illustrates the scale of the elevational elements of the building compared with human scale.
- 9.19 The river frontage would be 3 storeys to the western side with tiers of further storeys rising across the width of the site as far as the highway. The element nearest the river would line up with the most forward part of the Thameside Centre. The eastern half would be a public square. This lower area would be more apparent from the opposite towpath than from either the bridge (where one would tend to look right over it) or the river, (where one would be looking up from below). All vegetation would probably be

cleared although some landscaping, containerised or otherwise, could be reinstated and conditions could control this.

The effect of the proposed building should be considered in the above contexts:

- 9.20 From the west along Kew Bridge Road the impression would be of a blank wall apart from a ground floor commercial window and the boundary treatment enclosing the gated entrance to the affordable units. This wall would project several metres forward from the Waggon and Horses and rise to 5 storeys. Whatever the external finishes, not shown on the application drawings but open to control by condition, this would be an unremitting expanse of plain elevation bearing down on the pub forecourt and standing well forward of any historic building line.
- 9.21 At present the view along Kew Bridge Road is uncontained and unattractively dominated by the highway, its signage and the hoarding to the appeal site. On the other hand, while some sense of enclosure towards the junction would better frame longer views, an abrupt blank wall would not improve the backdrop to the pub forecourt or draw the eye along the road. Instead, the effect on the streetscene would change from the disadvantage of being too open next to a derelict site, to the opposite extreme of being dwarfed by a slab of building. Consequently, not only would an opportunity to enhance this vista within the KBCA be lost but the result would be worse than the existing situation.
- 9.22 On the opposite side of Kew Bridge Road, in front of the properties to Green Dragon Lane, the scheme would present a staggered façade of mostly 7 or 8 storeys, partly set back at the upper levels. The ground floor storey height would be greater than those above. The building's structure would be emphasised by vertical pillars interspersed with strips of simple fenestration. There would be no balconies on this side. Despite some increases in storey height along the façade, the overwhelming impression would not be of a crescendo towards the penthouse rotunda or of discrete buildings but of an over-heavy mass of a rather monotonous block over-shadowing the road.
- 9.23 From the north-east the proposals would be seen for some distance along Kew Bridge Road, at the limit of the KBCA and beyond. As well as the true elevations in their context (PPA4-05-70A) this view is shown in the CGI at PC 3.3.2 [2.14]. The tallest part of the scheme would be to the fore and stand above the road junction. Within the KBCA, the context would include the domestic scale buildings on the north side. The rotunda and penthouse would aim to provide a much-needed focus along the street. No important views would be impeded as obscuring the Thameside Centre would be no great loss. However, there would be nothing elegant about the proposals from this direction.
- 9.24 Set back from the main façade, the treatment of the penthouse would be that of a bland drum, appearing more as an aberration or afterthought than as the pinnacle of a piece of integrated and thoughtfully sculpted townscape. Indeed, the overall bulk of the building would read as a single mass, with consistent window lines, and the scale would have more in common with an office block than a residential scheme. Despite evidence extolling the modelling of the forms and suggested materials, within the overall block, these would be minor inflexions of colour and relief and on a grey day the attempts to temper the monotony would fade away. Instead of a vibrant piece of urban design, leading the eye along the road past the pub towards Brentford, or down towards the bridge and the river, the proposals would leave the impression of a lump of building standing up against the highway but not relating to it. Rather than a focal point incorporating elements of human scale, which might interact with the street and promise a cherished landmark for the

future, the bulk of the proposals would lack any elegance or charm and be at odds with the domestic character along the section of Kew Bridge Road within the KBCA.

- 9.25 From the east, views would include those from Kew Road, close to the site boundary, and into the KBCA from the SotGCA which I will deal with below. The east elevation would be mostly 8 storeys but fall away towards the south. Once again, despite the balconies and other efforts to add interest to the façade, including conditions to control the choice of materials, the overall impression (drawing no. PPA4-05-01E & PC 3.2.1) would be of tiers of monotonous horizontal fenestration, this time bearing down on the slip road to the river. The views that would be obscured would not be so much those of the curious roofs to Thameside Centre, but of the Campanile, within the KBCA, and the Brentford Towers beyond. The 7 storey element (6th floor) would extend beyond the steps to the west side of the bridge and overpower what is effectively the ‘springing point’ of the bridge, one of the most important elements of the KBCA.
- 9.26 The scheme would be particularly apparent from the south, when travelling over the bridge, from the towpath on the south bank and from the river, as well as from more distant viewpoints to the south (CGI Camera-03 SGWL4). Historically, the southern part of the appeal site has remained largely open, occupied by small scale buildings, including boat houses. The setting to Kew Bridge is still open on its west side with the southern part of the appeal site providing a home for two houseboats, screened from the bustle around by self-sown willow trees and other undergrowth.
- 9.27 From this direction the proposals would present cascading elevations alongside the public square. In theory the reducing storeys, with planted terraces, could present a soft edge to the substantial block. In practice, the block would start at 3 storeys and rise rapidly. It would follow the building line of the Thameside Centre, not an ideal starting point and one which lies outside the KBCA, although even here, unlike the proposals, the lower parts are screened by willows in summer. From a distance, the effect of the reducing storeys would be even less evident. Instead, the proposals would appear as a single mass of development, rising abruptly to the west side and falling as sharply to the east with an overall width and height comparable with that of Regatta Point [2.10] again not an ideal precedent and outside the KBCA.
- 9.28 Viewed from the bridge or the river – within or just outside the KBCA – both Regatta Point and the Thameside Centre do preserve a modicum of the informal edge to the river. The proposals, on the other hand, would clear away any natural edge to replace it with an urban boardwalk fronting a hard-surfaced square. The narrow section of wetlands habitat across half the width of the river frontage would at best be likely to support relatively low-level vegetation that would do little to soften the harsh urban form of the building against the river. The less flattering scenario for the wetland habitat presented by the WLRG may be at least as likely [5.36].
- 9.29 Approaching along the towpath to the south-west of the site, the natural surroundings would fall away to be replaced by stark views of the 3 storey south elevation, rising steeply beyond. Conversely, views across the boardwalk and public square from the towpath or river would open up the foot of Kew Bridge and this would be a benefit. However, the current impediment to this view is caused by the hoarding and there is every reason to expect that any development of this site would remove the hoarding, though not necessarily strip away the natural edge to the Thames as well. Consequently, both near to and at a distance, the stark appearance of the building from the south would not be an enhancement to the KBCA while the softness of the river edge would be lost.

- 9.30 As yet there is no detailed design scheme for landscaping the public square, which is below the flood limit [2.15], and it is not evident whether any trees would be planted in the ground or whether they would all be containerised. While this matter could be controlled by conditions, the absence of landscaping details suggests that it has not been a major part of the design considerations.
- 9.31 To summarise on this issue, the proposals would present an unattractive blank façade from the west that would diminish the forecourt to the Waggon and Horses. The effect from the north side of Kew Bridge Road would be uncomfortably overpowering. From the north-east the impression would be more favourable, but even from here attempts at articulation and highlighting would not succeed in overcoming the overwhelming sense of bulk; there would be little sculpturing or human scale within the architecture, let alone elegance. To the east, the massive monotony would continue with the added disadvantage of obscuring important views of the Campanile. To the south the volume of building would be emphasised by the destruction of the foreshore, in close proximity to the listed bridge, where the extent of replacement landscaping is uncertain.
- 9.32 I have found that the KBCA as a whole is characterised in particular by the inter-relationship between Kew Bridge, the Campanile, and the domestic scale buildings together with the pattern of transport routes which connect them [9.12]. For the above reasons I have found that the proposals would harm the appearance of the area, viewed from the surrounding roads and river in particular, and as a whole in views between and around the main features of the KBCA. I acknowledge that the proposals would regenerate the site, provide some public areas and provide a focus at the road junction, and that these benefits would all enhance the conservation area. However, not only do I consider that the harm to KBCA would be considerably greater than the enhancement, I am also aware that these benefits could equally be provided by an alternative development which was more closely aligned to the requirements of the Brief.
- 9.33 For the above reasons I conclude that the proposals would not constitute good design; they would fail to preserve but would cause considerable harm to the character and the appearance of the KBCA.

STRAND-ON-THE-GREEN CONSERVATION AREA (SotGCA)

- 9.34 The character and appearance of the SotGCA is quite distinct from the KBCA in being dominated by residential influences [2.7]. Views from the Strand-on-the-Green towards the site are important, both along the road of that name and from Spring Grove. The effect of the proposed building from the east with regard to the KBCA is described above. Given the residential nature and scale of the SotGCA, the effect of the proposals on its character and appearance would be similar and would also be harmful, albeit at a slightly greater distance.
- 9.35 The appellant has set out the approach to the views into and out of the SotGCA, in that these are not subject to the statutory test under s72 but under policy guidance, and should therefore carry less weight [3.5]. In principle I agree. On the other hand, the relevant views both emanate from and culminate within a conservation area, albeit different ones. As a result, in this particular case, while the character appraisal to be considered for each conservation area is different, taken together, the weight to be given to the policy guidance should be comparable with that for the statutory test.
- 9.36 Views out of the SotGCA towards the site are referred to in the Brief [2.37] as important to its character and appearance. As the proposals would harm those views, the

development would also harm the character and appearance of the SotGCA and this harm should also be afforded substantial weight. I have noted arguments comparing weight to be applied to s72 of the LB&CA as against that under s38(6) of the 2004 Act, but as the s72 test is echoed in the UDP this distinction is of little consequence. [2.29]

KEW GREEN CONSERVATION AREA (KGCA)

9.37 KGCA embraces the Green, areas of predominantly two-storey housing, land up to the river, the towpath opposite the appeal site and the river itself as far as the borough boundary. It was designated on account of its historic open space, the quality of the mostly 18th century development around and its superior riverside environment. As set out above, the proposals would harm the riverside. Given that the proposals would be quite prominent from the towpath and the river to the south of the boundary between the boroughs, and the open or low level character of the KGCA, the proposals would also harm this conservation area.

