

INCOMPATIBILITY OF THE SCHEME WITH THE ADOPTED LOCAL PLAN AND THE 2013 TWICKENHAM AREA ACTION PLAN (TAAP)

EXECUTIVE SUMMARY

1 Richmond Council's case for a Compulsory Purchase Order on the Diamond Jubilee Gardens is predicated on the suggestion that the Scheme is in compliance with, and builds on, the adopted proposals in the current Local Plan.

2 However, the many references throughout the Statement – as in the planning report of November 2022 – are selective, drawing on largely generic elements designed to strengthen its case, but ignoring and failing to confront the core issue. **In practice, the Scheme fails to comply with the area-specific proposals in the current Local Plan relating to the Riverside site (TW7), which explicitly exclude development or building on the then recently created Public Open Space of the Diamond Jubilee Gardens.**

3 The 2018 Local Plan (as well as other relevant local planning documents such as the 2018 Twickenham Village Planning Guidance) defer to the 2013 Twickenham Area Action Plan (the TAAP) and do not cover the geographical area covered by the TAAP, on the grounds that it set out detailed policies and proposals for Twickenham centre, was recent, and “to ensure that there is no confusion during the planning process”.

4 These statements make it all the more important that full account should be taken of what the TAAP actually recommended and the Council's decisions and actions which led up to the making of those recommendations.

5 The TAAP identified the TW7 site as a potential site for improvement, looking specifically “to open up and redevelop/refurbish the **remaining area of the former pool site, which adjoins the recently refurbished Diamond Jubilee Gardens**” so that future development of the wider site would “**enhance and extend** Diamond Jubilee Gardens” (our emphasis). It deliberately designated two areas of the site which it considered right for development/housing – both on Water Lane. These are shown below in Maps 7.12 and 7.14, in Paras 37 and 39:

- (E) “1, 1a and 1b King Street (the ‘Santander block’) with setback or inset to create a public square or other civic space with active frontage at ground floor level and residential development above of a height and design appropriate to the location of the site”; and
- (F) “the car park in Water Lane with residential and/or town centre uses together with the continuation of the service road between Water Lane and Wharf Lane”.

6 The history of the Diamond Jubilee Gardens is one of the gradual creation and safeguarding of an area of Public Open Space on the historic Twickenham Riverside, for public recreation and enjoyment. With no simple answers to the emotional issue of how to re-purpose the former Lido pool site, **successive Council administrations** showed both vision and prescience by setting about that task on a stage-by-stage basis.

7 The TAAP was not an instrument developed in isolation, The Statement of Case notes the detailed consultations that preceded it and the Plan represented the culmination and consolidation of a sustained series of decisions and actions over a decade to address the matter of the former swimming pool site. A detailed time-line is included below in Para 33 and shows a clear course and policy emerging between the early 2000s and 2014 for the future improvement of this area of the Riverside, with the Council taking significant incremental steps to achieve that goal. In 2013, the TAAP followed on from the formal

designation of the Gardens as 'Public Open Space' and confirmed the **undeniable and deliberate sequence of intention for the Gardens to be held as public open space "in perpetuity"** for the benefit of local residents.

8 That intention was set in concrete in May 2014 with the granting to the **Trust of a 125-year lease providing long-term legal title to the bulk of the Gardens until 2139** and requiring (with three separate direct mentions and one indirect mention within the lease) the Trust and the Council to preserve them as Public Open Space.

9 Para 7.5.5.1 of the TAAP describes the Aims as: "to bring this derelict site back into active use, taking advantage of its riverside location and improving links between this area and the core of the town. A substantial area of open land to be retained and some of this to be green space. **Bringing the site back into use will be key to the regeneration of the town.** The Council will work with the owner of 1-33 King Street and the private car park in Water Lane to improve the whole area through a comprehensive, phased programme of change" (our emphasis).

10 The "key objectives" set out in the next paragraph are essentially the same as those described for the present Scheme, even though written ten years ago – but with one fundamental distinction. The underlying principle in the TAAP for this site was founded on building solely in two deliberately earmarked and defined areas on the east side of site TW7 along Water Lane – leaving the Diamond Jubilee Gardens untouched.

11 This was based on the judgement that the 'destination' for Twickenham that many were seeking and that would strengthen the town centre and improve links between the high street and the river, while maintaining the unique character and feel of Twickenham Riverside, could and should rather be achieved through improvements which continued to preserve and extend the Public Open Space that the established staged policy was already providing. Effectively, this acknowledged that Twickenham Riverside was a significant destination in its own right, at the end of the Thames Path leading from Richmond and Marble Hill past several of the older sites and buildings of Twickenham.

12 However, at the end of 2017, the sequence begins to fracture and the Council then allows the policy of protecting the designated Public Open Space of the Diamond Jubilee Gardens to fade. With the adoption of the The Town and Country Planning (Brownfield Land Register) Regulations, this vision was overlooked or disregarded and the full TW7 site was entered that December – unbeknown to the Trust – on the Brownfield Land Register as 'previously developed land'. That included the Diamond Jubilee Gardens, without any qualification that the land was a park and no longer 'previously developed'. The Trust believes that, from shortly after that, this error shaped the whole manner in which the future improvement of the site was approached.

13 The Council itself has insisted that, once the Local Plan has been adopted, it can only be amended as part of a formal review, or through the development of a new plan that would supersede the existing Plan. Although consultation is shortly to begin on an updated draft Local Plan with adoption scheduled for winter 2024-25, it is clear that this is not yet in place and that, until such time as a new Plan has been adopted, the existing Plan should be observed. In practice, the draft adds little to the philosophy underpinning the TAAP ten years ago in regard to the open space on Twickenham Riverside, although the relevant section is – self-evidently – written in light of the Scheme.

