



Office of the  
Deputy Prime Minister

Creating sustainable communities

Karen Cooksley  
Bevan Brittan LLP  
Fleet Place House  
2 Fleet Place  
London  
EC4M 7RF

Mark Plummer  
Decision Officer  
Planning Central Casework Division  
3/J3  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Direct Line: 020 7944 8721  
Fax: 020 7944 5929  
GTN No: 3533 8721  
Email mark.plummer@odpm.gsi.gov.uk

Web Site: [www.odpm.gov.uk](http://www.odpm.gov.uk)

Dear Sir,

Our Ref: APP/F5540/A/05/1180177 &  
APP/F5540/E/05/1180179

9 March 2006

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
(SECTION 20)  
APPEALS BY ST GEORGE WEST LONDON – LAND AT KEW BRIDGE ROAD/KEW  
ROAD, BRENTFORD**

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, David Nicholson, RIBA IHBC, who held a public local inquiry between 28 June and 30 September 2005 into your client's appeals:

- under section 78 of the Town and Country Planning Act 1990 concerning 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 (application Ref. 00657/P/P10) ("**Appeal A**"); and
- under Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure by the London Borough of Hounslow to give notice within the prescribed period of a decision on an application for listed building consent to demolish a single storey toilet block (application Ref. 00657/G/L2) ("**Appeal B**").

2. The Inspector, whose conclusions are reproduced in the Annex to this letter, recommended that Appeal A be dismissed, and planning permission refused. He also recommended that Appeal B be allowed and listed building consent granted. A copy of his report is enclosed. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

**Procedural Matters**

3. The Secretary of State notes that full details of the agreed Appeal Scheme are included in the Statement of Common Ground and revised drawings. He has had regard to the fact that it was agreed at the Inquiry that this was the scheme considered and

refused by the London Borough of Hounslow, and that all interested parties had had adequate opportunity to consider and comment on the revisions. The Secretary of State has, like the Inspector, considered the application on the basis of the revised scheme (IR1.1).

4. The Secretary of State accepts that there were a number of shortcomings in the application drawings, as identified by the West London River Group. However, he agrees with the Inspector that, 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 (IR9.3).

### **Policy Considerations**

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Hounslow Unitary Development Plan, adopted in December 2003, and the London Plan (Spatial Development Strategy for London), published in February 2004. The Secretary of State agrees with the Inspector that the development plan policies set out in IR2.22-2.35 are the policies of particular relevance to the consideration of this case. The Secretary of State agrees with the Inspector that other relevant planning policies are set out in the "Supplementary Planning Guidance" and the "Other Extant Documents" listed in IR2.21. The Secretary of State has also had regard to the "Other Documents in Draft" listed in IR2.21.

6. The Secretary of State agrees with the Inspector's assessment of the Planning and Urban Design Brief for the site in IR2.37-2.39, which was adopted in September 2001. The weight he gives to this brief and to the *Aukett Report* is set out in paragraphs 40-44 below.

7. Other material considerations that the Secretary of State has taken into account include Planning Policy Statement 1 (PPS1): *Creating Sustainable Communities*; Planning Policy Guidance Note 3 (PPG3): *Housing*; Planning Policy Statement 6 (PPS 6): *Planning for Town Centres*; Planning Policy Guidance note 13 (PPG13): *Transport*; Planning Policy Guidance note 15 (PPG15): *Planning and Historic Environment*; Planning Policy Guidance note 16 (PPG16): *Planning and Archaeology*; Planning Policy Guidance note 17 (PPG17): *Open Space, Sports and Recreation*; and Planning Policy Guidance note 24 (PPG24): *Noise*.

8. The Secretary of State has had regard to draft Planning Policy Statement 3 *Housing*, which was published for consultation on 5 December 2005. The Secretary of State has taken this into account but, as this document may be subject to change, he affords it little weight. He also considers that this draft raises no new issues which would affect his decision or require him to refer back to the inquiry parties, either under Rule 17 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, or in the interests of natural justice.