ROYAL BOTANICAL GARDENS KEW CONSERVATION AREA (RBGKCA)

9.38 The conservation area includes not only the gardens (described under that heading) but also the riverside wall outside the gardens. To the extent that proposals would introduce an unattractive, bulky development into views from this conservation area and to the extent that it could be seen, particularly perhaps in winter and at night, the proposals would also harm the RBGKCA. However, given the distances and extent of screening usually present, the amount of harm would be less.

THE WORLD HERITAGE SITE AT KEW

9.39 The effect of the proposals from these more distant vantage points would be greatly diminished but similar to the effect on public views from the south from the bridge, the river and towpath within the KGCA, and to a lesser extent from the RBGKCA, as set out above. Consequently, my assessment of the effect of the proposals on the WHS follows my conclusions on harm to the KBCA, KGCA and RBGKCA from this direction. To the extent that the proposals would harm the KBCA in views from the south-west they would have a damaging effect on the setting of the WHS. However, while that harm in itself should be afforded considerable weight on account of the WHS designation and status, these views are so distant and usually so well screened that the amount of harm would be minimal.

THE THAMES RIVERSIDE

9.40 Just as the proposals would harm the KBCA, the KGCA and the RBGKCA from the river, their appearance would also harm the enjoyment of the river and its towpath, with this section of the 'Thames Path' being identified in the RBGKCA special interest as *one of the more remarkable stretches* [2.8][6.5]. The proposals would be seen for significant distances up and down the Thames, well beyond the KBCA. Furthermore, the proposals would create an urban front to the river with little understanding of the river's character or use. The boatclub referred to in the Brief would not be re-instated. Indeed, there would be no river-related uses on the appeal site [5.35] although it was established during the Inquiry that the mooring piles and services required to maintain the existing houseboats could be secured by condition. [8.22]

9.41 The proposed boardwalk, alternatively and not inappropriately described as a footbridge, [5.36] would urbanise the river frontage and harm it. This might be justified for the length of the public square, as it would maintain access while providing views of the river and

the bridge, or as part of the access for boats onto the river. However, there would be no justification for extending the boardwalk for the full width of the site other than as a clever means of retaining the towpath while providing flood storage and so enabling the building to encroach further towards the river. If allowed, this approach might be copied elsewhere along this part of the river frontage and cause substantial changes to the quality of the towpath and appearance of the riverside. The detailed design of the boardwalk has yet to be undertaken: if too flimsy it could be a hazard, if too heavily engineered an unattractive intrusion.

Issue 2 Listed buildings

9.42 The proposals would affect the settings of three listed buildings in particular: the bridge, the Campanile and the railway station building. The special interest for each of these is set out above [2.9]. The lower of the Steam Museum buildings are too low and too distant from the appeal site for their settings to be significantly affected. The views of the arches from nearby, either on the river or the towpaths, are important to its setting. With regard to Kew Bridge, its present setting includes spaciousness around its approaches on both sides of the bridge and both sides of the river. The proximity and size of the proposed building would interfere with the setting to the bridge, especially at its northern approach, and harm it.

9.43 Views of the Campanile from Spring Grove and the river frontage in the SotGCA are important to its setting: reducing the ability to see the tower would diminish its special interest. The setting of the railway station building must include the street on either side even though the junction is a significant separator. The impact of the proposals on this listed building may be less significant but still an important factor [2.9]. For the reasons set out above, the proposals would harm the KBCA, designated not least for its listed and locally listed buildings adjacent to and including the Kew Bridge railway station building. To the extent that the scheme would harm the KBCA within the setting of the station building, that setting would also be harmed.

Issue 3 Living Conditions – Future Residents

OUTLOOK

9.44 A number of private units would enjoy spectacular views across the river. Others would face adjoining roads or into the central courtyard. The proposed building would offer corridor access to the flats so that nearly all the units would have a single aspect rather than windows in more than one direction. Consequently, while some units would enjoy excellent views, others would only have a restricted outlook. Flats where outlook would be a concern would be limited to those facing into the central courtyard and I will deal with these after I have assessed the quality of the courtyard.

SUNLIGHT

9.45 *People like sunlight.* So says paragraph 3.1 of the BRE Guide, and it is common ground that this is the correct primary guidance for daylight and sunlight assessments. The proposals would be oriented north-south. Consequently roughly half the flats would face either east or west. The BRE Guide considers that dwellings with no main window wall within 90° of due south are likely to be perceived as inadequately sunlit [4.30]. While there would be some sunlight reflected internally within the courtyard this would be a poor substitute. Given the building's orientation, roughly half the flats lie on the cusp of receiving inadequate sunlight according to the BRE Guide. Equally, subject to

overshadowing, all of these same units are also on the margin of receiving enough sunlight.

- 9.46 Just over half the building surrounding the central courtyard would rise to 8 storeys. At the 6th storey level a short section of roof terrace on the east elevation would be the lowest part of the surrounding block but this would be too narrow to allow any significant increase in sunlight for any appreciable length of the morning. The 7th storey would offer a further section of terrace to each of the south and east elevation but again these would be narrow. Only at the 8th storey level, where the southern half of the building surrounding the courtyard would give over to roof terraces, would there be a significant opportunity for sunlight to fall into the courtyard. Consequently, as shown in evidence [4.31], most of the floor of the courtyard would be in shadow for most of the year. For this reason alone it would not be a particularly pleasant place to sit out and options for soft landscaping would be restricted by the lack of sunlight.
- 9.47 On my site visits I saw courtyard developments by one of the appellant's sister companies at Royal Quarter in Kingston [1.9]. While the internal courtyards were not as welcoming as the riverside spaces – and slightly compromised by basement ventilation, a problem that would be avoided at the appeal site – I saw that they were not unpleasant spaces to be in or to look out onto. However, these courtyards were not only slightly larger in size but the height on at least one side in each case was appreciably lower than for the proposals. Taken together, the proportions of the courtyards I saw were significantly more generous in terms of allowing sunlight to enter than the proposals for the appeal site would be. This reinforces my assessment from the drawings that the proposed courtyard would be a rather gloomy space.
- 9.48 The public square would be laid out to the east of the projecting limb of the proposed block and at a lower level. It would be shaded from the evening sunlight which might well be the time of day when the contribution sunlight can make to an open space would be most appreciated. While hardly a reason for preventing the development as a whole, nonetheless this is an unfortunate design flaw which adds to my overall concerns about the consideration of sunlight in the design.

DAYLIGHT

- 9.49 It is common ground that the Average Daylight Factor (ADF) is the correct method for assessing the proposed accommodation. Several of the lower flats in the proposed courtyard would have low ADF values. Evidence conflicted over:
- transmittance values: these are dependent on the type of glass and frequency of window cleaning [4.32];
 - the extent of balconies: some could be removed to allow more light into windows below;
 - room layouts: the ADF values for some sitting rooms would become adequate if the kitchens were physically separated; and
 - net glazed areas. It was eventually acknowledged [4.33] that the appellant's figures included the frames.
- 9.50 LBH set out in evidence why SGWL's transmittance value would not meet the Building Regulations and I heard no compelling evidence to dispute this. Nonetheless, the

balconies, room layouts and glazed areas could be controlled by conditions in order to meet the recommended ADF values, although with the caveats set out in the conditions section above [8.6].

- 9.51 While quite accurate calculations can be made for daylight, and these are helpful in producing objective assessments, all the flats would of course be artificially lit as well and the BRE requirement for daylight is related to public expectations for good natural lighting in their homes. This is a subjective matter, that will affect different people differently, and which is likely to be influenced by other factors, particularly sunlight and outlook. In this case, the flats which would receive low levels of daylight would also receive little or limited sunlight, either due to aspect or overshadowing. Consequently the outlook from these flats would be into the courtyard that, as set out above, would lack sunlight most of the time. Moreover, the design would encourage greater use of artificial lighting and electricity consumption than might otherwise be necessary, contrary to policies encouraging more sustainable forms of development.
- 9.52 I acknowledge that the BRE Guide is just that, a guide, and that development plan policies [2.33] indicate that standards should be applied flexibly. However, flexibly should not mean that they are not applied at all or that they should be wholly ignored. Rather, flexibly should mean that, where unavoidable, other considerations could outweigh strict adherence to standards. For many sites, for example those surrounded by existing buildings, one or two poorly lit flats might be considered acceptable in the context of an overall development. However, in this case the site is almost unconstrained, the design possibilities are numerous and, I was told, advice on daylighting was received at an early stage. In these circumstances there would appear to be little reason why all the housing could not be provided with better than minimum levels of daylighting, some sunlight or a reasonable outlook. That some flats would have limited daylighting, no sunlight and a gloomy outlook is a significant shortcoming.