14 At no point in the planning report or at the Planning Committee was the compatibility of the Scheme with the site-specific proposals within the TAAP discussed. No explanation was given on the acceptability of the Scheme's departure from the explicit proposals within

the Local Plan/TAAP regarding the locations for future development within site TW7 and the undeniable fact that the TAAP did not envisage or intend and building on the existing Diamond Jubilee Gardens. Para 25 above set out the clear sequence of intention in the Council at that time which found its practical expression in the TAAP – which remains the current Local Plan.

15 The Trust has asked many times over the last year for a clear and unequivocal explanation of how the Scheme complies with the site-specific proposals of the TAAP. No answers have been given other than in the planning report and the Statement of Case, neither of which address the central issue.

BACKGROUND

16 Throughout the Statement of Case, understandably, the Council prays in aid a range of relevant planning policy instruments in support of its case, specifically the 2018 Richmond Local Plan and the 2013 Twickenham Area Action Plan (TAAP).

17 This is a central plank of its case for a Compulsory Purchase Order on the Diamond Jubilee Gardens. The Statement is predicated on the suggestion that the Richmond Council Scheme is in compliance with, and builds on, the recommendations in the current Local Plan and the TAAP. The Statement and is peppered with references to the TAAP, which are designed to reinforce the assertion that the Scheme accepts and takes further the direction set in the TAAP.

18 The section on Planning Policy Background (Section 6) is the largest chapter in the document and further focused discussion on these elements continues in Section 10 – between them representing about a quarter of the Statement, if the reproduction of and comments on the Objections are discounted.

19 However, while the Trust accepts many of these references, the Statement – as the planning report of November 2022 before it – is highly selective in its quotations, drawing often only on largely generic elements which help its case, but ignoring – and failing to confront – what, for the Twickenham Riverside Trust, are the central and most important site-specific messages. These are (1) that the Scheme fails to comply with the area-specific proposals in the current Local Plan (the TAAP) relating to the Diamond Jubilee Gardens and (2) that, in accordance with those decisions, any further development or building on the Riverside site (TW7) should not be on the then newly established public space of the Gardens, but be aimed at enhancing and extending them.

20 Important too is the fundamental error of the Council in not following through on the TAAP when it entered the full TW7 site, including the Gardens, on the Brownfield Land Register in December 2017 as ‘previously developed land’. It is clear that this inconsistent and erroneous action has – consciously or unconsciously – informed the Council’s design and strategy processes ever since.

21 There have been a multitude of references in the specific planning documents relating to the Scheme – and in correspondence over recent years – to the Scheme being on a ‘brownfield’ site. As a result, the Council has failed to carry through the clear practical intention incorporated into the TAAP for this site. It persisted with this line, strongly rebutting objections and dismissing formal appeals made by the Trust – and indeed its position has been re-affirmed every year since 2017 in the mandatory annual reviews of BLR entries for the borough. That is – until that position was reversed, unannounced, in the planning report presented in November 2022, which is now reprised in the Statement of Case.

22 This document only addresses the relationship between what is said in the Statement of Case and the various plans, mainly the Local Plan and the TAAP. The practical merits of the statements themselves are discussed elsewhere in the Trust's evidence.

LOCAL PLANNING POLICY DECISIONS

The Local Plan

23 The current Local Plan dates from 2018 (qualified by a partial revision in 2020 responding to the consequences of two specific challenges). The existing Local Plan for the London Borough of Richmond upon Thames is made up of a series of documents including the Twickenham Area Action Plan – Policies and proposals for central Twickenham, adopted in July 2013. It states:

“1.2.4 The Council adopted the Area Action Plan (AAP) for Twickenham centre in 2013, which sets out detailed policies and proposals for Twickenham centre. The NPPF was fully taken into account during the development of the AAP, and due to its relatively recent adoption, the AAP will not be reviewed or amended as part of this Local Plan.”

24 The Local Plan remains in force until the next one is in place. This was stated in no uncertain terms by the then CEO of Richmond Council in a letter to the Trust dated 28 March 2022, which was rejecting the Trust's appeal against the continuing inclusion of the Diamond Jubilee Gardens in the Brownfield Land Register:

“The TAAP was adopted by full Council on 2 July 2013; once adopted, a Council cannot make changes to its plan. Indeed, once a plan has been submitted for examination in public (the TAAP was submitted on 5 October 2012, and this was the version subject to public consultation from 6 July to 31 August 2012 under Regulation 19 of the above said regulations), a Council can only make minor modifications to its plan to aid clarity, consistency and accuracy, which (taken together) do not materially affect the policies set out in the plan. Only a Planning Inspector, when asked to do so by the Council, can recommend main modifications as deemed necessary to make the plan sound and legally compliant. **Once a plan has been adopted, it can only be amended as part of a formal review of the plan, or through the development of a new plan that would supersede the existing plan.** Therefore, the Cabinet decisions from 2014 were not instructions for officers to amend the TAAP as it is legally and procedurally impossible to do so.” (Our emphasis)

(NB: For completeness, the Trust had not called for the TAAP to be amended, but had simply argued “that the Council failed to take the requisite action in 2014, and also since then, to implement the Council's decisions that this land should have the full protection of ‘public open space’ in all relevant contexts. If that had happened, the change in the status of the Diamond Jubilee Gardens [following the Council's decisions in 2013-14] would have been noted in the context of the TAAP (which is part of the Local Plan) and steps would have been taken to ensure that that intention was implemented at the next relevant stage in the planning process.”)

25 In parallel to this, the comprehensive Twickenham Village Planning Guidance document, adopted in January 2018, also explicitly did not include Twickenham Riverside, on the basis that this was already covered by the existing statutory development plan – the 2013 TAAP – “in order to ensure that there was no confusion during the planning process”.

26 **These statements make it all the more important that account should be taken of what the TAAP actually recommended and the decisions and actions which led up to the making of those recommendations.**

27 It is the Council's intention to adopt a new Local Plan by Winter 2024-25. At its meeting on 24 April 2023, the Environment, Sustainability, Culture and Sport Committee approved the new draft Richmond Local Plan for a 6-week consultation, which is expected to begin this summer.