9. In deciding both appeals, the Secretary of State has paid special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest which they may possess, as required by section 16(2) and 66 of the Planning (Listed Building and Conservation Areas) Act 1990. Given that the appeal site is situated within the Kew Bridge Conservation Area, the Secretary of State

has also paid special attention to the desirability of preserving or enhancing the character and appearance of that area, as required by section 72 of the same Act.

### **Appeal A - Main Issues**

10. The Secretary of State agrees with the Inspector that the main considerations in this case are those identified in IR9.1-9.2, and he considers each below.

#### **Character and Appearance**

##### *Kew Bridge Conservation Area (KBCA)*

11. The Secretary of State agrees with the Inspector that the assessment in this case is a balance between any visual improvements (enhancement) and any detractions or loss of views (failure to preserve); and that these should be measured against the special architectural and historic interest whose character or appearance merits the conservation area designation (IR9.9).

12. The Secretary of State agrees with the Inspector that 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. He agrees with the Inspector that the enduring characteristics of the KBCA are the settings of the listed structures, together with the road, rail and river patterns which connect them (IR9.12).

13. For the reasons in IR9.13-9.32, the Secretary of State agrees with the Inspector that the proposals would not constitute good design, and would cause considerable harm to the character and the appearance of the KBCA (IR9.33).

##### *Strand-on-the-Green Conservation Area*

14. For the reasons in IR9.34-9.36, the Secretary of State agrees with the Inspector's conclusion that the proposed development would also harm the character and appearance of the Strand-on-the-Green Conservation Area, and that this harm should also be afforded substantial weight. The Secretary of State notes the arguments comparing weight to be applied to section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 as against that under Section 38(6) of the 2004 Act. He accepts that as the Strand-on-the-Green Conservation Area is not the conservation area under consideration, section 72 is not directly applicable; however he agrees with the Inspector's reasoning in IR9.36 that, as the section 72 test is echoed in the UDP, the distinction is of little consequence.

##### *Kew Green Conservation Area and Royal Botanical Gardens Kew Conservation Area*

15. The Secretary of State agrees with the Inspector that the proposals would harm the Kew Green Conservation Area, for the reasons in IR9.37.

16. The Secretary of State agrees with the Inspector that the proposals would also harm the Royal Botanical Gardens Kew Conservation Area, but that given the distances involved, and the extent of the screening usually present, the amount of harm would be less (IR9.38).

### *The World Heritage Site at Kew*

17. The Secretary of State agrees with the Inspector that, for the reasons in IR9.39, the proposals would have a damaging effect on the setting of the World Heritage Site, but while that harm in itself should be afforded considerable weight on account of the World Heritage Site designation and status, the views are so distant and usually so well screened that the amount of harm would in this case be minimal (IR9.39).

### *Thames Riverside*

18. The Secretary of State has had regard to the fact that this section of the 'Thames Path' is identified in the Royal Botanical Gardens Kew Conservation Area special interest as "*one of the more remarkable stretches*"; and that the proposals would be seen for significant distances up and down the Thames, well beyond the KBCA (IR9.40). The Secretary of State agrees with the Inspector that the proposals have little understanding of the river's character or use (IR9.40).

19. The Secretary of State has had regard to the fact that the detailed design of the boardwalk is not yet undertaken (IR9.41), but agrees with the Inspector that the proposed boardwalk would urbanise the river frontage and harm it. He also agrees with the Inspector that whilst this might be justified for the length of the public square, there would be no justification for extending the boardwalk for the full width of the site other than as a means of retaining the footpath whilst providing flood storage and so enabling the building to encroach further towards the river (IR9.41).

### **Listed Buildings**

20. For the reasons in IR9.42, the Secretary of State agrees with the Inspector that the proximity and size of the proposed building would interfere with the setting to Kew Bridge, especially at its northern approach, and harm it. He also agrees with the Inspector that views of the Campanile from Spring Grove and the river frontage in the Strand-on-Green Conservation Area are important to its setting, and that reducing the ability of the tower to be seen from these points, as would be the case if the proposed development were approved, would diminish its special interest. The Secretary of State agrees that the impact of the proposals on the setting of the railway station building would be less significant but would still be an important factor (IR9.43). The Secretary of State concludes that the proposals would harm the setting of the listed buildings.