OUTDOOR AMENITY SPACE

- 9.53 This would be very limited compared with the Council's standards [2.33]. The public square would be just that: public, and opposite a restaurant, café or public house. It would add to other public open spaces in the area, including Kew Green and Waterford Park, but both these are some distance away and walking to either of them would involve using a pavement next to a busy road. The central courtyard would have limited sunlight, as set out above, and be used by some vehicular traffic (dealt with below); it is unlikely that this area would be well used for play or sitting out. The open space allocated for the affordable housing would incorporate cycle and refuse storage and be an entrance route; it is unlikely to be a popular sitting out space either. Roof terraces would mostly be for individual private flats; the roof terraces for the affordable housing would not include safety netting, for appearance reasons, and so be unsuitable for young children.
- 9.54 Nonetheless, the appellant has offered a contribution towards play equipment elsewhere and a balance needs to be struck between on-site amenity space and maximising development. Although the current play equipment at Waterford Park is at the far end and the towpath to it is not complete, contributions through the s106 might remedy this. Public open space exists in front of the Thameside Centre (though this was not readily apparent on site) but I heard no evidence as to whether play equipment could be provided there. On balance, the limited extent of useful outdoor amenity space, either on site or within a short and easily accessible distance of the site, warrants significant weight against

the proposals. Given a site where many alternatives would be possible, this shortcoming adds to my view that the proposals do not represent an example of good design and layout.

Living Conditions – Existing Neighbours

DAYLIGHT AND OUTLOOK

9.55 Many of the flats in 10, 14 and 15 Green Dragon Lane face Kew Bridge Road and currently look out across the vacant appeal site. The proposals would rise to 7 or 8 storeys for most of the block facing these flats and 21 windows would then fail to meet the BRE Guide for daylight. It was accepted in cross examination [4.36] that by slightly lowering and setting back part of the proposed building facing Kew Bridge Road that all the existing flats could maintain daylighting levels recommended in the BRE Guide. I have no doubt that, even if the proposals were lowered, the occupants of these flats would feel overshadowed, short of daylight and with an enclosed outlook compared with the views they currently enjoy. Nonetheless, given that the BRE offers a reasonably accurate and objective way of assessing what should be acceptable and what should not, the likely effect of the proposals on these existing properties would be undesirable and this adds to the harm I have found above.

Issue 5 Traffic

PUBLIC TRANSPORT ACCESSIBILITY LEVEL (PTAL)

9.56 The PTAL is a measurement determined by a formula devised by TfL; it has calculated the PTAL for the site as 3. The appellant has referred to the proximity to Brentford Town Centre, Gunnersbury Station and the higher actual bus frequencies to try and claim that the PTAL should be 4. Given that PTAL is determined by a precise formula set by TfL this would be wrong [7.8-7.9]. However, I accept that, in terms of overall accessibility, the proximity to Brentford and Gunnersbury Station and the higher actual bus frequencies mean that the accessibility of the site is likely to be comparable to other sites with a PTAL on the cusp of 3 and 4, and this is borne out by TfL itself.

FREE FLOW OF TRAFFIC

9.57 Kew Road and part of Kew Bridge Road are within the North Circular Road, one of the busiest thoroughfares in London. The A315 Kew Bridge Road is also a busy route to Brentford and beyond. LBH has objected that inadequate traffic modelling has been done for the surrounding roads to demonstrate the effects of increased traffic, particularly in view of the PTAL. However, even if I accepted that the traffic modelling could be improved, the levels of traffic on these roads are already deliberately constrained by their present capacity and, if necessary, a CPZ could be introduced to surrounding roads, a study for which would be funded through the s106. In the overall highway context the proposals are unlikely to make a significant difference to the free flow of traffic.

HIGHWAY SAFETY

9.58 The speed limits along Kew Bridge Road are theoretically 30 mph but actual speeds are often lower on account of congestion and traffic lights. The principal vehicular access would want to use the existing access to the previous office block onto Kew Bridge Road a little over halfway from the road junction towards the Waggon and Horses. Limited carriageway widening could be secured by condition [8.8].

9.59 An additional access through the Thameside Centre would be intended primarily for large service vehicles, lead to a single service bay and so would allow for one delivery at a time.

It is therefore reasonable to assume that, to avoid queuing, most small delivery vehicles would want to use the central courtyard. The likely combined presence of delivery vehicles and private cars reinforces my conclusion above that the courtyard would not be an inviting place to sit out; it also means that a significant proportion of deliveries would use the Kew Bridge Road access.

- 9.60 There is no dispute that turning left into or out of the site would be acceptable or that turning right out would be unacceptable. Turning right in would pose problems which could be ameliorated by widening the carriageway and adding road markings. The major area of concern is that banning right turns out of the site would lead to U-turns further along Kew Bridge Road and that these could pose a significant risk to highway safety. Subject to conditions, TfL has no objection to the proposals on highway grounds [7.8].
- 9.61 The likely degree of risk from U-turns would depend, amongst other matters, on the likely frequency of journeys to and from the basement parking spaces, the extent of pick-ups and deliveries to and from the central courtyard, how often a driver might wish to turn right, the degree of inconvenience in going left, the extent of danger any particular U-turn movement would pose, the likely speed of traffic at any particular moment, the time of day and road conditions, and the extent to which occupiers of the flats, visitors and delivery drivers are law-abiding citizens. While difficult to quantify, some dangerous U-turns would be likely and reasonable weight should be given to this concern.
- 9.62 On the other hand, this is a prime development site, the proposed access is existing and the benefits of development should not be stifled by speculation over highway safety alone. Equally though, the risk could be avoided. The access through the Thameside Centre is protected by a s52 Agreement and is unrestricted [2.10]. While the one-way system around the Thameside Centre is narrow, the appellant considers it good enough for large vehicles and refuse trucks. The Brief requires access from Kew Bridge Road *away from the junction with Kew Bridge*. Given a largely unconstrained site the design could have provided all access further along Kew Bridge Road from the junction, via the Thameside Centre, or at least allowed right turn exits that way. Consequently the risk to highway safety would be largely avoidable and this adds to the weight this concern should carry.

Other Matters

HOUSING DENSITY

- 9.63 Evidence concerning density was presented by both main parties, several interested parties and by the GLA [3.31]. As the most up-to-date plan, the figures in Table 4B.1 of the London Plan are the most relevant. Accepting for the purposes of this table that the site is within 10 minutes walk of a town centre, the density ranges are greater for more accessible locations (i.e. with higher PTAL values) and for Central (4 to 6 storeys and above) rather than just Urban settings (3 to 4 storeys). The red-lined appeal site area includes the highway alongside Kew Bridge, the towpath and part of the river; the net site area does not. Taking the overall appeal site area, a Central setting and a higher PTAL, the appellant considers the proposals would be within the upper range of densities.
- 9.64 There are no buildings above 4 storeys within the KBCA and only the Campanile which is higher than a typical 4 storey building. Strictly speaking the site's PTAL is 3. Nonetheless, in practice the location may be as accessible as other sites just achieving a PTAL of 4. Aiming for a common sense approach, I suggest that the range should be taken from an Urban setting with a higher PTAL but towards the lower end of the range of 450 – 700 hrha.

- 9.65 The proposed density would be 781 hrha, based on a site area of 0.81 ha, or 1005 hrha based on 0.63 ha. Either would be well in excess of any range within an Urban setting, even with a PTAL of 4. The proposal is for mixed use and residential development would start at the first floor, above the basement parking and ground floor commercial uses, and would be in addition to these volumes of building. On the other hand, the policy ranges for housing are only indicative and no relevant policy sets an upper limit for housing density.
- 9.66 SGWL, supported by the GLA, have aimed to maximise the number of flats. The LBH and other objectors have called it overdevelopment. To describe the proposals as overdevelopment is not helpful. Historically, an essential skill of the most talented architects has been the ability to maximise a site's potential with an attractive and appropriate building as well as satisfying other design constraints. Consequently proposals only become overdevelopment if the design cannot assimilate the extent of development without creating other problems. What is important is whether or not proposals would cause significant harm. It is for designers to find out whether or not harm can be avoided without reducing their client's ambitions. To judge whether or not the proposal is overdevelopment would require consideration of a gamut of proposals. Only one scheme is before the Inquiry. Consequently to deliberate on whether or not the proposals would be overdevelopment would be hypothetical; what matters are the effects the proposals would have on their environment and context.
- 9.67 Therefore, while I tend to concur with the opinion that *on most sites there is a point where a proposal can be too large even for the most skilled architect to overcome the negative effects of sheer size. This may well be the case here; certainly the architects have not demonstrated otherwise* [5.26], I am concerned with the balance of benefits and harm that would flow from the scheme before the Inquiry.
- 9.68 The GLA wants to see more housing delivered, and quickly. I have taken account of the support of the GLA as a matter of considerable weight but tempered this by the fact that the GLA did not attend the Inquiry either to give or hear evidence and so may not have fully considered all the environmental arguments put forward against the scheme. Moreover, dismissing this appeal would not prevent additional housing being built on the site. While it would cause some delay, this would be considerably shorter than the length of time the proposed housing would be expected to stand for if allowed.
- 9.69 Supported to some extent by the GLA, the appellant has, in essence, argued that within reason higher density housing represents greater benefit. The LBH [4.45] argued that the site is not in a particularly good location for public transport, with a PTAL of 3, and that its accessibility should restrict the appropriate density. The BCC has argued that housing development in Brentford is running at a level that could increase the population by 12,661, or 63%, and that this cannot be supported by its current social infrastructure. Taken in the round, the evidence suggests that while considerable weight should be given to providing housing of at least the appropriate density range within the London Plan, provision above this level should be weighted as neutral.
- 9.70 I have found that the scheme would harm the KBCA. I have found other problems which may be associated with high density - bulky appearance, limited amenity space, poor daylighting and outlook, and risk to highway safety. I accept that high density is not, of itself, a reason for refusal but only if it would not compromise the quality of the built environment [2.41]. I therefore recommend that density should not be the determining

factor; rather, in accordance with the London Plan and UDP, the design should seek to maximise density whilst being acceptable in all other regards.