28 In the **pre-publication 'draft for consultation' Richmond Local Plan** of December 2021 and its accompanying Sustainability Appraisal, Twickenham Riverside (area C3) was identified as:

- scoring "particularly highly for attractiveness, tranquillity, and green spaces"
- having "high sensitivity to change"
- "having a distinctive sense of place and high quality townscape, therefore the strategy is to conserve the character, elements and features whilst enhancing existing features where appropriate".

And that the vision included:

- contributing "to protecting, enhancing and making the most of the character of the built and open environment, including the River Thames and Crane riversides and associated river related activities and Twickenham working waterfront, including preserving and enhancing public access to the Thames"
- "at Twickenham Riverside and Water Lane/King Street (Site Allocation 18) there is the opportunity for the site to regenerate the town centre and increase footfall, making the Riverside a destination and improving its connectivity".

29 All of these factors reflect – and add little to – the philosophy underpinning the TAAP ten years ago in regard to the open space on Twickenham Riverside. However, while the section of the new draft Plan relating to that is – self-evidently – written in light of the Council's proposed scheme, it has yet to pass through the consultative process.

30 This is discussed later in more detail, but it is clear that this is not yet in place and that, until such time as a new plan has been adopted, the existing plan should be observed.

Long-term vision – the Council's historical sequence of intention

31 Both the TAAP and the new draft Local Plan should be seen against the factual backdrop of the evolution of the Riverside site and the Council's intentions since the early 2000s.

32 The history of the Diamond Jubilee Gardens is one of gradual creation and safeguarding of an area of public open space on the historic Twickenham Riverside for recreation and public enjoyment. With no simple answers to the emotional issue of how to re-purpose the former Lido pool site, successive Council administrations showed both vision and prescience by setting about that task on a stage-by-stage basis.

33 The following time-line shows that, over a decade, a clear course and policy emerged for the future improvement of this area of the Riverside, with the Council taking concrete next steps – culminating in the adoption of explicit proposals in the TAAP for further development of the TW7 site, which would both enhance and extend the Gardens without building on them.

2005 – initial Council decisions led to the creation of the limited landscaped space of the Jubilee Gardens (with the café and the play area) extending down on to the Embankment, as a first step in the removal of the derelict buildings and pool area.

2008-09 – The affordable housing requirement for the site was discharged and cleared, through a ‘linked sites’ strategy which was fully activated over the next years. 94 habitable units were built elsewhere in the borough including in Shacklegate Lane and Railway Road in Teddington; and in Lincoln Avenue, Sherland and Waldegrave Roads in Twickenham. (We note that para 11.76 of the Statement dismisses the relevance of this action on the grounds that it was done by a “previous administration” – as it happens, a Liberal Democrat administration, as today – “and before the Council bought the King Street and Water Lane properties”. The Trust questions what difference either of these points make. The important thing is that this was one stage in action to free up and protect the open space on this site and is clear evidence of the Council’s direction of travel over that period.)

2010 – The little landscaped raised-terrace garden with the insect ‘hotel’ was created on the corner of Water Lane and the Embankment.

2011-12 – Responding to an 8000-strong petition by residents, presented to No. 10 Downing Street, and other local pressures, practical plans emerged to create and preserve the open space that had been re-established on part of the old pool site “in perpetuity”.

2011 – The Council encouraged and supported the setting-up of the Twickenham Riverside Trust with the explicit mandate to preserve this open space for the public benefit.

2012 – The Jubilee Gardens were expanded to the present size and arrangement, to create the Diamond Jubilee Gardens – marking HRH The Queen’s Diamond Jubilee – with the part of the Jubilee Gardens directly abutting the Embankment remaining in place.

2013 – There was a 21-week, £1mn+ upgrade of the Embankment promenade and road surface on the development site between Water Lane and Wharf Lane. This was in parallel with the the creation of the Champions Wharf play beach and also followed work done in the two previous years between Church Lane and Water Lane.

2013 – The Twickenham Area Action Plan in July identified the TW7 site as a potential site for improvement, looking specifically “to open up and redevelop/refurbish the remaining area of the former pool site, which adjoins the recently refurbished Diamond Jubilee Gardens”. The TAAP designated two areas of the site which it considered right for development/ housing – both on Water Lane. It explicitly excluded development on the Diamond Jubilee Gardens on the west side of the site – see below.

2013 – In November, the Council served a Public Notice stating its intention to protect the Gardens from development by designating them ‘a public garden’ under Section 122 of the Local Government Act 1972.

2014 – In January and March, the Gardens were formally designated as ‘public open space’ in the Council’s Cabinet reports. The intention was stated by the Council to be for the **Gardens to be held as public open space “in perpetuity”** for the benefit of

local residents. Importantly, in these reports, the Council recorded explicitly that this decision had wider policy implications and considerations for the TAAP.

2014 – In May, **the Trust was granted a 125-year lease providing long-term legal title to the bulk of the Gardens until 2139** and requiring (with three separate direct mentions and one indirect mention within the lease) the Trust and the Council to preserve them as public open space.

2015 – The Council purchased the retail units at 1-3 King Street, with the specific intention of carrying through the intention encapsulated in the TW7 site plan within the TAAP, which had envisaged the re-development both of those buildings and of the car park behind them running along Water Lane, in two phases.

2017 – Responding to the adoption of the newly adopted Brownfield Land Register regulations, the Council erroneously entered the entire TW7 site on the Register as ‘previously developed land’ with potential for housing development – see below.

2018 – Both the Twickenham Village Planning Guidance supplementary planning document (January) and the new Richmond Local Plan (July) explicitly leave out any comment on Twickenham Riverside and confirm the status of the provisions of the 2013 TAAP as their relevant and valid reference point.

2021 – A member of the Twickenham Riverside Trust queried the inclusion of the Diamond Jubilee Gardens in the Riverside entry on the Brownfield Land Register and, meeting with reluctance and lack of communication from the Council, was obliged to resort to FOI requests to obtain clarification.