### **Living Conditions – Future Residents**

#### *Outlook*

21. For the reasons in IR9.44, the Secretary of State agrees with the Inspector that while some residential units would enjoy excellent views, others would only have a restricted outlook.

#### *Sunlight and Daylight*

22. For the reasons in IR9.45, the Secretary of State agrees with the Inspector that roughly half the flats would lie on the cusp of receiving inadequate sunlight according to the British Research Establishment's *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice* (1991), although equally, subject to overshadowing, all of these same units would also be on the margin of receiving enough sunlight.

23. The Secretary of State agrees with the Inspector that, for the reasons set out in IR9.46-9.47, the floor of the courtyard would be in shadow for most of the year, that it would not be a particularly pleasant place to sit out and would be a rather gloomy space. He also agrees with the Inspector that options for soft landscaping would be restricted by the lack of sunlight (IR9.46).

24. The Secretary of State agrees with the Inspector that in this case the site is almost unconstrained and the design possibilities are numerous (IR9.52), such that these limitations could be avoided or minimised by alternative design. For these reasons, and the reasons in IR9.49-9.52, he agrees with the Inspector that a significant shortcoming of the proposed development is that some flats would have limited daylighting, no sunlight and a gloomy outlook (IR9.52). He also agrees with the Inspector's view that the design of the proposal would also encourage greater use of artificial lighting and electricity consumption than might otherwise be necessary, contrary to policies encouraging more sustainable forms of development (IR9.51).

#### *Outdoor Amenity Space*

25. For the reasons in IR9.53-9.54 and IR9.59, the Secretary of State agrees with the Inspector's conclusion in IR9.54 that, 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 that the appeal site is a site where many alternatives would be possible, the Secretary of State shares the Inspector's view that this shortcoming adds to the conclusion that the proposals do not represent an example of good design and layout.

#### **Living Conditions – Existing Neighbours**

26. For the reasons in IR9.55, the Secretary of State agrees with the Inspector that the likely effect of the proposals on many of the flats in 10, 14 and 15 Green Dragon Lane would be undesirable and that this adds to the harm that the Inspector has already found in terms of the living conditions of future residents of the proposed development.

#### **Traffic**

##### *Public Transport Accessibility Level (PTAL)*

27. For the reasons in IR9.56, the Secretary of State agrees with the Inspector that, while it would be wrong to calculate the PTAL for the site as 4, 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.

##### *Free Flow of Traffic*

28. For the reasons in IR9.57, the Secretary of State agrees with the Inspector that, in the overall highway context, the proposals are unlikely to make a significant difference to the free flow of traffic.

### *Highway Safety*

29. For the reasons in IR9.60-9.62, the Secretary of State agrees with the Inspector that the risk to highway safety of the dangerous U-turns could, given the absence of design constraints on the site, have been largely avoidable.

### **Other Matters**

#### *Housing Density*

30. The Secretary of State has, like the Inspector, had regard to London Plan Table 4B.1 (IR9.63), and to the different views of the appellant and Council on the appropriate PTAL rating (IR9.63). However, he agrees with the Inspector's conclusion in IR9.65 that the policy ranges in Table 4B.1 are indicative, and that no relevant policy sets an upper limit for housing density.

31. The Secretary of State agrees with the Inspector that, for the reasons in IR9.66-9.67, a judgement on whether the density proposed is appropriate for this site depends on the effects of the proposals on their environment and context (IR9.67). He considers, like the Inspector, that density should not be the determining factor but that, in accordance with the Development Plan, the design should seek to maximise density whilst being acceptable in all other regards (IR9.70). In this particular case, the Secretary of State agrees with the Inspector that the design does not overcome the challenges presented by high density and would compromise the quality of the built environment, for the reasons in IR9.70 and, as mentioned in paragraph 13 above, harm the KBCA.