AFFORDABLE HOUSING

- 9.71 The proposals would not accord with the policy targets of 50% affordable housing of which 70% social rented [2.24]. If considered on the basis of habitable rooms the proportion of affordable housing is rather less than 41%. The split in dwelling type, as shown on the drawings, would result in an unbalanced development with no affordable units having more than two bedrooms and 75 of the 97 units proposed as studio or one bedroom [8.13]. The definition of discount purchaser would be a very wide interpretation of local need. The lack of precision in the reference to *reasonable endeavours* in the s106 as a requirement to achieve any rented housing might make provision in advance of occupation of all the private flats difficult to enforce.
- 9.72 While the proposals would produce additional housing, a better balanced scheme would accord with the Mayor's SPG and be more likely to meet the identified housing needs of the borough. No suggestion has been put forward that the site would be uneconomic if it were required to offer a 50% affordable provision of which 70% was rented, or that this site has any peculiar development costs. Indeed, given that it is a vacant site on the riverside, the reverse could be argued. The provision would therefore fall short of the UDP aim to *secure the highest achievable provision* [2.32] in terms of the number of units, size of units and the proportion and certainty of rented accommodation. While some of the provisions of the s106 could be varied quite readily at the request of the FSS, to increase the number and size of affordable units while maintaining a separate entrance would require some redesign of the overall scheme layout.

METROPOLITAN OPEN LAND

- 9.73 The limit of the MOL is around about the existing towpath. The proposed boardwalk would replace the towpath on the same level and would not affect the openness of the MOL. The effect of the proposed building on the setting of the MOL would be similar to that for the KBCA and KGCA as set out above. This strengthens my findings on the impact of the proposals.

THE BOAT CLUB

- 9.74 The Brief requires a boat club. The proposals do not include one. Interest in a replacement boat club seems to have been limited until a letter was received from the Amateur Rowing Association (ARA) [7.15]. No ARA representative gave evidence. Nonetheless, there would now appear to be some interest and consequently the proposals would not satisfy the adopted Brief in this respect. Support for the Chiswick Pier Canoe Club, while welcome, would not be a substitute for provision on the site. There are no proposals to improve the steps within the appeal site or the slipway to the east of the bridge. Overall, the limited provision and failure to meet the provisions of the Brief also weigh against the proposals.

PLANNING POLICY STATEMENT 6 (PPS6): PLANNING FOR TOWN CENTRES

- 9.75 PPS6 sets expectations for new main town centre uses. The requirements in PPS6 have been addressed [2.43]. Commercial uses are also anticipated in the adopted Brief. There is no disagreement in principle between the main parties. For the reasons set out I also accept that, subject to conditions and the provisions in the s106, the proposals would be satisfactory in this respect.

Issue 1 Revisited: The development plan, including the UDP and the London Plan; national policy; the Brief and the TLS.

DEVELOPMENT PLAN CONCLUSIONS

- 9.76 As set out above the proposals would fail to preserve but would harm the character and the appearance of the KBCA [9.33]. To a lesser extent the same would apply to the SotGCA and the KGCA. Indeed this would also be true for the RBGKCA, although the amount of harm would be minimal. For similar reasons the scheme would fail to preserve but would harm the settings of nearby listed buildings, particularly Kew Bridge and the Campanile. In all these respects the proposals would be contrary to UDP Policies ENV-B.1.1, ENV-B.1.2, ENV-B.2.2, ENV-B.2.8 and IMP.5.1. Harm to the appearance of the area would also harm the river frontage, contrary to ENV-W.1.1, ENV-W.1.3 and IMP.5.2; the lack of a boathouse would run counter to Policy ENV-W.1.11.
- 9.77 Given my conclusions on the affordable housing provisions, these would conflict with Policy H.2.1. As inadequate daylight could be overcome by conditions, albeit at a cost to other factors, a breach of Policy H.4.1 could be avoided. While high density is not necessarily contrary to Policy H.4.2, it requires a high quality environment, which I have found would not be achieved on account of a combination of poor daylight, sunlight and outlook. Compliance with most transport policies could be achieved by conditions but the increased danger I have identified would not meet Policy T.4.3.
- 9.78 For similar reasons the proposals would also conflict with London Plan Policies 3A.7, 4B.1 (especially bullet points 3, 7, 9, 10 and 11), and 4C.20. Although finely balanced, the proposed development would be significantly larger than its surroundings, particularly those within the KBCA, and would fail to satisfy Policy 4B.9 bullet points 2, 3, 4, 5, 6, 9 and 11. It would not be the *good design* that is central to Chapter 4B and all the objectives of the London Plan [2.25].

THE BRIEF AND TLS

- 9.79 The Brief makes various stipulations and, in the Aukett report, offers an outline of one acceptable way of developing the site. Compared with my summary of the objective criteria in the brief [2.38] I have found that the development would:
- dominate Kew Bridge and overshadow the flats north of Kew Bridge Road;
 - rise steeply from the Thames frontage rather than cascade down towards it;
 - significantly exceed the height of adjoining buildings along Kew Bridge Road, particularly the Waggon and Horses;
 - provide limited architectural interest at ground level with elements not of a human scale and little certainty that the commercial units would provide interest;
 - offer less than the maximum reasonable proportion of affordable housing;
 - put residential density as of greater importance than the merits of the scheme;
 - fail to guarantee a new public house;
 - fail to re-instate the former boathouse.

- 9.80 Moreover, compared with the ‘yardstick’ of what could be achieved in the Aukett report, the proposals would be much bulkier, less elegant, intrude more towards the Thames, damage the natural river frontage and enclose much of the housing around a gloomy courtyard.
- 9.81 With regard to the TLS, while less up to date, the proposals would nonetheless conflict with Policies 12.2 and 12.3 [2.36]. Insofar as the proposals would conflict with the TLS and the Brief they would also conflict with UDP Policy IMP.5.2 and Proposal M20.

NATIONAL POLICY CONCLUSIONS

- 9.82 PPS1 emphasises good and inclusive design. PPG3 encourages more efficient use of land through good design and layout without compromising the quality of the environment. PPG15 looks for imaginative high quality design as an opportunity to enhance conservation areas. My conclusions set out why the proposals would clash with these policy objectives.

Benefits

- 9.83 The appellant has put forward a series of benefits as material considerations that could overcome any harm which might be found. These include mixed use development, a new river side path and public square, a wetlands area together with a further public boardwalk and terrace, the opening up of a level-access link under Kew Bridge accessible to all, highway improvements and other benefits, not least a major contribution to the strategic and local housing needs in London on a site that has stood derelict and vacant for far too long. Of these I accept that considerable weight should be given to the provision of housing but no extra weight to providing housing above the range suggested in the London Plan. While developing the site would be of benefit, dismissing this particular appeal would not prevent better proposals coming forward.
- 9.84 The public square would be a significant benefit but is also a requirement of the brief: even added to the rooftop amenity areas, the policy requirements for open space would not be met. Although presented as benefits, other matters to be secured by conditions or the s106 should be intended to do no more than overcome possible planning objections. As advised in Circular 05/2005 (Annex B) the s106 provisions should compensate for damage or mitigate against impact. Any weight attributed to the s106 should be balanced against objections, not seen as positive benefits beyond those which are necessary to make the development acceptable in planning terms.
- 9.85 I acknowledge that the appellant has gone to considerable lengths, through the series of revised drawings or through argument, to pick away at the planning concerns and has succeeded to the extent that the Council’s officers, EH and the GLA withdrew their objections. However, EH’s comment – that the scheme would be a *great improvement on the earlier scheme* – is hardly a ringing endorsement. Its further comment that: *the quality of the overall and detailed design and the choice and quality of facing materials in the amended scheme would offer scope to mitigate the concern over height* is focussed on mitigation not praise [5.10]. The appeal scheme may have gone through lengthy negotiations since its original submission but the overall concept of an 8 storey doughnut with a wing projecting as far and as high as it dare towards the Thames, has not altered.
- 9.86 Rather than respond to the real constraints of the site’s designations, the series of amendments have left a scheme with most of the original disadvantages but with rather confused façades. Indeed, by chipping away at the edges to address planning objections,

the proposals have lost any architectural integrity they might have had and left a design that would be neither a landmark at the road junction nor, in any other significant respect, a good design.

- 9.87 Instead of the high quality scheme claimed by the appellant the final design approach, including the rather fanciful reference to Regency domestic architecture [3.44], would be a thinly veiled attempt to respond to criticisms of the monolithic nature of the block of flats. The description of a series of carefully crafted elements would in fact be little more than appliqué or a patina to a monolithic block; on an overcast day much of this subtlety would be lost. If there is any doubt as to whether the evolution was accurately presented at the Inquiry as a series of elements brought together, the limited differences from earlier schemes dispels this myth [2.13].