2022 – The Trust formally challenged that entry, was rejected twice, with its appeal dismissed by the Council CEO, and was forced to take its case to the Information Ombudsman.

2022 – In November, the Council reversed its position on the entry of the Gardens on the BLR, declaring that: “For clarity, the existing DJGs are not defined as brownfield land as this constitutes ‘land in built-up areas such as residential gardens, parks, recreation grounds” (para 8.7 of the planning report).

34 There was an undeniable and deliberate sequence of policy and action to create, enhance and extend this open space on Twickenham Riverside for residents for the longterm future. However, the sequence begins to fracture at the end of 2017 and the Council then allows the policy of protecting the designated public open space of the Diamond Jubilee Gardens to fall by the wayside.

The TAAP

35 More specifically, **the TAAP and other decisions of the Council in 2013-14 confirm in a formal context a clear pattern of intention, both of residents and the Council, regarding the development of the old pool site.** Acknowledging the progress that had already been made on reviving the pool site (which had been closed in 1981), they set in hand a practical plan for further improvements into the future.

36 The Trust understands and shares the frustration and concern about the continued existence of the derelict areas on this central section of the Twickenham Riverside Conservation Area and the time being taken to find a scheme which can marry change with

the retention of the inherent character of this part of the river. However, authors of the TAAP and the decision-takers at the time were fully aware of the importance of addressing this challenge and of the fundamental objective of creating a destination for Twickenham and they adopted practical proposals which they believed would realise that fundamental objective.

37 General Principles for Twickenham Riverside and Approaches were set out in section 7.5.2 (our emphasis):

“7.5.2.1 The future use and appearance of the Riverside is critical to the success of Twickenham as a destination. Any proposals will be required to meet key design principles to ensure they do not adversely impact on the character of the Riverside and provide high quality facilities for the local community.

“7.5.2.2 A comprehensive approach is proposed in order to ensure connections to the Riverside are enhanced and to make Twickenham a more attractive destination. The Opportunity Area has therefore been extended to include the rear service yard and properties fronting King Street.”

“7.5.2.3 The principles within this area are:

- To improve the pedestrian environment and reduce dominance of parked and moving traffic;
- To strengthen the retail offer on King Street and in Water Lane to provide for pedestrian priority with extension of existing service road across the car park to Water Lane, and redevelopment of the car park to provide for residential and/or town centre uses;
- To **open up and redevelop/refurbish the remaining area of the former pool site, which adjoins the recently refurbished Diamond Jubilee Gardens;**
- To **upgrade the Embankment south of the Diamond Jubilee Gardens to provide a pedestrian priority/shared surface** with new landing facilities;
- The visual amenity and significance of Eel Pie Island, its historical working waterfront, leisure clubs, businesses, moorings and eclectic mix of chalets are part of the character and function of this part of Twickenham, and the impact of the proposals in the Twickenham Area Action Plan must be given due consideration;
- **The whole area will have improved links to the retail core, the Thames Path and open spaces up- and downstream and will become an attraction in its own right.”**

Map 7.12 Twickenham Riverside and Approaches Principles



38 It is clear that the letter of the TAAP requires the retention, enhancement and extension of the public open space established by the earlier actions of the Council and described in the Plan for the future as a 'Riverside Park'.

39 Potential uses were also considered and summarised in the following Map 7.14.

Map 7.14 Twickenham Riverside, areas referred to below



Notes to Map 7.14

- (A) Open space (excluding the area where there are currently buildings), a mixture of hard and soft landscaping to allow a variety of leisure activities, playground and café;
- (B) Reuse or replacement of existing buildings to provide mixed uses with active frontages at ground floor level;
- (C) In long-term, subject to agreement of the community, potential low rise leisure and community pavilions closer to the service road area, to enliven the area and allow public enjoyment of the riverside open space;
- (D) Redevelopment or reuse of former public toilets fronting Water Lane for residential, leisure or café use;
- (E) Redevelopment or partial redevelopment of 1, 1a and 1b King Street with setback or inset to create a public square or other civic space with active frontage at ground floor level and residential development above of a height and design appropriate to the location of the site;
- (F) Redevelopment of the car park in Water Lane with residential and/or town centre uses together with the continuation of the service road between Water Lane and Wharf Lane.

40 Para 7.5.5.1 describes the Aims as: “to bring this derelict site back into active use, taking advantage of its riverside location and improving links between this area and the core of the town. A substantial area of open land to be retained and some of this to be green space. **Bringing the site back into use will be key to the regeneration of the town.** The Council will work with the owner of 1-33 King Street and the private car park in Water Lane to improve the whole area through a comprehensive, phased programme of change” (our emphasis). Para 7.5.5.2 sets out a range of specific “key objectives” to guide the practical implementation of these aims.

41 Para 7.5.5.4 of the TAAP sets out Design guidelines to:

- **“Create a destination on the riverside** with high quality facilities/events;
- **Enhance and extend Diamond Jubilee Gardens** with high quality landscaping, children’s play space and performance/events space, on site of former swimming pool;
- **Along the Embankment to upgrade the areas of open space, create a pedestrian priority area and review the car parking provision;**
- **Retention of significant trees;**
- **Creation of pedestrian priority area on Water Lane and Wharf Lane** to extend the ambiance of Church Street to riverside;
- Development on Water Lane frontage to complement existing residential development and to include town centre uses where feasible.
- Future redevelopment of 1, 1a and 1b King Street to include set back of building at junction with Water Lane to **create enhanced public space with views towards the river** where possible.
- **Design of new development to respect character of Conservation Area** and to minimise impact on residential amenity;
- Promote improvements to rear courtyards of properties in King Street;
- Encourage reuse or redevelopment of buildings to rear of King Street to create active frontage onto improved service yard.”