32. The Secretary of State has had regard to the Greater London Authority's support for the proposal, and he agrees that the provision of additional housing adds considerable weight in favour of the proposal. However, he agrees with the Inspector that dismissing this appeal would not prevent additional housing being built on the site, and that 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 (IR9.68).

#### *Affordable Housing*

33. For the reasons in IR9.71, the Secretary of State agrees with the Inspector's conclusion in IR9.72 that, while the proposals would produce additional housing, a better balanced scheme would accord with the Mayor's draft SPG on Affordable Housing and be more likely to meet the identified housing needs of the Borough. He agrees with the Inspector that no suggestion has been put forward that the site has any peculiar development costs and that, given that it is a vacant site on the riverside, the reverse could be argued. For these reasons, he also agrees with the Inspector that the affordable housing provision would fall short of the aim of UDP policy H2.1 to secure the highest achievable provision in terms of the number of units, size of units and the proportion and certainty of rented accommodation. The Secretary of State agrees that increasing the number and size of the affordable units while maintaining a separate entrance would require some redesign of the overall scheme layout (IR9.72). In reaching this conclusion the Secretary of State has taken into account the proposed affordable housing element of the Section 106 Obligation, but accords it little weight given the various other objections to the affordable housing element of the proposal, as set out in this paragraph.

### *Metropolitan Open Land*

34. The Secretary of State agrees with the Inspector that the effect of the proposed development on the setting of the Metropolitan Open Land would be similar to that for the effect on the Kew Bridge Conservation Area and the Kew Green Conservation Area (IR9.73).

### *The Boat Club*

35. For the reasons in IR9.74, the Secretary of State agrees with the Inspector that the failure to meet the requirement in the Planning and Urban Design Brief for a boat club also weigh against the proposals.

## **Compliance with Policy**

### *Development Plan*

36. The Secretary of State agrees with the Inspector that the benefit of providing a large number of dwellings warrants considerable weight in favour of the proposals, but that the development plan policies emphasising the need to maximise the use of suitable sites for housing, together with government advice, in PPG3 in particular, are conditional on development not causing significant other harm (IR9.4).

37. For the reasons in paragraphs 11-20 above, the Secretary of State agrees with the Inspector that 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 in respect of harm to the various Conservation Areas, and to the setting of listed buildings, particularly Kew Bridge and the Campanile. He also agrees with the Inspector that harm to the appearance of the area would also harm the river frontage, contrary to UDP Policies ENV-W.1.1, ENV-W.1.3 and IMP.5.2; and that, for the reasons set out in paragraph 35 above, the lack of a boathouse would run counter to Policy ENV-W.1.11 (IR9.76).

38. In respect of the affordable housing provisions, the Secretary of State agrees with the Inspector that the proposals would be in conflict with UDP Policy H.2.1, for the reasons stated in paragraph 33 above. The Secretary of State agrees with the Inspector that the high quality environment required by UDP Policy H.4.2 would not be achieved on account of a combination of poor daylight, sunlight and outlook; and that the increased risk to highway safety that would arise from the dangerous U-turns would not meet UDP Policy T.4.3 (IR9.77).

39. For similar reasons to his conclusions on the UDP, the Secretary of State agrees with the Inspector that the proposals would also conflict with London Plan Policies 4B.1 (especially bullet points 3, 7, 9, 10 and 11) and 4C.20. He agrees that 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. The Secretary of State agrees with the Inspector that the proposed development would not be the good design that is central to Chapter 4B and all the objectives of the London Plan (IR9.78), and is also contrary to PPS1, PPG3 and PPG15 (IR9.82)

### *Planning and Urban Design Brief*

40. For the reasons in IR9.5, the Secretary of State agrees with the Inspector that the Planning and Urban Design Brief (the "Brief") for the site is SPG to which substantial weight should be attached.