Overall Conclusions

- 9.88 I have accepted that the Aukett report should not be taken as prescriptive but also found that it would be fair to use it for comparison. The Aukett sketches show a building rising through even steps towards a climax at the junction before cascading down on the other side. While devoid of detail, this would be an appropriate response to the site that would highlight the junction and respect the lower buildings along either side of Kew Bridge Road and Kew Bridge itself. Following the Aukett report would have the potential of producing good design. Conversely, the appellant has drawn comparisons with Rivers House and Regatta Point. While the stark architectural statements these two buildings make are no longer fashionable, and they have been remodelled, nonetheless, they were designed to stand four-square with an integrity and clarity of form. The current proposals, on the other hand, would fall between these two stools and sit comfortably on neither.
- 9.89 The overall massing would be akin to the converted office blocks but the set backs and applied modelling and colour would lack any overall clarity of form; instead the building would be stretched out against every boundary with little breathing space. Nor would the building sweep up and down as in the Aukett sketch; rather it would extend at every corner to try and maximise its volume, resulting in the bulbous forms evident on the elevations and lacking any elegance or cohesive rhythm beyond the monotony of the fenestration. Nor would the block appear as an organic series of adjoining buildings. Although described as different elements, in truth the block would appear as a single entity with rather arbitrary detailing and materials.
- 9.90 The proposals concentrate on satisfying a very few policies, and principally those on maximising the site's potential for housing, at the cost of environmental concerns. For the above reasons I conclude that, given the very few physical constraints and excellent opportunities the site offers, the proposed design is simply not good enough and would conflict with a raft of UDP and London Plan policies. Consequently the considerable harm the proposals would cause to the streetscene and surrounding area would not outweigh the benefits of additional housing. In this context I judge that the proposals would not meet the required standard. But this is not any part of London. Rather it is a highly prominent site, seen by many on foot, cycling, on buses, and from the river as well as in cars, and a highly sensitive site, emphasised by the area's myriad designations. I therefore conclude that the quality of design would fall very far short of what could reasonably be expected for this site and would cause considerable harm to the KBCA and further harm to other conservation areas, listed building settings, the WHS and the riverside. Taken with additional harm that would be caused on account of some poor

living conditions, increased risk to highway safety and limitations in the s106 provisions I recommend that Appeal A should fail.

Appeal B – Listed Building Consent

9.91 There is one main consideration in this appeal, namely: *whether the proposed demolition would preserve the special architectural and historic interest of the listed building*. It is common ground [2.47] that the Listed Building Appeal Scheme would provide the opportunity to enhance the setting of the listed Kew Bridge by providing for the demolition of the unsightly disused toilet block facility. LBH has not objected to its demolition or supported the contention that LBC should be dependent on approval of a satisfactory comprehensive scheme for redevelopment. While sympathetic to the needs of the businesses within the arches, which in any event belong to LBH not SGWL, I conclude that the proposed demolition would remove the unsightly addition and so preserve the listed building, and that Appeal B should therefore be allowed.

10. RECOMMENDATIONS

Appeal A

10.1 I recommend that the appeal be dismissed.

10.2 If however the First Secretary of State is minded to grant permission, I recommend that the conditions in Annex 1 be imposed and that the matters of the s106 Obligation, as appropriate [9.72], be further explored with the parties.

Appeal B

10.3 I recommend that Appeal B is allowed and the Listed Building Consent application, Ref.00657/G/L2 dated 4 April 2003, is granted for the demolition of a single storey toilet block at the Slip Road adjacent to northwest side of Kew Bridge, Brentford subject to the conditions in Annex 1.



INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|--|--|
| Robin Purchas QC | instructed by Bevan Brittan, 2 Fleet House, London EC4M 7RF |
| He called: | |
| Peter Crossley BA BArch RIBA | Broadway Malyan, 3 Weybridge Business Park, Addlestone Road, Weybridge KT15 2BW |
| Giles Quarne AMS RIBA ICOMOS ASCHB FSA FRAS | Giles Quarne and Associates, 41 Cardigan Street, London SE11 5PF |
| Jerome Webb MRICS | Gordon Ingram Associates, The White House, Belvedere Road, London SE1 8GH |
| Ian Liddell BSc | WSP Development, Buchanan House, 24/30 Holborn, London EC1N 2HS |
| Paul Dickinson BA MRTPI MRICS FLI MIM MID | Paul Dickinson Associates, Sunbury International Business Centre, Brooklands Close, Sunbury-on-Thames TW16 7DX |

FOR THE LOCAL PLANNING AUTHORITY:

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|---|--|
| Mary Cook of Counsel | instructed by Mr TM Welsh, Assistant Chief Executive, London Borough of Hounslow |
| She called: | |
| Jack Warshaw BArch DipTP AADipCons RIBA MRTPI IHBC FRSA | Wey House, Standford Lane, Headley GU35 8RH |
| Paul Littlefair MA PhD CEng MCIBSE MSL | BRE Bucknalls Lane, Garston, Watford WD25 9XX |
| Nabil Basri BSc CEng MSc TEng MIHT MILT MRoSPA | Mouchel Parkman plc, 307-317 Euston Road, London NW1 3AD |
| Paul Martin BSc IEng AMICE MIHT | Mouchel Parkman plc, Kingswood House, 49-51 Sidcup Hill, Sidcup DA14 6HJ |
| David Chivers BSc DipTP MRTPI | Audley Planning Associates |

THE RULE 6 PARTIES

FOR THE STRAND-ON-THE-GREEN ASSOCIATION

| | |
|---------------------------------|--|
| John Ormsby BSc CEng FIEE JP | Chairman, The Strand-on-the-Green Association, 75 Strand-on-the-Green, London W4 3PF |
| Charles Leeming | The Strand-on-the-Green Association |
| gave evidence and called: | |
| Paul Velluet RIBA IHBC | c/o The Strand-on-the-Green Association |
| Nigel Moore | Ridgeway Wharf, Brent Way, Brentford TW8 8ES |

FOR THE BRENTFORD COMMUNITY COUNCIL

| | |
|--|---|
| Denis Browne AADip DipDistTP ARIAS FRSA RIBA MRTPI | Chairman, Brentford Community Council, Chatham House, 15 The Butts, Brentford TW8 8BJ |
| He called: | |
| Rowan Moore | Director, The Architecture Foundation |

FOR THE WEST LONDON RIVER GROUP

Angela Dixon West London River Group, 65 Kew Green,
Richmond-upon-Thames TW9 3AH

She called:

Peter Makower West London River Group, 89 Hartington Road, Chiswick W4 3TU

FOR THE LONDON FORUM OF AMENITY AND CIVIC SOCIETIES

Peter Eversden BSc Chairman, The London Forum of Amenity and Civic Societies,
70 Cowcross Street, London EC1M 6EJ

FOR THE KEW SOCIETY

Dennis Woodman MA Planning Member of the Executive Committee, The Kew Society, 21
Raleigh Road, Kew TW9 2DU

INTERESTED PERSONS:

| | |
|---------------|---|
| Paul Freer BA | London Borough of Richmond, Civic Centre, 44 York Street, Twickenham TW1 3BZ |
| Ruth Cadbury | Cllr. for Isleworth and Brentford, London Borough of Hounslow |
| Paul Lynch | Cllr. for Chiswick Riverside Ward, London Borough of Hounslow |
| Margaret Ball | 3 Camborne Way, Heston, Middlesex TW5 0PW |
| Keith Garner | Royal Botanical Gardens, Kew TW9 3AB |
| Gillian Olcay | The Hollows Association, "Ciconia", The Hollows, Brentford TW8 0DZ |

CORE DOCUMENTS

CD1 ORIGINAL APPEAL SCHEME - 263 UNIT SCHEME (APRIL 2003)

CD1/1 Planning application drawings to the 263 unit scheme
CD1/2 Covering letter and planning application form
CD1/3 Supporting Planning Statement prepared by Paul Dickinson & Associates (April 2003)
CD1/4 Urban Design Statement prepared by Broadway Malyan (April 2003)
CD1/5 Transport Assessment by WSP Development (April 2003)
CD1/6 Ecological Assessment prepared by EPDM (April 2003)
CD1/7 Archaeological Desk Based Assessment by CgMs Archaeology (March 2003)
CD1/8 Flood Risk Assessment including letter from John Savage Associates (March 2003)
CD1/9 Archeological Evaluation by Pre-Construct Archaeology (March 2003)
CD1/10 Desk Study Geotechnical Report by Card Geotechnics (March 2003)

**CD2 FIRST REVISION - 263 UNIT SCHEME (40% AFFORDABLE HOUSING)
(OCTOBER 2003)**

CD2/1 Planning application drawings to the 263 (40% affordable housing) unit scheme
CD2/2 Revised Urban Design Statement prepared by Broadway Malyan (October 2003)
CD2/3 Ecological Report prepared by EDPM (October 2003)

CD3 SECOND REVISION - 250 UNIT SCHEME (MARCH 2004)

CD3/1 Planning application drawings to the 250 unit scheme
CD3/2 Supplemental Urban Design Statement prepared by Broadway Malyan (March 2004)

CD4 THIRD REVISION - 245 UNIT SCHEME (JUNE 2004)

CD4/1 Planning application drawings to the 245 unit scheme:

CD5 FINAL REVISION - 238 UNIT SCHEME (NOVEMBER 2004) (Appeal Scheme)