42 These are essentially the same as those described for the present Scheme, even though written ten years ago – but with one fundamental distinction. **The underlying principle in the TAAP for this site was founded on building solely along Water Lane. Confirming the intention and policy that had been followed by successive administrations over the previous decade, the TAAP deliberately earmarked for development two defined areas on the east side of site TW7 and left the Diamond Jubilee Gardens untouched.**

43 This was based on the judgement that the ‘destination’ for Twickenham that many were seeking and that would strengthen the town centre and improve links between the high street and the river, while maintaining the unique character and feel of Twickenham Riverside, could and should rather be achieved through improvements which continued to preserve and extend the public open space that the established staged policy was already providing.

44 Very specific and carefully considered provisions were included for the TW7 site on the Riverside, with the explicit aim subsequently “to open up and redevelop/refurbish the **remaining** area of the former pool site which **adjoins** the recently refurbished Jubilee Gardens” (MM9) so that future development of the wider site would “**enhance and extend** Diamond Jubilee Gardens” (MM18).

45 The subsequent granting in 2014 of the 125-year lease to the Trust over the bulk of the Gardens was designed to reinforce this longterm vision and set it in concrete.

46 The executive summary of the November 2022 planning report states in regard to Public Realm: “The TAAP is prescriptive in terms of its aspirations for public realm improvements, which the scheme is deemed to meet. It removes the car park along The Embankment providing an attractive pedestrian priority area; providing inclusive access throughout; integrating all open space with the wider public realm; widening the public realm along Water Lane and improving the quality of the hard surfacing materials. The public realm improvements are recognised as a significant benefit of the scheme”.

47 For the avoidance of doubt, the Trust has always been attuned to the high degree of sensitivity of this site, which will be shaped forever by the decision on the CPO. The Trust

has been open throughout to improvements to this area of the Riverside including the Gardens – indeed, this is at the heart of its mandate. It is simply seeking to continue the philosophy and practical approach of the 2013 TAAP, which would meet almost all the policy elements of the vision in the present Scheme – without introducing new building on the public open space already well established on the Riverside in the form of the Diamond Jubilee Gardens. As part of the general objective of conservation, the Trust supports removal of the parking, clearance of the derelict areas, further opening-up of views of the Thames and Eel Pie Island, provision of greater access to the river and to the Gardens, and preservation of the park and the ‘village’ character – all of which have been within the control of the Council for some years now and can be achieved while remaining in compliance and harmony with the TAAP.

The ‘Brownfield’ conundrum

48 With the adoption of the brownfield regulations and the rushed requirement for Councils to identify areas of ‘previously developed land’ for inclusion on the Brownfield Land Register, this vision appears to have been overlooked or disregarded. In December 2017, the full TW7 site was included on the BLR, including the Diamond Jubilee Gardens, without any qualification – and unknown to the Trust, which had legal title to part of the area in question. The Trust believes that, from shortly after that, this error shaped the whole manner in which the future improvement of the site was approached.

49 The entry was plain wrong. No account was taken of the conversion already of part of the site to become public gardens or of their re-designation in 2014 as ‘public open space’. **The clear consequence of the Council’s earlier actions was to take the Gardens out of the definition of this land as ‘previously developed’ and ‘suitable for inclusion in the BLR’** under the definition of these terms in the 2012 National Planning Policy Framework. The Gardens should therefore no longer have qualified for entry on the BLR.

50 Despite the clear instruction to Council officers within the 2014 Cabinet reports to take this fact into account in the context of the TAAP and the legal obligations upon both the Council and the Trust (under the lease on the Gardens), **no action appears to have been taken to carry across the changed status of the Gardens as ‘public open space’ into other relevant planning contexts.**

51 Nor was this aspect remedied during the formal annual reviews (in December) of the Council’s entries on the BLR, required by the 2017 regulations. This continued to be the case even though a Trust member first raised the issue for clarification in February 2021 with a view to understanding the Council’s actions and their implications, in order to inform the Trust’s deliberations. The Trust subsequently raised this matter on several occasions, including through the complaints process, which was in-house rather than to an independent adjudicator. Its appeals were simply dismissed.

52 This is important because it appears that the original entry demonstrated that the eye of the Council had been taken off the ball as early as 4 years after the TAAP and 3 years after the establishment of the lease on the Gardens. This resulted in a lack of proper recognition within the Council of the true status of the Gardens and of the need to ensure that status was secured into the future. The Council’s clear intention in the TAAP and the years leading up to it was being diluted to the point of being ignored. That the 2017 BLR entry has now been recognised as wrong has significant implications for the present scheme proposal and for current and future thinking in regard to Twickenham Riverside – which need full consideration.

53 In the context of the Statement of Case, this is also important because the planning statement of June 2021 and several of the core documents referred to by the Acquiring Authority and listed on the Gateley Hamer website – Design and Access Statement; Heritage, Townscape and Visual Impact Assessment; Landscape and Public Realm Strategy – contain multiple mentions of the site’s brownfield status. These persist in the Statement of Case, eg in Para 6.3 noting the “substantial weight” that the NPPF requires “should be given to the use of brownfield land to meet demand for new housing” and in Para 6.13 emphasising that “the Scheme Land includes areas of brownfield land” which is highlighted to demonstrate that it “meets the policy criteria for accommodating new housing”.

54 The clear implication is that this was a powerful justification for the quantum of building that is in the Scheme design.