41. The Secretary of State agrees with the Inspector that although the Brief may have been considered when the Kew Bridge Conservation Area (KBCA) designation was arrived at, it does not address the statutory duty or the policy requirements of preserving or enhancing the character or appearance of this conservation area. He agrees with the Inspector that it cannot be assumed that meeting the requirements of the Brief would meet the statutory duty for the KBCA (IR9.7), as those criteria were not relevant at the time the Brief was drawn up and consulted upon.

42. The Secretary of State agrees with the Inspector's assessment of the development against the Brief for the site, as set out in IR9.79.

### *Aukett Report*

43. The Secretary of State agrees with the Inspector that no more weight should be attached to the Aukett report other than that it reflects the views of independent urban design consultants (IR9.5). However, for the reasons in IR9.6, he agrees with the Inspector that the Aukett report serves as a useful 'yardstick' for what could be achieved and by which to measure other proposals, and that it is reasonable to compare proposals with the schematic solution illustrated in the report. For these reasons, he agrees with the Inspector that 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.

44. The Secretary of State agrees with the Inspector that the Aukett sketches show a building rising through even steps towards a climax at the junction before cascading down on the other side, and that 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 (IR9.88). However, the building proposed in the appeal scheme would not sweep up and down as in the Aukett sketch but would extend at every corner (IR9.89). The Secretary of State agrees with the Inspector that 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 (IR9.80).

### *National Policy*

45. Consistent with paragraph 3.2 of PPS6, the Secretary of State considers that, as Government policy is more up to date than the development plan and the Brief, the policy in PPS6 should be considered as a material consideration in this case. The Secretary of State agrees with the Inspector that, given the facts and circumstances of this particular case, and subject to conditions and the provisions in the s106 Obligation, the proposals would be satisfactory in this respect (IR9.75).

### **Conditions and s106 Obligation**

46. The Secretary of State agrees with the Inspector's assessment of the proposed conditions, for the reasons in IR8.1-8.9.



47. The Secretary of State agrees with the Inspector's assessment of the s106 Obligation in IR8.11-8.25. For the reasons in IR9.84, he also agrees with the Inspector that 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.

### **Conclusion on Appeal A**

48. The Secretary of State considers that Appeal A and the accompanying s106 Obligation offers a number of benefits, including a contribution to the strategic and local housing needs in London on a site that has stood derelict and vacant for many years, and the provision of public areas.

49. However, the appeal site is in a highly sensitive and prominent location. Given the very few physical constraints and excellent opportunities the site offers, the quality of the design of the appeal scheme would fall very far short of what could reasonably be expected for the site and would cause considerable harm to the Kew Bridge Conservation Area and further harm to other conservation areas, listed building settings, the World Heritage Site and the riverside. Additional harm would be caused because of some poor living conditions, and increased risk to highway safety. The policy requirements for open space would also not be met. For these reasons, the appeal scheme would conflict with many UDP and London Plan policies, and this conflict is not outweighed by the benefits of additional housing and other benefits of the scheme.

### **Conclusion on Appeal B – Listed Building Consent**

50. For the reasons in IR9.91, the Secretary of State agrees with the Inspector that the proposed demolition would remove the unsightly addition of the disused toilet block and so preserve the listed building.

### **Formal Decision**

51. Accordingly, for the reasons given above, the Secretary of State accepts the Inspector's recommendation. He hereby:

- dismisses **Appeal A** and refuses planning permission 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 (application Ref. 00657/P/P10) at Land at Kew Bridge Road/Kew Road, Brentford; and
- allows **Appeal B** and grants listed building consent for the demolition of a single storey toilet block at the Slip Road adjacent to northwest side of Kew Bridge, Brentford (application Ref. 00657/G/L2, dated 4 April 2003) subject to the following conditions:
  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.

### **Right to Challenge the Decision**

52. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

53. A copy of this letter has been sent to the London Borough of Hounslow and to all those who appeared at the Inquiry.

Yours faithfully

**Mark Plummer**

Authorised by the First Secretary of State to sign in that behalf