CD5/1 Planning application drawings to the 238 unit scheme:

| <u>Drawing Title</u> | <u>Scale</u> | <u>Drawing Number</u> | <u>Revision</u> | <u>Date Submitted</u> |
|----------------------|--------------|-----------------------|-----------------|-----------------------|
| Basement Plan | 1:200 | PPA4-03-B1 | C | 17 November 2004 |
| Ground Floor Plan | 1:200 | PPA4-03-00 | C | 17 November 2004 |
| First Floor Plan | 1:200 | PPA4-03-21 | C | 17 November 2004 |
| Second Floor Plan | 1:200 | PPA4-03-22 | C | 17 November 2004 |
| Third Floor Plan | 1:200 | PPA4-03-23 | C | 17 November 2004 |
| Fourth Floor Plan | 1:200 | PPA4-03-24 | C | 17 November 2004 |
| Fifth Floor Plan | 1:200 | PPA4-03-25 | C | 17 November 2004 |
| Sixth Floor Plan | 1:200 | PPA4-03-26 | D | 17 November 2004 |
| Seventh Floor Plan | 1:200 | PPA4-03-27 | D | 17 November 2004 |
| Eighth Floor Plan | 1:200 | PPA4-03-28 | D | 17 November 2004 |
| Roof Plan | 1:200 | PPA4-03-RF | D | 17 November 2004 |
| Elevations Sheet 1 | 1:200 | PPA4-05-01 | E | 25 January 2005 |
| Elevations Sheet 2 | 1:200 | PPA4-05-02 | F | 3 March 2005 |
| Elevations Sheet 3 | 1:200 | PPA4-05-03 | E | 25 January 2005 |
| Elevations Sheet 4 | 1:200 | PPA4-05-04 | E | 25 January 2005 |
| Elevations Sheet 5 | 1:200 | PPA4-05-05 | E | 25 January 2005 |

Indicative Drawings

| <u>Drawing Title</u> | <u>Scale</u> | <u>Drawing Number</u> | <u>Revision</u> | <u>Date Submitted</u> |
|--|--------------|-----------------------|-----------------|-----------------------|
| Elevations to Kew Bridge, Key Datum Levels | 1:200 | PPA4-05-50 | C | 25 January 2005 |
| Elevations to Kew Bridge Road | 1:200 | PPA4-05-51 | C | 25 January 2005 |
| Elevations to Kew Square, Key Datum Levels | 1:200 | PPA4-05-52 | A | 25 January 2005 |
| Elevations to Kew Bridge and Kew Bridge Road Including Local Context | 1:200 | PPA4-05-70 | A | 25 January 2005 |
| Public Access and Transport Links Drawing | 1:500 | PPA4-01-10 | - | 17 November 2004 |

Supplementary Documents

- CD5/2 Second Supplemental Urban Design Statement prepared by Broadway Malyan (November 2004)
- CD5/2(a) Revised Colour Elevations - November 2004
- CD5/3 Planning Statement prepared by PDA (November 2004)
- CD5/4 Revised Shadowing Report (November 2004 and February 2005)
- CD5/5 Revised Transport Assessment prepared by WSP (November 2004)

Further Information

- CD5/6 Documents submitted to LBH on 2 February 2005
- CD5/7 Documents submitted to LBH on 15 February 2005
- CD5/8 Documents submitted to LBH on 3 March 2005
- CD5/9 Document submitted to LBH on 4 March 2005
- CD5/10 Documents submitted to LBH on 11 March 2005

CD6 COMPOSITE APPEAL DOCUMENTS

- CD6/1 Planning Application Appeal Forms and supporting documents submitted to the Planning Inspectorate by the Appellant on 24 June 2003 in relation to the 263 scheme
- CD6/2 Listed Building Consent Appeal Forms and supporting documents submitted to the Planning Inspectorate by the Appellant dated 24 June 2003 in relation to the 263 scheme
- CD6/3 The Appellant's Statement of Case September 2004 (prepared in relation to the 250 scheme)
- CD6/4 The Appellant's Updated Statement of Case, April 2005 (prepared in relation to the 238 scheme)
- CD6/5 LB of Hounslow's Statement of Case, April 2005
- CD6/6 West London River Group's Statement of Case
- CD6/7 London Forum's Statement of Case
- CD6/8 Brentford Community Council's Statement of Case
- CD6/9 Kew Society's Statement of Case
- CD6/10 Strand-on-the-Green Association's Statement of Case

CD7 PLANNING APPEAL CORRESPONDENCE & REPORTS

- CD7/1 LBH Sustainable Development Committee Report on 245 scheme dated 4 November 2004
- CD7/2 LBH Sustainable Development Committee Report on 238 scheme dated 22 March 2005
- CD7/3 Officers Addendum to LBH Sustainable Development Committee Report on 238 scheme dated 22 March 2005
- CD7/4 Appeal Questionnaire and supporting documents submitted to the Planning Inspectorate by LBH
- CD7/5 LBH decision notice dated 22 March 2005

CD8 LONDON BOROUGH OF HOUNSLOW POLICIES

- CD8/1 Hounslow Unitary Development Plan (adopted December 2003)
- CD8/2 Planning & Urban Design Brief: Kew Bridge/ Scottish Widows Site (September 2001) and appended Aukett Report
- CD8/3(a) Thames Landscape Strategy (1994) (adopted as an SPG by LBH) - Hampton - Kew
- CD8/3(b) Thames Strategy (2002) (adopted as an SPG by LBH): Kew - Chelsea
- CD8/4 Supplementary Planning Guidance (February 1997) (covers design standards and controls, additional standards and controls and residential standards and controls)
- CD8/5 Hounslow Community Plan: Celebrating Diversity - building cohesion 2004-2007
- CD8/6 Housing Needs Survey (May 2001)

CD9 REGIONAL AND NATIONAL PLANNING GUIDANCE

- CD9/1 The London Plan (February 2004)
- CD9/2 Mayor of London SPG Accessible London: achieving an inclusive environment (April 2004)
- CD9/3 Mayor London Draft SPG, Affordable Housing (July 2004)
- CD9/4 Mayor of London Draft SPG, Housing Provision (December 2004)
- CD9/5 Mayor of London Draft SPG, Sustainable Design and Construction (March 2005)
- CD9/6 The London Plan, Development Plan Policies for Biodiversity – Best Practice Guidance Consultation Draft (October 2004)
- CD9/7 PPG3: Housing (March 2000) & Draft Revisions to PPG3: Planning for Mixed Communities (January 2005)
- CD9/8 PPG12: Development Plans
- CD9/8(a) PPG12: Extracts from latest version on Supplementary Planning Guidance
- CD9/9 PPG13: Transport
- CD9/10 PPG15: Planning and Historic Environment
- CD9/11 PPG16: Planning and Archaeology
- CD9/12 PPG17: Open Space, Sports and Recreation
- CD9/13 PPG24: Noise

- CD9/14 PPS1: Creating Sustainable Communities
- CD9/15 PPS6: Planning for Town Centres

CD10 OTHER GOVERNMENT PUBLICATIONS

- CD10/1 Circular 11/95: Use of Conditions in Planning Permission
- CD10/2 Circular 1/97: Planning Obligations
- CD10/3 Revisions to Circular 1/97: Planning Obligations
- CD10/4 Circular 6/98: Planning and Affordable Housing
- CD10/5 The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 as amended

CD11 HERITAGE AND TOWNSCAPE

- CD11/1 Kew World Heritage Site Management Plan (April 2005)
- CD11/2 List description for Kew Bridge
- CD11/3 List description for Kew Gardens (UNESCO designation) 2003
- CD11/4 Kew Bridge Conservation Area Designation Report 2004
- CD11/4(a) Report to Isleworth & Brentford Area Committee 12 September 2002
- CD11/4(b) Isleworth & Brentford Area Committee Report 24 October 2002
- CD11/5 Strand-on-the-Green Conservation Area Designation Report 1977
- CD11/6 Kew Green Conservation Area Designation Report 1988
- CD11/7 Towards Urban Renaissance (Urban Task Force 1999)
- CD11/8 By Design - Urban Design in the Planning System - Towards Better Practice (DETR May 2000)
- CD11/9 Buildings in Context, 2001 (CABE/EH)
- CD11/10 Moved to CD8/3(b)
- CD11/11 By Design - Better Places Live, CABE/DTLR (2001)

CD12 TRANSPORT

- CD12/1 TfL Written Submission - Annex 1 to the London Plan EIP Sub Matter 5b
- CD12/2 Brentford Transport Strategy (MVA)

CD13 SUNLIGHT & DAYLIGHT

- CD13/1 BRE Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (1991)
- CD13/2 British Standards Sunlight & Daylight Guidelines 8206

CD14 HOUSING

- CD14/1 Monitoring the Provision of Housing through the Planning System - Towards Better Practice (DETR October 2000)
- CD14/2 Planning to Deliver - The Managed Release of Housing Sites - Towards Better Practice (DETR July 2001)
- CD14/3 Sustainable Communities: Homes for All (ODPM January 2005)
- CD14/4 London Housing Delivery Plan 2004
- CD14/5 Scheme Development Standards, Housing Corporation (April 2003)

CD15 MISCELLANEOUS

- CD15/1 Employment Land Reviews: Guidance Note, ODPM (December 2004)
- CD15/2 Safer Places: The Planning System & Crime Prevention, ODPM (2004)
- CD15/3 Part M, Building Regulations 2001
- CD15/4 London Borough of Hounslow Screening Opinion dated 15 May 2003
- CD15/5 Partnership in Planning - Riverbank Design Guidance for the Tidal Thames: Environment Agency (1997)

- CD15/6 Appeal Decision regarding land at Salamanca Place, Albert Embankment SE1 (May 2005)
- CD15/7 The Planning System: General Principles, ODPM (2005)
- CD15/8 Planning Inspectorate appeal decision February 2004 re land at Maclise Road, Olympia London W14
- CD15/9 Appeal Decision October 2003 re land at Imperial Wharf, Townmead Road, London
- CD15/10 Brentford Area Action Plan: Brentford "A Snapshot" (April 2003)
- CD15/11 Annotated Plan to include Listed Buildings – Kew Bridge Conservation Area (May 2005)
- CD15/12 Cabe/English Heritage Guidance on Tall Buildings published March 2003 together with explanatory note from the English Heritage website
- CD15/13 Letter from the Thames Landscape Strategy to Denis Browne dated 20 June 2005
- CD15/14 The Use of Density In Urban Planning, DETR June 1998
- CD15/15 Full Document List – including which party supplied each document