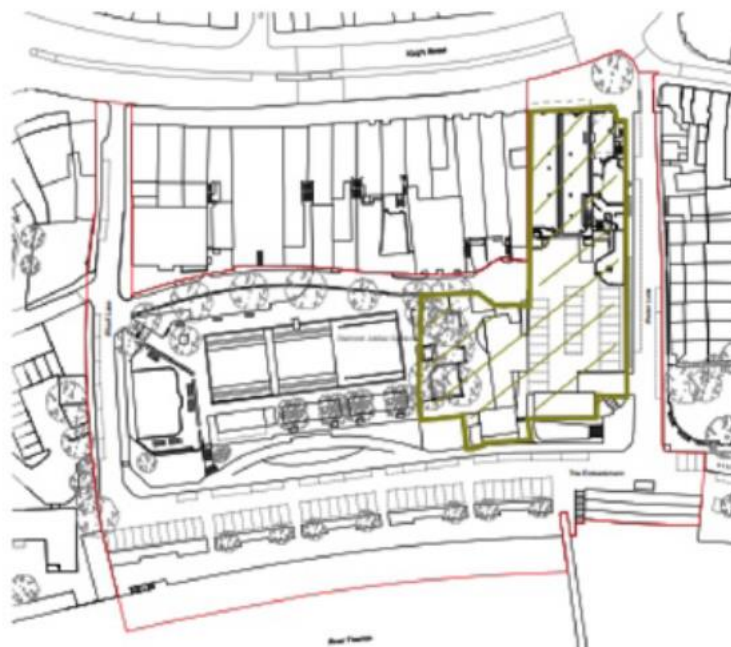
55 The planning report (Para 8.3) stated that, “The whole site allocation TW7 is on the the BLR in response to the TAAP’s aspiration for a comprehensive redevelopment of the whole site, and Twickenham Riverside Trust having previously agreed to consider a re-provision of its land as part of the RIBA competition for the redevelopment of the site”. This version of history was both factually inaccurate and misleading. First, as seen above, while the TAAP did look to a whole-site vision, it was very clear on the importance of retaining the Diamond Jubilee Gardens broadly intact. Secondly, the Trust had taken no such view during 2017 which was up to two years prior to the holding of the RIBA competition, the possibility of which was not even raised until May 2018. It is more likely that the entry was made in error, as described above.

56 Only after the Trust took its case to the Local Government Ombudsman in Summer 2022, was this matter taken seriously by the Council. But this did not happen until the release of the planning report in mid-November 2022, just five days before the planning application was heard and approved. The report reversed the stance hitherto taken by the Council, stating that: “For clarity, the existing DJGs is not defined as brownfield land as this constitutes ‘land in built-up areas such as residential gardens, parks, recreation grounds’.”

57 The following plan shows the extent of the brownfield classification in the changed BLR entry submitted in December 2022. The area identified as 'brownfield' is edged in brown and is less than half the original entry (based on site TW7 – see Map 7.14 above).

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Official



- 8.8 The hatched area contains:
- 1-1b King Street (2-3 storey buildings fronting King Street and Water Lane).
 - Hard standing car park associated to 1-1b King Street.
 - Substation to the south of the service road.
 - The former PC on the corner of Water Lane and The Embankment.
 - The former Bath House and land within the curtilage of this building (contained behind fencing).
- 8.9 The proposed Water Lane building is therefore sited wholly on brownfield land.

58 The errors and potential for confusion continue. The scheme site is still identified as brownfield in the Draft Local Plan that was approved for Public Consultation by a meeting of the Full Council on 27 April 2023, in spite of having been corrected by the Council on the BLR (see TW1 3DX) in December following the November 2022 planning report.

59 Neither the Council project team nor the Planning Committee have engaged with the Trust's suggestions that this fundamental policy shift could well have had a critical and adverse influence on the way in which the Council had approached proposals for the improvement of the TW7 site. Nor have they undertaken – or shared – any assessment of the practical implications of this critical volte-face. Despite calls from the Trust, neither have given any explanation of how, in light of this change of designation of a substantial proportion of the site, the Council's scheme remains consistent with the sequence of intention described above. (The Trust's comprehensive complaint to the Council of 28.3.2022 and the final appeal rejection letter of 4.5.2022 are attached at Annexes 1 and 2, as background.)

Other relevant planning developments

60 Consultation is being undertaken by the Council on a **new draft Conservation Area appraisal** for the Riverside area. While descriptions of Conservation Area 8 note that “There are design opportunities for the pool site, temporarily landscaped, which would strengthen these links as well as restoring a use sympathetic to its riverside location” – and this notion is repeated in the present proposal – it is important that this comment is seen in the full light of the intentions and policy agreed and implemented in 2013-14. The Trust’s input to the consultation on 27 April 2023 is at Annex 3 for information.

61 The draft appraisal records that, “To the south of the Conservation Area along the embankment, there is a clearer sense of openness with the Thames – development is typically set back from the road with the promenade and Thames Path offering pedestrian access, although the presence of cars detracts from this”. Again: “The Embankment is a unique place, well landscaped and with sweeping views of the Thames, though it is separated by public car parking which somewhat disrupts the views and breaks the quaint village character.” And all recent appraisals have highlighted as a problem to be avoided: “Development pressure which may harm the balance of the commercial river-based uses and landscape-dominated setting in many parts of the area, and the obstruction or spoiling of views, skylines, and landmarks”. There are several elements here, but the core principle is to preserve the sense of openness, which also lay at the heart of the TAAP provisions.

62 Another relevant development may also be the **2021 Arup Open Land Review** covering, as well as Metropolitan Open Land (MOL), Local Green Space (LGS) and Other Open Land of Townscape Importance (OOLTI). The Gardens fulfil many of the criteria set out in the National Planning Policy Framework for Local Green Spaces. Specifically, they are in close proximity to the community they serve, they are demonstrably special to the local community and hold particular local significance, and they are not land allocated for development within the current Local Plan. Neither, at the time when the Arup review was commissioned or presented, was there a contrary planning permission in place. The Trust sees no valid reason that the Gardens were not put forward for consideration and questions whether their omission or at least lack of mention was not also influenced by the lack of recognition of their true status.

THE COUNCIL’S JUSTIFICATION

63 As stated at the beginning of this document, the Statement of Case frequently seeks to justify the scheme as compliant with the Local Plan and the TAAP throughout the Statement, under several headings. Given the number of these repeated references, the simplest way of addressing them is to attach comments against them, qualifying or correcting them for the record – in the light of the historical and factual base set out in detail above under Local Planning Policy Decisions. This is done in red in this section.