ST GEORGE WEST LONDON LIMITED – LIST OF DOCUMENTS

- SGWL 1 Robin Purchas's Opening Submissions
- SGWL 2 Peter Crossley's powerpoint presentation
- SGWL 3 Site Context Map (A3 and A1 size)
- SGWL 4 Photomontages (Camera 3 and 6)
- SGWL 5 Development Control and Highway Sub Committee Report dated 1 June 1999
- SGWL 6 Sustainable Development Committee Report dated 13 September 2001
- SGWL 7 Letter from LBH dated 18 May 2004 with consultation responses on the draft Brief from:
 - English Heritage
 - Public Meeting Note
 - LB Richmond
 - Thames Landscape Strategy
- SGWL 8 Photographs of Stevenage Development
- SGWL 9 Photographs and plans of Brindley Place Estate
- SGWL 10 Table Showing alternative ADF values produced by Mr Webb
- SGWL 11 E-mail dated 29 June 2005 and attached letters from the GLA
- SGWL 12 Transport documents produced by Mr Liddell comprising:-
 - TfL PTAL Calculator
 - E-mail from Mr Liddell to Mr Basri dated 23 May 2005 regarding the meeting note of 10 May Letter from WSP to Katherine Abraham of TfL dated 5 May 2005 attaching details of
 - TRICS sitesLetter from WSP to Katherine Abraham of TfL dated 24 June 2005
- SGWL 13 Letter from Bevan Brittan dated 4 July confirming withdrawal of appeal references APP/F5540/A/03/1120786 and APP/F5540/E/03/1121007
- SGWL 14 Letter from Acorns Projects Limited to WSP dated 24 June 2005 regarding the Stage 1 Road Safety Audit and attached letter from WSP to Acorns Projects Limited dated 15 June 2005
- SGWL 15 Letter from Paul Hyman on behalf of the Chiswick Pier Canoe Club undated but submitted to the Planning Inspectorate on 24 June 2005 with attached documents
- SGWL 16 Schedule of local public parks and open spaces
- SGWL 17 Letter from Mr Liddell to Mr Basri dated 9 September 2005 with enclosures
- SGWL 18 Letter from Bevan Brittan to Roy Pinney dated 5 August 2005 enclosing draft Unilateral Undertaking, SOCG, Conditions, and letter from CEA Ltd
- SGWL 19 Letter from Bevan Brittan to Roy Pinney dated 12 September 2005 enclosing note on PPS6, Affordable Housing paper, plan showing additional private amenity space for affordable residents and plan with composite AOD layouts
- SGWL 20 Emails between Mr Liddell and TfL dated 26 September 2005; from Katherine Abraham to Mr Liddell; and from Mr Liddell to Nigel Pompilis
- SGWL 21 Schedule of agreed plot ratios
- SGWL 22 Note from Peter Crossley on points raised during evidence

- SGWL 23 Note on glazing from Jerome Webb
- SGWL 24 Peter Crossley's proof of evidence, appendices and rebuttal
- SGWL 25 Giles Quarmer's proof of evidence and appendices
- SGWL 26 Jerome Webb's proof of evidence, appendices and rebuttal
- SGWL 27 Ian Liddel's proof of evidence, appendices and rebuttal
- SGWL 28 Paul Dickinson's proof of evidence, appendices and rebuttal
- SGWL 29 SGWL's Closing Submissions

LONDON BOROUGH OF HOUNSLOW – LIST OF DOCUMENTS

- LBH 1 Mary Cook's Opening Submissions
- LBH 2 Dr Littlefair – note on glass transmission
- LBH 3 PTAL calculation by TfL 29 June 2005
- LBH 4 Steadman – Planning Inspectorate letter 27 June 2005
- LBH 5 Letter re status of riverside walkway
- LBH 6 2x plans showing extent of adopted highway and footway adjacent to appeal site
- LBH 7 Draft Unilateral Undertaking sent via e-mail to LBH on 30 June 2005
- LBH 8 Town and Country Planning (Mayor of London) Order 2000 (I.S. 2000/1493)
- LBH 9 Extract from Circular 01/2000 Strategic Planning in London
- LBH 10 Notes on PPS6 presented by D Chivers
- LBH 11 Statement of Common Ground on Highway Issues
- LBH 12 Annotated drawings showing scaled heights of buildings
- LBH 13 Measuring public transport accessibility levels (TfL July 2005)
- LBH 14 Smoother Methodology for Verified Views
- LBH 15 CEA Verification – St George 3 August 2004
- LBH 16 Section 52 Agreement 21 September 1984
- LBH 17 Transport Assessment Erratum, Supplementary Report and Appendix
- LBH 18 Extract from Building Regulations Part E
- LBH 19 Council's position on Affordable Housing
- LBH 21 Jack Warshaw's proof of evidence and appendices
- LBH 22 Paul Littlefair's proof of evidence and rebuttal
- LBH 23 Nabil Basri's proof of evidence and appendices
- LBH 24 Paul Martin's rebuttal proof of evidence
- LBH 25 David Chivers's proof of evidence and appendices
- LBH 26 LBH's Closing Submissions

THE STRAND-ON-THE-GREEN ASSOCIATION – LIST OF DOCUMENTS

- SGA 1 Nigel Moore's Report and Analysis as affected by the Blue Ribbon Network Policies
- SGA 2 Supporting Documentation (PTAL)
- SGA 3 Supporting Documentation – photographic and illustrative
- SGA 4 Correspondence with EH and SGWL
- SGA 5 Supporting Documentation – references, technical details and e-mail messages
- SGA 6 Statement by Paul Velluet
- SGA 7 Analysis of Aukett Report and Historical Views
- SGA 8 Comments on draft s106
- SGA 9 John Ormsby's proof of evidence
- SGA 10 Nigel Moore's proof of evidence, appendix and rebuttal

WEST LONDON RIVER GROUP – LIST OF DOCUMENTS

- WLRG 1 Summary, mission statement and curriculum vita
- WLRG 2 Peter Makower's proof of evidence
- WLRG 3 Appendix A – apparent ambiguities etc. and overlays
- WLRG 4 Letter regarding parking in the slip road upstream of Kew Bridge

WLRG 5 Letter from the occupants of the arches

BRENTFORD COMMUNITY COUNCIL – LIST OF DOCUMENTS

- BCC 1 Letter to LBH dated 30 May 2003
- BCC 2 GLA comments on draft brief
- BCC 3 Richmond Council comments on draft brief
- BCC 4 TLS co-ordinator comments on draft brief
- BCC 5 Brentford Health Impact Assessment Update 19 September 2005
- BCC 6 Denis Browne's proof of evidence and appendices
- BCC 7 Rowan Moore's proof of evidence

THE LONDON FORUM OF AMENITY AND CIVIC SOCIETIES – LIST OF DOCUMENTS

- LFACS 1 Peter Eversden's proof of evidence, appendix and rebuttal
- LFACS 2 Summary proof of evidence
- LFACS 3-5 Aukett Draft Urban Design Objectives
- LFACS 6 CABE: Making design policy work
- LFACS 7 Photograph of Kreisel Walk

THE KEW SOCIETY – LIST OF DOCUMENTS

- KS 1 Dennis Woodman's proof of evidence and appendices
- KS 2 Supplement on Daylight, Sunlight, Noise and Fumes
- KS 3 Supplementary Evidence
- KS 4 Superseded
- KS 5 Supplementary Analysis of Amenity Space
- KS 6 Private and Secure Amenity Space
- KS 7 Letter from Environment Agency dated 18 June 2003

SCHEDULE OF OTHER INQUIRY DOCUMENTS

- Document 1 Lists of persons present at each day of the Inquiry
- Document 2 Letters of notification of Inquiry and list of those notified
- Document 3 Letters of representation in response to Document 2 (Red folders)
- Document 4 Paul Freer's proof of evidence and appendices for LB Richmond
- Document 5 Statement by Keith Garner, Royal Botanical Gardens, Kew
- Document 6 Statement by Margaret Bull
- Document 7 Signed and dated Unilateral Undertaking under s106
- Document 8 Signed Statement of Common Ground
- Document 9 Signed Statement of Common Ground on Highway Matters
- Document 10 Signed Statement of Common Ground on Daylight and Sunlight
- Document 11 Letter dated from The Hollows Association dated 23 September 2005
- Document 12 Site Visit Itinerary and list of those present
- Document 13 A3 colour copy of Aukett Report
- Document 14 Letter dated 16 June 2005 from the Amateur Rowing Association
- Document 15 Schedule of accompanied site visits and list of those present
- Document 16 Inspector's Pre-Inquiry Minutes
- Document 17 List of suggested conditions, as amended
- Document 18 Statement by Cllr Paul Lynch
- Document 19 Statement by Cllr Ruth Cadbury

Annex 1

Suggested conditions in the event that appeals are successful.