64 The Trust’s comments should be seen against the purpose, scope, policy context, vision, objectives and strategy set out clearly and in detail in Sections 2 and 3 of the TAAP – which are almost all repeated in very similar terms in the planning report and the Statement of Case. These justifications all applied in 2013, but were judged differently then in the area-specific proposals for the Riverside, at Section 7.5 of the TAAP.

65 A number of themes can be identified in how these references are used in the Statement:

- Many relate to general and generic policy aspirations in the planning guidance cited, but – most importantly – deliberately leaving the more explicit site-specific provisions undiscussed and unexplained.

- Many present a picture of the Scheme as a whole rather than taking account the precise delineation of the land subject to the Compulsory Purchase Order and the exchange land. These then attribute – almost in a box-ticking exercise – benefits which could be achieved equally through a scheme which did not require the CPO on the existing open space.

66 Many of these elements are taken up in more specific detail in other parts of the Trust's submission. This document touches only on the influence they seek to exert within the context of the planning guidance documents referred to in the Statement.

67 In the **Introduction to the Order** (Section 2):

- It is stated that he plans justify the Scheme's delivery of market-price housing and the provision of a small number of 'flexible office units' in the Wharf Lane Building (Para 2.10). **The proportion of office units, compared to the proportion of the uses of the remainder of the building, is very small and there is no guarantee that this particular use-designation will not be changed in the future (as they are categorised, unconditioned, as Class E, which allows flexibility for the use to be changed over time (including perhaps to become part of the pub/restaurant).**

On housing, the Trust acknowledges the pressures on the Council to increase and deliver on its targets across the borough as a whole. However, the number of units is again small and the choice of such sites is at the Council's discretion, taking all relevant considerations into account. The impact on this particular site, given the height and mass of the building to be built on the lost Public Open Space, will be both disproportionate and permanent – as well as in conflict with the site-specific proposals adopted within the TAAP.

- Para 2.13 records that the scheme "is to be developed on a site that is identified within the Local Plan as one which provides an excellent opportunity to rejuvenate and contribute to the vitality and viability of Twickenham town centre". **While this is indeed a quotation from the TAAP and reiterates a sentiment that all can agree, this statement disregards the deliberate call under the Local Plan/the TAAP for development on this site to be confined to two defined areas on the east side. The TAAP clearly considered that this opportunity would be realised – and the objectives of rejuvenation/vitality/viability encouraged – through the enhancement and extension of the open space of the Diamond Jubilee Gardens combined with limited building only, along Water Lane. See paras 25 – 30 above.**
- Para 2.14 records that "the Scheme ... is located within an opportunity area in the TAAP which states how the future use and appearance of the riverside site is critical to the success of Twickenham as a visitor and tourist destination and that a comprehensive approach to development is required to ensure enhanced connections between the riverside and the town". **The previous comment also applies here.**

68 Under **Consultation and Engagement** (Section 3):

- Para 3.2 notes the "extensive historic consultation related to the Scheme Land ... and several consultations leading to the adoption of the TAAP in 2013". **While Statement – correctly – builds up the value of the strong public engagement which preceded the adoption of the TAAP, it is clear that the principles underlying the TAAP's site-specific proposals for this site were not carried through into the Council's future policy from 2017-18 and were overlooked. For example, while the RIBA**

competition design brief did direct candidates towards the TAAP, the Council did not ensure that the winning 'concept design' was then worked up into a finished design that took the TAAP fully into consideration.

69 Under **Planning Policy Background** (Section 6):

- Section 6 as a whole – deals in detail with the full range of planning policy and guidance documents – including the National Planning Policy Framework, London Plan, Richmond Local Plan and the Twickenham Area Action Plan.
- Paras 6.7 to 6.10 relate to the appraisal by the Planning Committee in November 2022 and contain multiple assertions the Committee's conclusion that "the scheme was in accordance with the development plan" and that "the scheme was in general conformity with the Development Plan". It quotes section 11.5 of the planning report: "...there are clear benefits the scheme will deliver. Most notably in the provision of new public realm. The riverside is currently disjointed, dominated by the car park along the riverside, which severs the open space from the river, and diminishes the quality of the public realm. By comparison, the scheme delivers significant environmental improvements as sought by the TAAP. Through the removal of the one-way system and car parking along the Embankment, and consequential reduction in the dominance of parking and moving traffic, the development allows for an enhanced public space along the riverside, that visually and physically connected with the open space throughout the development and that adjacent, providing inclusive access and improving the pedestrian and cycling environment and providing opportunities for water related uses and events."

At no point in the planning report or at the Planning Committee was the compatibility of the Scheme with the site-specific proposals within the TAAP discussed. No explanation was given on the acceptability of the Scheme's departure from the explicit proposals within the Local Plan/TAAP regarding the locations for future development within site TW7 and the undeniable fact that the TAAP did not envisage or intend and building on the existing Diamond Jubilee Gardens. Para 33 above set out the clear sequence of intention in the Council at that time which found its practical expression in the TAAP – which remains the current Local Plan.

The Trust has asked many times for a clear and unequivocal explanation of how the Scheme complies with the site-specific proposals of the TAAP. This question has been addressed (three times since November 2022) to our ward councillors with copy to the Leader of the Council, at least once via them to the planning department, to the Planning Committee itself, and also directly to/via the Council's project team. No answers have been given other than in the planning report and the Statement of Case, neither of which address the central issue.

The time-line was spelled out clearly by the Trust at the Planning Committee – with not a single question or comment in response. The Committee relied purely on the assessment that there were other material benefits deriving from the general principles in the TAAP, the implication being that these overruled the specific letter of the Plan.

It is important to recognise that the authors of the TAAP who wrote and the decision-takers who adopted those general principles were the same people who also determined that, for the longterm future, the Public Open Space of the existing Diamond Jubilee Gardens should be preserved, enhanced and extended – not built

upon. The Trust suggests that the Committee's decision was both misguided, wrong procedurally, and possibly driven by wider considerations.