Appeal A – Planning application

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The proposed development shall be carried out in all respects in accordance with the proposals contained in the Application and the plans submitted therewith and approved by the local planning authority (LPA), or as shall have been otherwise agreed in writing by the LPA. Any applications for variation shall be accompanied, amongst other things, by overlay drawings provided by the applicant for comparison with the permitted scheme.
3. A scheme of phasing and timetable of development and timing of construction including details of completion of the boardwalk and associated public accesses, wetland area, public square, landscaped areas for the affordable housing and courtyard, shall be submitted to and agreed by the LPA before development commences and the development shall be implemented entirely in accordance with that scheme except as otherwise agreed in writing in advance by the LPA.
4. No development shall take place until samples and details of the materials to be used in the construction of the external surfaces of both residential and commercial elevations (including parapet details, shopfronts and fascias) of the hereby permitted scheme have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
5. No development shall take place until detailed drawings of the proposed balconies (to be constructed as shown on drawings 21910 PPA4 03-22 Rev D, 03-23 Rev D, 05-04 Rev F and 05-05 Rev F), privacy screens and railings on the buildings have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
6. No demolition or construction work shall take place on the site except between the hours of 8:00am and 6:00pm on Mondays to Friday and 8:30 a.m. and 1:00pm on Saturdays and none shall take place on Sundays and Bank Holidays.
7. Before commencement of the development details shall be submitted to and approved by the LPA to cover the following matters:
 - (i) the location of the contractor's compound including any external illumination of the site;
 - (ii) measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site;
 - (iii) measures to minimise dust nuisance caused by the operations and to ensure that no dust or other debris is carried on to the adjoining properties;
 - (iv) a scheme for movement and parking for construction traffic;The matters so approved shall be fully implemented on commencement of development.
8. No additional floorspace shall be formed within the buildings hereby permitted by means of internal horizontal or other division without prior written consent of the LPA.
9. Within the commercial floorspace hereby permitted, with reference to the Town & Country Planning (Use Classes) Order 1987 as amended 2005:
 - (i) no more than 1500 sq m shall be used for any purpose falling within Classes A1 or D1 within which total floorspace no individual A1 unit shall occupy more than 500 sq m;
 - (ii) On the elevations facing the river and / or public square at least 450 sq m shall be used to provide Class A3 or A4 activities. Notwithstanding the provisions of the Town and

- Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), permitted development rights to change to A1 or A2 shall be withheld;
- (iii) units comprising any purpose falling within Class B1 shall have a total maximum 14m frontage (excluding returns);
 - (iv) no class A5 activities shall be permitted;
- unless otherwise agreed in writing by the LPA.
11. No A3/A4 unit shall be open to members of the public outside the hours of between 1100 to 2400 hours daily unless otherwise agreed in writing in advance by the LPA. No servicing access or activity associated with any A3/A4 use shall be carried out in or through the courtyards before 0730 or after 0030 hours.
 12. No A3/A4 unit shall be brought into use before a scheme for the control of fumes and odours (and details of sound attenuation for any necessary plant) has been submitted to and approved by the LPA in writing. The scheme once approved shall be implemented before any A3/A4 use may open for trade and must be permanently retained in full working order. No fans, louvres, ducts or other external plant shall be installed without the prior written approval of the LPA.
 13. No parking shall be permitted in the courtyard and parking within the public square shall be restricted to people with disabilities and for maintenance purposes. Before the development is commenced details of vehicular and cycle parking positions and access to and within the car parks and ground floor areas, including widths and gradients of the ramps; location, type and operation of barriers to and within the car park; circulation space; disabled parking spaces; signage; lighting; CCTV and internal treatment of the car parks; shall be submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved scheme and permanently retained thereafter except as otherwise to be agreed with the LPA.
 14. Construction of the car parks shall not commence until details of the proposed arrangements for their ventilation (including details of sound attenuation for any necessary mechanical plants and the standard of dilution expected) have been submitted to and approved in writing by the LPA. The scheme once approved shall be implemented before the car parks are first used and the measures thereby introduced shall be permanently retained in full working order thereafter.
 15. Development shall not begin until details of the junction of the access road and Kew Bridge Road have been approved in writing by the local planning authority, and the building shall not be occupied until the junction within the application site has been constructed in accordance with the approved details.
 16. Before the development is commenced a scheme to deal with contamination on the site and pollution of the water environment shall be submitted to and approved in writing by the LPA and such scheme shall be implemented strictly in accordance with the terms of any approval and completed before the building is first occupied. The contamination scheme shall include an investigation and assessment to identify the extent of contamination and to determine its potential for the pollution of the water environment. The scheme shall also include measures to be taken to avoid risk to the public, buildings, and environment to prevent pollution of groundwater and surface water and provisions for monitoring contamination during and after the site is developed. The scheme for dealing with the contamination shall be carried out in accordance with the approved details.
 18. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (including the timetable for the investigation) which has been submitted to and approved in writing by the LPA.

19. No development shall take place until details of the design of the construction of the surface water drainage system has been submitted to and approved in writing by the LPA including a timetable for implementation and such scheme shall be implemented in accordance with the terms of any approval.
 20. No development shall take place until there has been submitted to and approved in writing by the LPA a plan indicating the positions, design, materials and type of boundary treatment to waterfront and public edges to include changes of levels. All boundary treatments shall be completed and in place before any part of the development is first occupied or in accordance with a timetable to be agreed with the LPA. The boundary design, installation and maintenance shall be carried out in accordance with approved details.
 21. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the LPA.
 - (i) The hard landscape details shall include; proposed finished levels or contours; means of enclosure; vehicle and pedestrian access and circulation areas; hard surfacing materials; street furniture including replacement public toilet facility, seats, cycle racks, safety railings, railings and refuse units; information/history boards; lighting; and physical appearance of vent housings.
 - (ii) The soft landscape details shall include: planting plans including full details of all proposed tree planting; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants noting species which should incorporate appropriate native species alongside the watercourses; plant sizes and proposed numbers/densities where appropriate; and implementation programme including proposed times of planting.
 - (iii) The hard and soft landscaping details for the roof terraces shall include the additional designated amenity areas for affordable housing units shown on the 'Proposed Roof Plan Showing Amenity Space' dated September 2005 and shall include access for people with disabilities to the roof terrace on Level 7.

All hard and soft landscaping shall be carried out in accordance with the approved details. The works shall be completed prior to the occupation of any part of the development or in accordance with the programme agreed with the LPA in writing.
 22. No development on each relevant phase of construction shall take place until a landscape management plan, including long term design objectives, management responsibilities, arrangements for implementation and maintenance schedules for all hard and soft landscape areas for a minimum of 5 years has been submitted to and approved by the LPA. The landscape areas shall be managed and maintained in accordance with the approved schedule.
 23. If within a period of five years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, (or becomes, in the opinion of the LPA, seriously damaged or defective,) another tree of the same species and size as that originally planted shall be planted at the same place, unless the LPA gives its written consent to any variation.
 24. The uses hereby permitted shall not begin until details of the arrangements for storing of refuse or waste have been submitted to and approved by the LPA. The scheme shall include details of refuse/waste recycling measures. The arrangements for storing of refuse or waste shall not be carried out otherwise than in accordance with an approval given and shall be completed before any part of each relevant phase of the development hereby permitted is occupied.
 25. Details of lux levels, direction and screening of any external and street lighting including lighting for riverside areas shall be submitted to and approved in writing by the LPA before any of the buildings are occupied. All lighting shall be installed and maintained in accordance with the approved details.
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27. There shall be no storage of materials within 8m of the watercourse. This area must be suitably marked and protected during construction. There shall be no fires, dumping or racking of machinery within this area.
28. A 14m buffer zone, to be measured from the high water mark, alongside the watercourse shall be established and maintained in accordance with details which shall be submitted to and approved in writing by the LPA before the development commences.
29. No development approved by this permission shall be commenced until a detailed scheme for the new river wall has been submitted to and approved in writing by the LPA. All works shall be carried out in strict accordance with the approved details before any part of the development is occupied, unless otherwise approved by the LPA.
30. No development approved by this permission shall be commenced until a detailed scheme for the enhancement of part of the River, to include a wetland area as shown on the approved drawings has been submitted and approved by the LPA. The scheme must include details of the design, method of construction, dimensions, elevation (in relation to tidal and access levels) and materials. Planting must be limited to appropriate native species only. The wetland area shall be managed and maintained in accordance with the approved scheme.
31. Details of the siting and design of the boardwalk including the provision of at least two mooring positions for house boats together with access and services (including sewage disposal) shall be submitted to and approved in writing by the LPA before the development is commenced. Any proposal for the boardwalk shall be designed to enable light to penetrate through the structure. The boardwalk shall be provided and maintained in strict accordance with the approved details.
36. Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 as amended 2005, any D1 use should only be used for medical or community purposes and for no other purpose without the prior written consent of the local planning authority having first been obtained.
37. Details of the proposed finished ground floor slab levels shall be submitted to and approved in writing by the LPA before the development is commenced. Development shall be carried out in accordance with the approved levels.
38. The glazed area of the living room windows to the courtyard facing affordable units shall not be less than 3.79 sq m unless otherwise approved in writing by the LPA.
39. Notwithstanding the application drawings, the balconies identified on drawings nos. P.C.1.5.6, 7, 8 and 9 in the Statement of Common Ground as reducing daylight to below the recommended minimum in the BRE Guide are to be omitted, unless otherwise approved in writing by the LPA.
40. No residential unit shall be occupied until the westbound carriageway of the A315 Kew Bridge Road is widened to 6m in accordance with the plan identified as WSP Widening Option ACC/02.

Appeal B - Listed Building Consent

1. The works hereby authorised shall begin not later than 5 years from the date of this consent.
2. Demolition shall not take place until there is an agreed scheme for repair of the wall to be exposed and making good of redundant fixings, flashings and other damage. Repair works shall be carried out in accordance with the approved scheme.