- Paras 6.11 to 6.21 address land use. 6.11: "The Scheme would make best use of a well-connected sustainable site in Twickenham Town Centre in line with strategic policies in both the London Plan and Local Plan which advocate this approach". This statement is followed by detailed reflection on plan policy as it affects housing, before touching on briefly on the mix of other uses, which are described as serving to "protect viability", "strengthen the vitality of the Twickenham Town Centre and... deliver the river front activation sought be site-specific policy in the TAAP" (Para 6.20).

The last comment also applies here, as does the comment on Para 2.13. While the value of the uses planned in terms of revitalisation and reactivation is not in dispute and was indeed advocated in the TAAP, that does not mean that they are appropriate on the public open space of the Gardens. And the TAAP itself excluded them from that space, deeming that they should be provided on the east side of the site, linking with Church Street. The Scheme is not therefore in line with the policies of the Local Plan.

- Paras 6.22 to 6.28 address the enhancements the Scheme will bring to the existing open space, "thereby meeting the objectives of policies LP12 [green infrastructure] and LP31 [Public open space and play and recreation facilities] of the Local Plan". Paras 6.25 and 6.28 go into more detail how these fit with the guidance in the different plans. The following paras through to 6.51 do similar in regard to design and heritage considerations.

These paras largely reiterate, albeit in greater detail, many or all of the points already touched on. All the objectives outlined other than those relating to the Wharf Lane Building are achievable without the imposition of a Compulsory Purchase Order on the Gardens. Again, they do not link with the site-specific proposals and intentions of the Local Plan/TAAP and as such conflict with it.

- Paras 6.52 to 6.65 focus on the themes contained in the TAAP itself in some detail.

However, the relevant paras start from the premise that there will be building on the existing Gardens, again with no justification against the letter of the Plan. Paras 6.55.6 and 6.55.8 talk about the design and architecture of the Wharf Lane Building, not its existence or its mass or layout or location. 6.55.7 refers to a positive contribution to the Twickenham Area Conservation Area, when clearly the building on the existing open space is not a matter of conserving that open space. Paras 6.61 and 6.62 refer to an "upgrade in accordance with the aspirations of the TAAP" – While not commenting on the merits of these assertions, they misrepresent those aspirations given the TAAP's explicit exclusion of building on the Gardens.

- Para 6.73 reports on the Council's promotion of a new draft Local Plan, which by definition is not yet in place.

70 Under **Justification for the Order and the Scheme** (Section 10):

- Section 10 makes several references to "the principle of the Scheme [being] supported by planning policy at both a national and local level" and repeats many of the statements in section 6 relating to 'opportunity area (TW7) in the TAAP' and its

importance as “a framework for development and change [with] revitalising the town centre at the heart of the strategy”.

- Paras 10.7 to 10.11 detail the Council's assertions as to how the Scheme meets the strategic aims and objectives of the TAAP, referring back to and repeating parts of Para 6.55. Para 10.7.1 points to the issues identified for consideration in paragraph 106 of the CPO Guidance, the first of which is “whether the purpose for which the Order Land is being acquired fits in with the adopted Local Plan for the area”.
- Paras 10.21 ffg give more detail on improvements to the public realm envisaged in the TAAP, but then again ignore the specific letter of the TAAP recommendations for site TW7.
- Para 10.41 reports on the TAAP's vision of removing the car parking from the riverfront.

The comments made above under Section 6 apply equally to these paras. In particular, it is clear that – because the Scheme is in conflict with the area-specific provisions of the TAAP – it does not comply with paragraph 106 of the CPO Guidance.

- Para 10.37 details what is termed as “the change of circumstance” which caused the Council to determine that – five years after the Diamond Jubilee Gardens were originally entered on the Brownfield Land Register – “the Gardens themselves should not be designated as brownfield land”. 10.38 states: “Despite the de-registration of part of the Scheme Land as brownfield land, by removing the existing open space from the register, the Scheme Land still includes strategic brownfield land within the Borough and the London Plan seeks to optimise development on brownfield sites to meet housing targets.” It goes on to record the housing delivery in the Water Lane and Wharf Lane buildings on brownfield land and the open space respectively. “The utilisation of both brownfield and non-brownfield land parcels within the Scheme Land ensures that the design is highly sustainable by providing open space of improved quality and size, as well as meeting the boroughs housing needs in a location identified for the delivery a mixed use scheme.”

There has been no change of circumstance since the rejection of the Trust's appeals on this – merely the Council reversing its position on its previous designation of the Gardens as brownfield. The history is described in Paras 33 - 35 above. Whether simply a correction or a tactical retreat by the Council when faced with the Trust's challenges, the re-designation does not change the fact of the TAAP's proposals in regard to the Gardens and its intention that there should be no substantial building there. In this case, the suggestion that “the Local Plan seeks to optimise development on brownfield sites to meet housing targets” and that this in some way justifies acting in contravention of the TAAP's proposals for site TW7 is directly misleading.

CONCLUSION

71 It is clear that a defined area of Public Open Space was established on the former pool site on Twickenham Riverside and identified as the Diamond Jubilee Gardens, which were opened in 2012. The Gardens had been created incrementally over the decade leading up to the adoption of the TAAP in 2013. They are described in the Plan, and were explicitly intended to be preserved for the longterm future, as a ‘Riverside Park’.

72 Therefore, the Scheme is in conflict with the area-specific provisions of the TAAP, which is the current Local Plan for this site. As such, it does not comply with paragraph 106 of the CPO Guidance.

ATTACHMENTS:

Annex 1	Brownfield: Trust's final comprehensive appeal to Richmond Council 28.3.22
Annex 2	Brownfield: Council letter of final rejection 4.5.22
Annex 3	Trust's representation on Conservation Area Appraisal consultation 27.4.2023